CITY OF DELAWARE
CITY COUNCIL REGULAR MEETING
COUNCIL CHAMBERS
7:00 P.M. MEETING

AGENDA

7:00 PM **JULY 14, 2025**

MEETINGS WILL BE STREAMED LIVE AT CITY HALL UNDER "EVENTS" AT www.delawareohio.net

1. **ROLL CALL**

2. **INVOCATION by** Josh Wilson, Lead Pastor for Connect Church

3. **PLEDGE OF ALLEGIANCE**

4. **APPROVAL OF MOTION SUMMARY**

   Approval of the Motion Summary from the City Council meeting held on June 23, 2025, as recorded and transcribed.

5. **CONSENT AGENDA**

   a. Accepting the Motion Summary from the Parking and Safety Committee meeting held on April 29, 2025, as recorded and transcribed.

   b. Acceptance of the Motion Summary from the Historic Preservation Commission meeting held on June 4, 2025, as recorded and transcribed.

   c. Acceptance of the Motion Summary of the Finance Committee meeting held on June 16, 2025, as recorded and trascribed.

   d. Acceptance of the Motion Summary from the Finance Committee meeting held on July 1, 2025, as recorded and transcribed.

   e. Acceptance of the Motion Summary from the Sister City Advisory Board meeting held on April 1, 2025, as recorded and transcribed.

   f. Resolution No. 25-48, a resolution appointing a member to various boards, commissions, and/or New Community Authorities, and specifying the term of appointment.

   g. Establish **July 28, 2025, at 7:20 p.m.** as the date and time for the public hearing and second reading of Ordinance No. 25-43, an ordinance changing the name of Cedar Creek to Brooke Creek Court.

6. **CONSIDERATION OF TREX LIQUOR LICENSE REQUEST**

   Consideration of a TREX application for Suela Food Services, LLC located at 18 S. Sandusky Street, Delaware, Ohio 43015.

7. **LETTERS, PETITIONS, AND PUBLIC COMMENTS**

ATTEND AN OPEN MEETING: Open meetings are held in City Hall Council Chambers. Sign in forms to speak are available at the door. Name and address are required for public comment. Comments are limited to 3 minutes.
EMAIL, LETTER, PETITION: Emails, letters, and petitions received to the Council Clerk by 10 a.m. the date of the meeting will be presented to members and submitted into the record. These items will not be read aloud during the meeting but will be available on the website following the meeting at the end of the next business day. Name and address are required. Send to councilclerk@delawareohio.net. PLEASE NOTE SUBMISSION TIME.

8. **COMMITTEE REPORTS**

9. **7:20 PM PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 25-41**

Resolution No. 25-41, a resolution to approve a request by Metro Development for approval of a Development Plan for the Reserve at Northbourne containing 360 dwelling units on 21.51 acres located on the northwest corner of State Route 521 and Byxbe Parkway within Sub-Area A of the Northwood Planned Mixed Use Overlay.

10. **7:25 PM PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 25-42**

Ordinance No. 25-42, an ordinance approving and authorizing the City Manager to execute a Community Reinvestment Area agreement with Sawmill Delaware Investments, LLC, for investment in real property improvements on +/- 100,000 square feet at 115 Innovation Court (parcels #41922002003003 and #41922002003004).

11. **THIRD READING OF ORDINANCE NO. 25-37**

Ordinance No. 25-37, an ordinance authorizing the City Manager to execute a settlement agreement.

12. **THIRD READING OF ORDINANCE NO. 25-38**

Ordinance No. 25-38, an ordinance approving a request by the City of Delaware for approval to repeal and replace Part 11: Planning and Zoning Code within the City of Delaware Codified Ordinances and the corresponding official zoning map of the City of Delaware **(AS AMENDED)**.

13. **CONSIDERATION OF ORDINANCE NO. 25-43**

Ordinance No. 25-43, an ordinance changing the name of Cedar Creek Court to Brooke Creek Court.

14. **CONSIDERATION OF RESOLUTION NO. 25-49**

Resolution No. 25-49, a resolution authorizing the City Manager to enter into a Local Public Agency (LPA) Agreement with the Ohio Department of Transportation (ODOT) for the Pedestrian Path Connections Project and to execute contracts as required to design, acquire property for, and to construct the project.

15. **CONSIDERATION OF RESOLUTION NO. 25-50**

Resolution No. 25-50, a resolution adopting the City of Delaware Parking Program and Modernization Study and Recommendations.

16. **CITY MANAGER'S REPORT**

    June 2025 Contract Approvals

17. **COUNCIL COMMENTS**

18. **ADJOURNMENT**

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CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sarah Dinovo, City Clerk
ITEM TYPE:	Motion Summary
AGENDA SECTION:	**APPROVAL OF MOTION SUMMARY**
SUBJECT:	Approval of the Motion Summary from the City Council meeting held on June 23, 2025, as recorded and transcribed.

SUGGESTED ACTION:

ATTACHMENTS:
City Council Motion Summary 06 23 2025 Meeting.docx

ITEM 1. ROLL CALL
Mayor Riggle called the meeting back to order at 7:00 p.m.

The following City Council members present Linsey Griffith, First Ward; Adam Haynes, Second Ward; Cory Hoffman, Third Ward; Kevin Rider, Fourth Ward; Catlin Frazier, At-Large; and Vice-Mayor Kent Shafer; and Mayor Riggle.

Staff Present: Sandra Pereira, Planning and Community Development Director; Anna Kelsey, Planning and Zoning Administrator; Jon White, Development Planner; David Gentile, Development Planner; Blake Jordan, Public Utilities Director; Adam Moore, Police Chief; Rob Alger, Finance Director; Alycia Ballone, Director of Budget, Management & Procurement; Bob Hogensen, Communications Specialist; Jonathan Owen, City Engineer; Nic Langford, Economic Development Director; Andrew Beare, Assistant City Manager; and Paul J. Brake, City Manager.

ITEM 2. INVOCATION

Chris Stephens, Northgate Church

ITEM 3. PLEDGE OF ALLEGIANCE

ITEM 4. APPROVAL OF MOTION SUMMARY

Approval of the Motion Summary from the City Council meeting held on June 9, 2025, as recorded and transcribed.

Motion: Councilwoman Frazier motioned to approve the Motion Summary of the City Council meeting held on June 9, 2025, as recorded and transcribed, seconded by Vice-Mayor Shafer. Motion was approved with a 7-0-0 vote.

ITEM 5. CONSENT AGENDA

a. Acceptance of the Motion Summary from the Board of Zoning Appeals meeting held on April 9, 2025, as recorded and transcribed.

b. Acceptance of the Finance Committee meeting held on June 2, 2025, as recorded and transcribed.

c. Resolution No. 25-45, a resolution appointing a member to various boards, commissions, committees and/or New Community Authorities and specifying the term of appointment.

d. Establish **July 14, 2025 at 7:20 p.m.** as the date and time for the public hearing and consideration of Resolution No. 25-41, a

request by Metro Development for approval of a Development Plan for The Reserve at Northbourne, a multi-family development comprised of 360 dwelling units and located on 21.51 acres within the Northwood Planned Mixed Use Overlay on the northwest corner of SR 521 and Byxbe Parkway.

e. Establish **July 14, 2025 at 7:25 p.m.** as the date and time for the public hearing and second reading of Ordinance No. 25-42, an ordinance approving and authorizing the City Manager to execute a Community Reinvestment Area agreement with Sawmill Delaware Investments, LLC, for investment in real property improvements on +/- 100,000 square feet at 115 Innovation Court (parcels #41922002003003 and #41922002003004).

Motion: Vice-Mayor Shafer motioned to approve the consent agenda, seconded by Councilwoman Frazer. Motion was approved with a 6-1-0.

ITEM 6. LETTERS, PETITIONS, AND PUBLIC COMMENTS

Chuck Smith
334 E. William Street
Delaware, Ohio

Mr. Smith stated he owns property near the 'can opener' and is frustrated by the trucks that use his property as a turnaround area when their trucks cannot fit under that railroad underpass. Mr. Smith stated the sign indicator for a truck that is too tall is placed after a truck could make a turn onto another street to avoid his property. Mr. Smith stated he is looking into ways that he can prevent those who are too high to go under the underpass from using his property as a turnaround, which will require the trucks to back up to Euclid Avenue.

Tyler Frederick
1200 Wedgewood Terrace
Westerville, Ohio

Mr. Frederick shared that since he last public comment there have been a couple of newspaper articles regarding the settlement agreement against Cindy Dinovo. Mr. Frederick shared his thoughts about Clerk Dinovo.

ITEM 7. CONSIDERATION OF A NEW LIQUOR PERMIT

New liquor license request for Boardman Arts Park Inc. (DBA Boardman Arts Park), located at 154 W William Street, Delaware, Ohio 43015.

Police Chief Adam Moore stated there were no findings for an objection.

A question was asked about how the DORA rules would apply to this venue. Chief Moore replied that the park is located outside the current DORA boundary so the drinks purchased there would have to stay within the park and likewise, any alcohol purchased in the DORA would need to stay within those boundaries.

Motion: Vice-Mayor Shafer motioned to approve the liquor permit without objection, seconded by Councilwoman Griffith. Motion was approved with a 7-0-0 vote.

ITEM 8. STAFF INTRODUCTION

Chief Moore introduce canine Malo, a Belgian Malinois, from France who began his employment with the city in March of this year. Malo is a muti-task canine. Officer Jason Carroll is Malo's handler.

ITEM 9. PROCLAMATION: Camp Delaware Day

Mayor Riggle presented Mark and Francine Butler with a proclamation for their production of the story of Camp Delaware.

ITEM 11. 7:20 PM PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 25-36

Ordinance No. 25-36, an ordinance amending Section 913.14 of the codified ordinances of the City of Delaware, Ohio establishing water rates and repealing existing Section 913.14.

The clerk read Ordinance No. 25-36 for a second time.

Rob Alger, Finance Director, stated this ordinance will better bill the clients based on their consumption rates. The base rate will increase by 5% to begin with for all users.

The public hearing opened at 7:28 p.m.

There was no public participation.

The public hearing was closed at 7:28 p.m.

Motion: Vice-Mayor Shafer motioned to suspend the rule of three readings for Ordinance No. 25-36, seconded by Councilwoman Frazier. Motion was approved with a 6-1-0 vote.

Motion: Vice-Mayor Shafer motioned to approve Ordinance No. 25-36, seconded by Councilwoman Frazier. Motion was approved with a 7-0-0 vote.

ITEM 12. 7:25 PM PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 25-36

Resolution No. 25-36, a resolution to approve a development plan for the construction of the interior backage roads and shared parking lot for Phase 1 of the Maridel Development on 258 acres on property zoned C-PUD (Commercial Planned Unit Development) and located on the southwest corner of Sawmill Parkway and US 42 within the Maridel Subdivision.

The clerk read Resolution No. 25-36 for the first time.

Jon White, Development Planner, gave a brief presentation including the location map, background information, and development plan. Staff and planning commission recommend approval.

The public hearing opened at 7:33 p.m.

There was no public participation.

The public hearing was closed at 7:33 p.m.

Councilman Hoffman wanted to thank the developer for investing in the City of Delaware.

Mayor Riggle stated she spoke with someone from the Transit Authority, and they are excited to potentially become a partner with this site.

Motion: Vice-Mayor Shafer motioned to approve Resolution No. 25-36, seconded by Councilwoman Frazier. Motion was approved with a 7-0-0 vote.

ITEM 13. 7:30 PM PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 25-37

Resolution No. 25-37, a resolution to approve a development plan for a long-term care and rehabilitation facility on 14.81 acres of property located within PUD 25-4 on the southwest corner of Glenn Road and Mill Run Crossing.

The clerk read Resolution No. 25-37 for the first time.

David Gentile, Development Planner, gave a brief presentation including the location map, site plan, and rendering. Staff and planning commission recommend approval.

The public hearing opened at 7:38 p.m.

Tyler Frederick
1200 Wedgewood Terrace
Westerville, Ohio

The public hearing was closed at 7:39 p.m.

Mr. Frederick stated that as a pharmacist, who has spent half of his career in a long-term care setting, he is excited to see more of these types of development occurring.

A discussion about TIF on this development occurred to help with the improvement of Glenn Road. This condition is also placed on the new Kroger store in the area.

Motion: Vice-Mayor Shafer motioned to approve Resolution No. 25-37, seconded by Councilwoman Frazier. Motion was approved with a 7-0-0 vote.

ITEM 14. 7:35 PM PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 25-39

Resolution No. 25-39, A resolution to approve a development plan for the construction of a financial institution on 1.21 acres on property zoned B-3 community business within a PMU (Planned Mixed-Use Development) and located on the southwest corner of Sunbury Road and Glenn Road.

The clerk read Resolution No. 25-39 for the first time.

Jon White, Development Planner, gave a brief presentation including the location map, zoning map, background information, development plan, and the building elevations. Staff and planning commission recommend approval.

The public hearing opened at 7:46 p.m.

There was no public participation.

The public hearing closed at 7:46 p.m.

Motion: Councilwoman Frazier motioned to approve Resolution No. 25-39, seconded by Vice-Mayor Shafer. Motion was approved with a 7-0-0 vote.

ITEM 15. 7:40 PM PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 25-40

Resolution No. 25-40, a resolution to approve a development plan for a warehouse on 13.06 acres of property located on Innovation Court within the Innovation Business Park planned mixed use overlay.

The clerk read Resolution No. 25-40 for the first time.

David Gentile, Development Planner, gave a brief presentation including the location map, site plan, and rendering. Staff and planning commission recommend approval.

Applicant:
Amy Biondi Huffman
8400 Industrial Parkway
Plain City, Ohio

Ms. Biondi Huffman stated this parcel is the last of the buildings to be built in this area.

The public hearing opened at 7:50 p.m.

There was no public participation.

The public hearing was closed at 7:50 p.m.

Motion: Vice-Mayor Shafer motioned to approve Resolution No. 25-40, seconded by Councilwoman Frazier. Motion was approved with a 7-0-0 vote.

ITEM 16. 7:45 PM PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 25-38

Ordinance No. 25-38, an ordinance approving a request by the City of Delaware for approval to repeal and replace Part 11: Planning and Zoning Code within the City of Delaware Codified Ordinances and the corresponding official zoning map of the City of Delaware.

The clerk read Ordinance No. 25-38 for the second time.

Sandra Pereria, Planning and Community Development Director; Anna Kelsey, Planning and Zoning Administrator; Jon White, Development Planner, and David Gentile, Development Planner took turns going over the highlights of the changes made.

Title 1: Planning

- All definitions have been consolidated
- Graphics have been updated
- All procedures have been consolidated
- Within the Subdivision Regulations:
    - All references to City Council have been removed per Charter Amendments of 2024
    - Minor subdivision have been removed (all newly created buildable lots must be platted)
    - Parkland dedication requirements have been clarified

Title 2: Use District Regulations
The goal was to reduce the number of zoning districts, simplify regulations, and reduce nonconformities.

1110: *Districts Established, Map* (zoning districts reduced by half and renamed to match character and reclassification of all lots in comparable district to reflect existing conditions/comprehensive plan goals)
1111: *Residential Districts* (priority: reducing nonconformities, encourage development and redevelopment complementary to the existing character of the neighborhood)
1112: *Commercial Districts* (priority: reducing nonconformities, encouraging harmonious commercial development and redevelopment)
1113: *Industrial Districts* (minor changes to lot sizes and modernizing the use table)
1114: *Planned Unit Developments (PUDs)* (minor procedural changes/clarifications)
1115: *Historic District Overlay* (minimal changes: update to Historic District Overlay and Architectural Standards to come)

Map updates included reducing the number of districts, renaming districts to match the character of the neighborhood, and reclassification of areas within a district.

Title 3: General Development Regulations

1120: *Site and Building Design* (chapter is more readable and aligns the requirements with newly proposed zoning district designations; removed regulations not directly related to design including landscaping, platting requirements, and open space regulations)
1121: *Landscaping and Screening* (updated requirements for street trees, buffers, and landscaping in and around parking lots, added screening requirements for mechanical equipment, City Forester proposed updates to street tree requirements, buffer and landscape requirements no allow for raingardens and bioswales)

1122: *Tree Preservation* (minor updates to verbiage and procedures and updates reflect procedural changes to ensure the intent of regulations is maintained)
1123: *Parking and Loading* (more flexible and less prescriptive parking code, while introducing minimum parking requirements for transportation options such as bicycles and vehicular parking minimums have been reduced across all land-uses to adjust to changing social norms, and environmental considerations, a baseline of required parking will remain to ensure parking facilities are available while reducing possible excessive parking resulting in unproductive land use and unnecessary costs for new development)
1124: *Standards for Exterior Lighting* (reduced pole height requirements in residential and consideration for light pollution in residential neighborhoods and in commercial developments that abut residentially used properties)
1125: *Signage* (regulations simplified to be easier to understand, and clarifies issues to prevent incorrect, provides comprehensive 1st Amendment considerations, removes content provisions and favoritism to certain users, addresses issues not covered under current code, and has been reviewed by two outside consultants)
1126: *External Effects* (new chapter composed of related issues formerly interspersed throughout the code, concerns the effect a use has on the surrounding property and people, and deals with the creation of excessive noise, heat, vibration, etc.)

Title 4: General Zoning Regulations

1130: *Accessory Structures and Fences* (Combining four existing chapters including fence/ wall regulations, aligns design/ materials requirements with overall building design requirements,
substantive change: permits accessory structure footprint to be up to 50% of principal structure, max 900sqft,
1131: *Accessory Dwelling Units (ADUs)* (new addition to the code, fulfills comprehensive plan to provide diverse housing options, permits accessory residential dwellings in one- and two-family residential districts, regulates bulk, location, density, distribution of ADUs)
1132: *Home Occupations,* (no major changes to existing code, removes "Major Home Occupations", maintains permittance of home occupations "undetectable" outside the dwelling)
1133: *Short-Term Rentals (STRs)* (new addition to the code, regulates short-term rentals such as Airbnb's and sets up annual registry for hosts with City: permitted in C-DC district and one- and two- family lots, Planning Dept will provide "Guidelines" packet for hosts to distribute to guests)
1134: *Alternative Energy* (new addition to the code, regulates placement, design, height, and screening of solar and wind energy systems: building mounted or ground mounted)

1135: *Wireless Telecommunications* (regulation for wireless telecommunication facilities, including zoning, placement, size, and maintenance; "Small Cell Facilities" are most installed wireless facility and not addressed in current code)
1138: *Temporary Uses* (regulations for permits for temporary uses, events, and structures; addresses temp uses such as constructions trailers, food trucks, keeping certain animals, and temporary sales and events)
1139: *Nonconforming Lots, Uses, and Structures* (regulations for nonconforming uses, buildings, lots, and structures, including limitations on alterations, reconstructions, and expansions; no substantive changes Language has been refined when nonconforming buildings can be replaced, code update will reduce many nonconformities

Title 5: Enforcement and Penalties

1199: Enforcement and Penalties (outlines how the code is enforced, and the penalties are spelled out in one spot.

Appendices are now included.

A: Schedule of Permitted Uses
B: Schedule of Sign Allowances per District
C: Architectural Standards for Downtown Delaware

- This includes updates to sign standards only
- All design/architectural regulations to remain and apply to all signs in the Historic District
- Regulations about sign size, quantity, etc. removed from Standards and enforced in base code

HPC members and staff are recommending not permitting supergraphics downtown as the Commission expressed interest in regulating content.

Staff and the Planning Commission do recommend approval of this ordinance.

Ms. Pereira requested this ordinance go to a third reading to allow for more time for council members to review the packet and to correct errors that were found in spelling and punctuation.

The public hearing opened at 8:23 p.m.

Brett Latta
376 N. Sandusky Street
Delaware, Ohio

Mr. Latta thanked the city staff for their work on this document. Mr. Latta expressed his concern about the land along the river and

the Army Corp of Engineers are allowed to flood land along the flowage easements along the river, even if they are privately owned.

The public hearing closed at 8:26 p.m.
Discussion regarding murals (supergraphics) in the downtown area, the inclusion of alternative energy and if HOA can overrule the zoning code, and how many short rentals that are currently in the city.

City Manager Brake shared his experiences in the other cities where he has worked that have allowed supergraphics.

This ordinance will go to another reading.

ITEM 17. SECOND READING OF ORDINANCE NO. 25-37

Ordinance No. 25-37, an ordinance authorizing the City Manager to execute a settlement agreement.

The clerk read Ordinance No. 25-37 for a second time.

This ordinance will go to another reading.

ITEM 18. CONSIDERATION OF ORDINANCE NO. 25-41

Ordinance No. 25-41, an ordinance accepting the annexation of 2.920 acres of land, more or less, description and map are attached hereto, to the City of Delaware, Ohio from the Township of Delaware, Delaware County, Ohio by petitioners Addison Delaware, LLC.

The clerk read Ordinance No. 25-41 for the first time.

Sandra Pereira, Planning and Community Development Director, gave a brief presentation of the location of the area and how maintenance of the future retention pond would occur. Staff does recommend approval.

Motion: Vice-Mayor Shafer motioned to suspend the rule of three reading for Ordinance No. 25-41, seconded by Councilwoman Frazier. Motion was approved with a 5-2-0 vote.

Motion: Vice-Mayor Shafer motioned to approved Ordinance No. 25-41, seconded by Councilwoman Frazier. Motion was approved with a 6-1-0 vote.

ITEM 19. CONSIDERATION OF ORDINANCE NO. 25-42

Ordinance No. 25-42, an ordinance approving and authorizing the City Manager to execute a Community Reinvestment Area agreement with Sawmill Delaware Investments, LLC, for investment in real property improvements on +/- 100,000 square feet at 115 Innovation Court (parcels #41922002003003 and #41922002003004).

The clerk read Ordinance No. 25-42 for the first time.

This ordinance will have a public hearing at the next council meeting.

ITEM 20. CONSIDERATION OF RESOLUTION NO. 25-46

Resolution No. 25-46, a resolution opposing HB 335 and urging the Ohio General Assembly to reject legislation that eliminates inside millage and transfers local budgetary authority to County Budget Commissions.

The clerk read Ordinance No. 25-46 for the first time.

Paul Brake, City Manager, stated that this resolution is not to oppose property tax reform, but the language contained within HB 335. Among other affects, this would also affect those who have a home within an NCA because those homes are required to make minimum service payments, which would fall back on the homeowner if those payments were not met. This would also affect the bonding capability for the city to fund projects. The overall amount of the inside millage for the City of Delaware is $4,072,480 and this would immediately impact in the upcoming 2026 budget.

Members of City Council expressed their own concerns about HB 335.

Motion: Vice-Mayor Shafer motioned to approved Resolution No. 25-46, seconded by Councilwoman Frazier. Motion was approved 7-0-0 vote.

ITEM 21. CONSIDERATION OF RESOLUTION NO. 25-47

Resolution No. 25-47, a resolution authorizing the City Manager to sign the petition to establish the Downtown Delaware Special Assessment Improvement District pursuant to Chapter 1710 of the Ohio Revised Code to provide public services and public improvements pursuant to the act that will benefit property within the boundaries of the district.

The clerk read Ordinance No. 25-47 for the first time.

Paul Brake, City Manager, stated this an opportunity to partner with Main Street Delaware. This will create a board to oversee the beautification of the downtown area.

A discussion about what types of projects will be completed and who will maintain the improvements.

Motion: Vice-Mayor Shafer motioned to approved Resolution No. 25-47, seconded by Councilman Rider. Motion was approved 7-0-0 vote.

ITEM 10. COMMITTEE REPORTS

Councilwoman Griffith had no reports.

Councilman Haynes reported the Finance Committee will meet on July 1st to discuss the tax policy; Civil Service Commission will meet the first Wednesday of July.

Councilwoman Frazier reported Parking and Safety Committee will meet tomorrow.

Vice-Mayor Shafer had no reports.

Councilman Hoffman reported the planning cases were heard tonight.

Councilman Rider reported Parking and Safety Committee will be talking about the downtown parking issue.

Mayor Riggle reported BZA met last week.

ITEM 22. FINANCE DIRECTOR'S REPORT

May 2025 Finance Report

Mr. Alger stated revenues are up from a year ago by almost 9%.

ITEM 23. CITY MANAGER'S REPORT

Paul Brake stated staff will be meeting to discuss the goals that were set at the goal setting session to present to council; the CIP meetings have started; listed some of the events he has attended in the past couple of weeks.

ITEM 24. COUNCIL COMMENTS

Councilwoman Griffith read a statement about the importance of appropriately using the rule suspension and emergency clause and

encouraged members of council to approve those sparingly as well as her opinion of board appointments being a part of consent agenda. Ms. Griffith requested that legislation be considered list public comment as the fourth order of business (before the consent agenda) to allow the public to make input.

Councilman Haynes wished everyone a happy and safe Independence Day.

Councilwoman Frazier reminded everyone to stay hydrated.

Vice-Mayor Shafer stated he has received several complaints about the noise levels later in the evenings in the downtown area.

Councilman Hoffman had no further comments.

Councilman Rider had no further comments.

Mayor Riggle stated there will not be a First Friday event next week due to the Fourth of July celebration; there will be a parade at 11:00; happy to live in a community that is so active; shared her frustration of those who run the red lights.

ITEM 25. ADJOURNMENT

Vice-Mayor Shafer motioned to adjourn the meeting at 9:11 p.m.

The meeting was adjourned at 9:11 p.m.

_____

Mayor Carolyn Kay Riggle

_____

Sarah Dinovo, Council Clerk

AGENDA ITEM NO. a

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sarah Dinovo, City Clerk
ITEM TYPE:	Motion Summary
AGENDA SECTION:	**CONSENT AGENDA**
SUBJECT:	Accepting the Motion Summary from the Parking and Safety Committee meeting held on April 29, 2025, as recorded and transcribed.

SUGGESTED ACTION:

ATTACHMENTS:
20250429 Parking and Safety Committee.pdf

PARKING AND SAFETY COMMITTEE
MOTION SUMMARY
APRIL 29, 2025

ITEM 1. ROLL CALL

Chairman Shafer called the Parking and Safety Meeting to begin at 6:00 p.m.

Members Present: Councilman Kevin Rider and Chairman Kent Shafer

Staff Present: Adam Moore, Police Chief; Bill Ferrigno, Public Works Director; and Tim Pyle, Fire Chief

ITEM 2. APPROVAL OF THE MOTION SUMMARY

Approval of the Motion Summary of the Parking and Safety Committee meeting held February 25, 2025, as recorded and transcribed.

Motion: Councilman Rider motioned to approve the Motion Summary of the Parking and Safety Committee meeting held February 25, 2025, seconded by Chairman Shafer.

ITEM 3. PUBLIC COMMENT

Jodi Spaulding
603 Dunlap Street
Delaware, Ohio

Mr. Spaulding brought up a concern he has about semi-trucks coming out of the loading dock from 437 Dunlap Street; making ruts in his and his neighbor's yards. Mr. Spaulding stated he has had a new sewer system installed. While making the repair he was told the collapse occurred near the roadway where the semi-trucks were driving into the yard. Mr. Spaulding also stated the semi-trucks are blocking traffic on Dunlap Street. Mr. Spaulding presented photos for the committee to view. Mr. Spaulding gave a few suggestions for remedies.

Police Chief Moore stated that this issue has been brought to the attention of the internal Parking and Safety Committee and have discussed a couple of options but do not have any to bring before this committee yet.

Larry Garrett
437 Dunlap Street
Delaware, Ohio

Mr. Garrett stated he owns 437 Dunlap Street. Mr. Garrett stated he has called

the semi-truck company to report their driver has driven into the yard and was told they would be more aware. There are signs on the other streets that state no trucks; that is why they use Dunlap Street. Mr. Garrett stated the trucks that are sticking out onto Dunlap Street do not really cause any issues. Mr. Garrett apologized for the incident.

ITEM 4. DISCUSSION AND RECOMMENDATION

a. South Liberty Street/ Oak Hill All-Way Stop Condition

Police Chief Moore stated a petition was accepted by City Council on March 24, 2025 which stated in part to "calls for the addition of a four-way stop on the intersection of Oak Hill and Liberty Street to protect the safety of Ohio Wesleyan University students and to keep traffic flowing." Chief Moore stated that Councilman Rider had also received a complaint about the intersection of S. Liberty and Roland Avenue.

A discussion of observations from staff at those intersections in regard to pedestrian behavior, creating a false sense of safety, concerns with the proximity of the fire station (emergency crews navigating through stop signs), how or if the RRFB are used, if traffic counts warrant an all-way stop and if crosswalks are mandated on all sides of an intersection occurred.

b. Handicap Parking Request- 25 E. Lincoln Avenue

Police Chief Moore stated a request for a handicapped parking spot in front of 25 E. Lincoln. Chief Moore stated this type of request is not usually considered because it would take away from street parking when off street parking is available. In this case, the applicant has need for a handicapped parking spot for his mother who utilizes a wheelchair. The internal parking and safety committee did not recommend approval of this request. Chief Moore stated the property line did not allow for the applicant to get a wheelchair in/out of the vehicle without encroaching onto the neighboring property. Chief Moore stated that he was told that a ramp would also be installed at the front of the home, which currently only has stairs. Chief Moore stated that if this request was to move forward, letters would need to be sent to adjacent property owners notifying them of the proposed spot.

Ronald Boring
25 E. Lincoln Avenue
Delaware, Ohio

Mr. Boring stated that he is working to build a ramp into the house. Mr. Boring provided photos of the off street with his truck door open to show how the open door technically encroaches the neighboring property and the other door, when opened towards the house, touches the gas meter.

A discussion about if homes need an ADA compliant ramp. Bill Ferrigno, Public Works Director, stated that handicapped placards were not predicated on being in a wheelchair.

Motion: Chairman Shafer motioned to move this request to City Council for discussion, seconded by Councilman Rider.

Chief Moore wanted to add that this handicapped spot would not be specifically for the use of Mr. Boring and that anyone who had a valid handicapped placard would be able to use the spot.

c. Discussion of public parking on private lot adjacent to City Lot #2.

Chief Moore stated that the City Attorney was reviewing parking agreements as a part of the revenue share from parking meters it was discovered that there are currently six parking meters on private lots. These meters do not have agreements associated with them to be found. That detail prompted the agenda item to discussion whether an agreement be reached with the private property owners (one of which owns half a meter) or remove the parking meters.

Joe Pemberton, on behalf of the Strand Theatre, thanked the city for their partnership and was in attendance as an observer.

Councilman Rider shared his thoughts on the meters.

Chairman Shafer shared his thoughts on the meters.

Motion: Chairman Shafer motioned to eliminate the six parking meters and make that recommendation to City Council, seconded by Councilman Rider.

ITEM 5. STAFF COMMENTS

Chief Moore stated he was made aware of a private parking owner that has put up ParkMobile signs that are open to the public. The owner is charging the same rate as the city. Chief Moore thought that this may be an opportunity for more parking in the downtown area.
A partnership would have to be entered into for the city to collect fees. The Kimley-Horn public survey was completed and went over the results.
A piece of legislation may be coming to council to allow the Public Safety Officer (the City Manager) to have more latitude with parking zones.

Mr. Ferrigno stated the Broadview Chase stop signs are in place; the speed feedback signs that were on Park Vista were found to be incorrect, reporting much higher mph; there are new speed feedback signs requirements that will now have a yellow background without flashing mph feedback; the tree removal at Park Avenue at Franklin Street has occurred and is hopeful the signs will be

installed by next week; there was a significant accident at Park Avenue and Noble Street on Monday evening which could result in requests for a safety study; continuing an updated policy for use of all-way stops, RRFB and speed feedback signs.

ITEM 6. MEMBER COMMENTS

Chairman Shafer thanked the staff for all they do and being responsive to residents.

Councilman Rider also thanked staff for their hard work.

ITEM 7. ADJOURNMENT

Motion: Councilman Rider motioned to adjourn the meeting at 7:03 p.m.

The Parking and Safety Committee Meeting adjourned at 7:03 p.m.

Kent Shafer, Chairman

Sarah Dinovo, Clerk

AGENDA ITEM NO. b

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sarah Dinovo, City Clerk
ITEM TYPE:	Motion Summary
AGENDA SECTION:	**CONSENT AGENDA**
SUBJECT:	Acceptance of the Motion Summary from the Historic Preservation Commission meeting held on June 4, 2025, as recorded and transcribed.
SUGGESTED ACTION:	

ATTACHMENTS:
20250604 Motion Summary.pdf

HISTORIC PRESERVATION COMMISSION
MOTION SUMMARY
JUNE 4, 2025

ITEM 1. Roll Call

Chair Riviera called the meeting to order at 5:30 p.m.

Members Present: Denny Bolton, Keith Fagan, Lisa Ho, Stephanie VanGundy, Councilman Kevin Rider, Vice-Chair Mark Smiles, and Chair Sherry Riviera

Staff Present: Anna Kelsey, Planning and Zoning Administrator; Jon White, Development Planner; David Gentile, Development Planner; and Sandra Pereira, Planning and Community Development Director

ITEM 2. APPROVAL OF MOTION SUMMARY

A. Approval of the Motion Summary of the Historic Preservation Commission meeting held on April 23, 2025, as recorded and transcribed.

Motion: Commissioner Ho motioned to approve the Motion Summary of the Historic Preservation Commission meeting held on April 23, 2025, as recorded and transcribed, seconded by Vice-Chair Smiles. Motion was approved by a 6-0-1 vote.

ITEM 3. REGULAR BUSINESS

A. **2025-1937:** A request by the City of Delaware for approval of revisions to the Sign Standards of the Architectural Standards for the Downtown Historic District.

Anticipated Process

1. Staff Presentation

Anna Kelsey, Planning and Zoning Administrator, gave a brief presentation of the proposed sign changes to the Sign Standards.

The Commission asked questions and discussed items that included, but not limited to, the difference between canopies and awnings, signage for a building that has two businesses within it, what a base code is (in this case the Zoning Code as opposed to Architectural Standards), how the statement regarding supergraphics (murals) was decided: "Not permitted in historic district as requested by HPC" and if that could be revised to state that Staff recommends supergraphics not be located in the downtown with a reminder to the Commission that supergraphics content cannot be regulated, the number of

sidewalk signs, and whether the changes limit the ability of the HPC to regulate downtown signage.

2. Public Comment (Not a Public Hearing)

There was no Public Comment.

3. Commission Action

Motion: Chair Riviera motioned to approve 2025-1937, a request by the City of Delaware for approval of revisions to the Sign Standards of the Architectural Standards for the Downtown Historic District, seconded by Vice-Chair Smiles. Motion was approved with a 4-2-1 vote.

ITEM 4. STAFF COMMENTS

There were no further comments.

ITEM 5. COMMISSIONER MEMBER COMMENTS AND DISCUSSION

There were no further comments.

ITEM 6. NEXT REGULAR MEETING: June 25, 2025

ITEM 7. ADJOURNMENT

Motion: Commissioner Ho motioned to adjourn the meeting, seconded by Commissioner VanGundy. Motion was approved with a 7-0-0 vote.

The meeting was adjourned at 6:11 PM.

Chair

Clerk

AGENDA ITEM NO. c

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sarah Dinovo, City Clerk
ITEM TYPE:	Motion Summary
AGENDA SECTION:	**CONSENT AGENDA**
SUBJECT:	Acceptance of the Motion Summary of the Finance Committee meeting held on June 16, 2025, as recorded and trascribed.
SUGGESTED ACTION:	

ATTACHMENTS:
20250616 Motion Summary.pdf

FINANCE COMMITTEE
MOTION SUMMARY
JUNE 16, 2025

ITEM 1. ROLL CALL

Chairman Shafer called the Finance Committee meeting to order at 3:00 p.m.

Members Present: Adam Haynes, Cory Hoffman, and Chairman Kent Shafer

Staff Present: Rob Alger, Finance Director; Alycia Ballone, Management, Budget & Procurement Director; Elke Lonas, Finance Specialist; Sarah Young, Development Financing Coordinator; Andrew Beare, Assistant City Manager and Paul J. Brake, City Manager

ITEM 2. APPROVAL OF MOTION SUMMARY

Approval of the Motion Summary from the Finance Committee meeting held on June 2, 2025, as recorded and transcribed.

Motion: Councilman Hoffman motioned to approve the Motion Summary of the June 2, 2025 meeting as recorded and transcribed, seconded by Councilman Haynes. Motion was approved with a 3-0-0 vote.

ITEM 3. PUBLIC COMMENTS

Scott McVicker
1935 Ashburn Drive
Delaware, Ohio

Mr. McVicker stated he was encouraged with the conversation that a tax policy should be adopted; however, he was disappointed to hear that another tax levy might be proposed without a tax policy in place. Mr. McVicker stated since this is an election year for members of council, there may be consequences for them when voters go to the polls. Mr. McVicker stated if there are services that were to go away, that would be his recommendation.

Councilman Hoffman wanted to comment on the soft billing idea that was commented on at the last Finance Committee meeting. Councilman Hoffman stated that, to his knowledge, soft billing occurs during after the EMS service has been provided, and information is not being requested at the time of the service.

ITEM 4. ITEMS OF DISCUSSION

a. Review of the Financial Policies

Ms. Ballone handed out a draft of the updated financial policies based on updates that include stating a gauge will be used during times of uncertainty or unexpected revenue decline; removing the Recreation Improvement Income Tax (since there is now a recreation levy); the city will strive to have multiple funding sources for any general obligation debt issued; and updated language to reflect a review of the Fee Schedule (replacing update the Cost of Service study).

Ms. Ballone requested any feedback would be appreciated and policy would reflect the direction given during this process.

b. Resolution No. 25-47, a resolution opposing HB 335 and urging the Ohio General Assembly to reject legislation that eliminates inside millage and transfers local budgetary authority to County Budget Commissions.

City Manager Brake shared that this legislation proposes the elimination of all millage property taxes inside except for townships. While this is currently a stand-alone bill there is speculation that it may be added to the budget bill. This is the impact on the city, school district and all taxing jurisdictions in the county:

City of Delaware	- $4,533,293
Delaware City Schools	- $6,044,048
All taxing jurisdictions in Delaware County	- $93,645,795

This legislation also creates a new authority, appointed by the Board of Commissioners, which would have override authority for any levy issues approved by the voters, along with other issues (loss of funding from without sources to replace the revenue and greater home prices).

Motion: Councilman Haynes motioned to recommend Resolution No. 25-47 to City Council at their June 23, 2025 meeting, seconded by Councilman Hoffman. Motion was approved with a 3-0-0 vote.

ITEM 5. TAXATION POLICY- SESSION THREE

David Conley, Rockmill Financial Consulting President stated HB335, HB 96 and the Constitutional Amendment purpose is to lower property taxes on Ohio's residents. However, the impact will reduce or eliminate services to Ohio's residents, may trigger defaults on bonds and other financial obligations, may trigger higher taxes and fees on other services, and may stunt economic development.

The elimination of the tax on tangible personal property for businesses in 2006 (with HB 66) created this issue. Ohio's antiquated tax system does not provide a broader basis for revenue generation and a more balanced distribution of revenues.

Among the other issues with this bill that have been discussed, the bonds that are issued for the city have a legal pledge in it that attests to the inside millage that city collects as collateral.

Mr. Conley shared how the City of Delaware compares to other cities in Central Ohio in terms of services provided. As this list was being compiled it was noted that the services that the city does provide was not obvious. Mr. Conley stated it may be a good idea to put that on the website, so residents are aware.

Ms. Ballone shared that when the Financial Review Task Force was meeting, a report was created about what a house in surrounding communities and in Delaware was paying for property/income tax and utilities.

Mr. Conley reviewed what thresholds would trigger a spending freeze and what would trigger rainy day reserves.

A discussion about what was identified as the worse expenditures at the last meeting and the reasoning behind the expenditure (the City of Delaware took a calculated risk to complete the Sawmill Parkway to draw businesses to the city) and health insurance/prescription rates (what makes the rates so volatile).

The purpose of fund balances is for operating liquidity, risk protection (Rainy Day Reserves), accumulation for capital expenditures, debt payment reserves, and long-term sustainability. Mr. Conely stated that sometimes when there are funds in reserve, people think that they are not going to be used, or being saved, for a specific reason.

Dean Stelzer
422 Ablemarle Circle
Delaware, Ohio

Mr. Stelzer, former Finance Director for the City of Delaware, stated the city had been self-funded for health insurance for quite some time and how the amount budgeted has changed over the years.

A discussion of what times of funds should have a reserve balance, how much should be kept in reserves, planning for projects to see what can be paid for in cash vs. bonds occurred.

ITEM 6. MEMBER COMMENTS

Chair Shafer thanked David for helping the Committee think things through and thanked Alycia for beginning the updates to the policy.

Councilman Hoffman stated he had heard from many constituents that the timing of the last levy was not good to coincide with the year of property tax

reassessments. Perhaps, if the levy was brought back, language spelling out the income tax credit would be beneficial.

Council Haynes thanked staff and Mr. Conley for their council. Councilman Haynes stated this policy will be designed to guide the city in the future.

The next meeting is scheduled for July 1st at 3:00 PM.

ITEM 7. ADJOURNMENT

Motion: The Finance Committee meeting adjourned with a motion from Councilman Hoffman at 4:32 p.m.

The meeting was adjourned at 4:32 p.m.

Chairman

Clerk

AGENDA ITEM NO. d

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sarah Dinovo, City Clerk
ITEM TYPE:	Motion Summary
AGENDA SECTION:	**CONSENT AGENDA**
SUBJECT:	Acceptance of the Motion Summary from the Finance Committee meeting held on July 1, 2025, as recorded and transcribed.
SUGGESTED ACTION:	

ATTACHMENTS:
20250701 Motion Summary.pdf

FINANCE COMMITTEE
MOTION SUMMARY
JULY 1, 2025

ITEM 1. ROLL CALL

Chairman Shafer called the Finance Committee meeting to order at 3:00 p.m.

Members Present: Adam Haynes, Cory Hoffman, and Chairman Kent Shafer

Staff Present: Rob Alger, Finance Director; Alycia Ballone, Management, Budget & Procurement Director; Elke Lonas, Finance Specialist; Sarah Young, Development Financing Coordinator; Mike Day, Budget and Management Analysist; Nic Langford, Economic Development Director; Andrew Beare, Assistant City Manager and Paul J. Brake, City Manager

ITEM 2. APPROVAL OF MOTION SUMMARY

Approval of the Motion Summary from the Finance Committee meeting held on June 16, 2025, as recorded and transcribed.

Motion: Councilman Hoffman motioned to approve the Motion Summary of the June 16, 2025, meeting as recorded and transcribed, seconded by Councilman Haynes. Motion was approved with a unanimous voice vote.

ITEM 3. PUBLIC COMMENTS

There was no public participation.

ITEM 4. ITEMS OF DISCUSSION

a. Curve Road Site

Alycia Ballone, Management, Budget & Procurement Director, wanted to give an update on the capital improvement plan multi-department project located off Curve Road that may need a supplemental appropriation with the grading that is starting on the site.

b. Facility Space Needs Study

Andy Beare, Assistant City Manager, stated there is an RFP being created to assist with space the city may need in the future. Staff have already created an internal assessment. The goal is to have the assessment completed by the end of 2025.

Councilman Hoffman requested the RFP include different scenarios and level of staffing (low to high end).

ITEM 5. TAXATION POLICY- SESSION FOUR

David Conley, Rockmill Financial Consulting President, presented the committee with a draft of the Taxation Philosophy. Members of the committee and staff gave input on changes in language and ideas of the draft, line by line. Mr. Conley made changes to the draft.

Mr. Conley will be sending out a revised draft before the next meeting to review with the committee.

ITEM 7. ADJOURNMENT

Motion: The Finance Committee meeting adjourned with a motion from Councilman Haynes at 4:50 p.m.

The meeting was adjourned at 4:50 p.m.



Chairman



Clerk

AGENDA ITEM NO. e

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sarah Dinovo, City Clerk
ITEM TYPE:	Motion Summary
AGENDA SECTION:	**CONSENT AGENDA**
SUBJECT:	Acceptance of the Motion Summary from the Sister City Advisory Board meeting held on April 1, 2025, as recorded and transcribed.
SUGGESTED ACTION:	

ATTACHMENTS:
20250401 Motion Summary.pdf

SISTER CITY ADVISORY BOARD
MOTION SUMMARY
APRIL 1, 2025

ITEM 2. ROLL CALL

Chairman Guebert called to order the Sister City Advisory Board at 6:03 p.m.

Members Present: Darrell Albon, Franz Gruber, Monika Ray and Chairman Rand Guebert

Members Absent: Vice-Chair Karen Waselko, Suzanne Williams and Mayor Riggle

Motion: Mr. Albon motioned to excuse Vice-Chair Waselko, Suzanne Williams, and Mayor Riggle, seconded by Mr. Gruber. Motion approved by a 4-0-0 vote.

ITEM 3. APPROVAL OF MOTION SUMMARY

Approval of the Motion Summary of Sister City Advisory Board held on January 14, 2025, as recorded and transcribed.

Motion: Mayor Riggle motioned to approve the Sister City Advisory Board Meeting held on January 14, 2025, as recorded and transcribed, motion was seconded by Mr. Albon. Motion was approved by a 4-0-0 vote.

ITEM 4. PUBLIC COMMENT

There were no public comments.

ITEM 5. BAUMHOLDER

a. Photo Distribution

Chairman Guebert stated the photo distribution went well. Tom Herring helped organize the photos to pick up. Mr. Guebert thanked everyone who helped.

b. Zoom/Teams Call in May

Chairman Guebert would like to have a call with some of the members who came in October to catch up. The clerk suggested using Teams instead to not limit the amount of time we could speak.

ITEM 6. SAKATA

a. Delaware Video

Chairman Guebert would like the exchange student he is hosting to do a City of Delaware promotional video like the student from Sakata do for us.

A discussion of contacts for Rand to reach out to occurred.

b. Ken Doman reactivation

Chairman Guebert would like to reactivate the Ken Doman photo exhibit coming to Central Ohio. This idea was dropped due to COVID. There were conversations with the Dublin Arts Foundation, City of Worthington and Columbus Museum of Art to help with the cost. Chairman Guebert was looking for direction on how to start the process.

Mr. Albon stated that the timeframe needed to get the photos over here would be at least one year.

Members of the Board recalled previous conversations.

c. Dempsey trip feasibility

With the absence of the Delaware City Schools representative, the discussion was limited to a possible grant for students to go to Sakata. Ms. Ray stated she would reach out to Dempsey to find out how the funding for the last trip occurred.

ITEM 7. ADJOURNMENT

Chairman Guebert motioned to adjourn the meeting at 6:29 p.m.

The Sister City Advisory Board adjourned at 6:29 p.m.

Chairman

Clerk

AGENDA ITEM NO. f

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sarah Dinovo, City Clerk
ITEM TYPE:	Resolutions
AGENDA SECTION:	**CONSENT AGENDA**
SUBJECT:	Resolution No. 25-48, a resolution appointing a member to various boards, commissions, and/or New Community Authorities, and specifying the term of appointment.

SUGGESTED ACTION:

ATTACHMENTS:

FS res 25-48, Board Appointments.docx

Res 25-48, Appointment of various Board Commission Members.docx

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: consent item 'f' DATE: 07/14/2025

ORDINANCE NO: RESOLUTION NO: 25-48

READING: FIRST PUBLIC HEARING: NO

TO: Mayor and Members of City Council

FROM: Sarah Dinovo, Clerk to Council

VIA: Mayor Riggle, Mayor

TITLE OF PROPOSED ORDINANCE/RESOLUTION:

A RESOLUTION APPOINTING MEMBERS TO VARIOUS BOARDS, COMMISSIONS, AND/OR NEW COMMUNITY AUTHORITIES AND SPECIFYING THE TERM OF APPOINTMENT.

BACKGROUND:

There was a re-appointment and Developer Representative to the Northwest NCA and the Airport Commission that the clerk inadvertently omitted when a previous resolution was presented to City Council. Lisa Ho is being appointed by Ohio Wesleyan University as their representative to the Sister City Advisory Board with the retirement of Darell Albon.

REASON WHY LEGISLATION IS NEEDED:

The Delaware City Code provides that the members of Boards and Commissions are to be confirmed by City Council after being recommended by the Mayor.

FISCAL IMPACT(S):

N/A

POLICY CHANGES:

N/A

RECOMMENDATION:

The Mayor has interviewed the candidates and recommends confirming the named people. This will help ensure each body will have a quorum to meet when scheduled meetings are set.

ATTACHMENT(S)

Resolution No. 25-48

RESOLUTION NO. 25-48

A RESOLUTION APPOINTING MEMBERS TO VARIOUS BOARDS, COMMISSIONS, AND/OR NEW COMMUNITY AUTHORITIES AND SPECIFYING THE TERM OF APPOINTMENT.

WHEREAS, Members are to be appointed to serve on various Committees, Commissions and Boards by the Mayor of the City of Delaware and confirmed by Council; and

WHEREAS, the Mayor has appointed, and Council has confirmed the following appointments.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Delaware, State of Ohio that:

SECTION 1. The following appointments are hereby made:

1. Ted Lewis, Airport Commission, City Representative (re-appointment, term ending June 30, 2028).
2. Mike Medvedkov, Delaware Northwest NCA, Developer Representative (term ending September 11, 2026).
3. Lisa Ho, Sister City Advisory Committee, OWU Representative (filling unexpired term ending June 30, 2027)

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

SECTION 3. This Resolution shall be effective immediately upon its passage.

PASSED: _____, 2025 YEAS _____ NAYS_____

ABSTAIN _____

ATTEST: _____ _____

CITY CLERK MAYOR

AGENDA ITEM NO. g

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Jonathan Owen, City Engineer
ITEM TYPE:	Ordinances
AGENDA SECTION:	**CONSENT AGENDA**
SUBJECT:	Establish **July 28, 2025, at 7:20 p.m.** as the date and time for the public hearing and second reading of Ordinance No. 25-43, an ordinance changing the name of Cedar Creek to Brooke Creek Court.
SUGGESTED ACTION:	
ATTACHMENTS:	

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Nicolas Langford, Economic Development
ITEM TYPE:	Liquor Permit
AGENDA SECTION:	**CONSIDERATION OF TREX LIQUOR LICENSE REQUEST**
SUBJECT:	Consideration of a TREX application for Suela Food Services, LLC located at 18 S. Sandusky Street, Delaware, Ohio 43015.

SUGGESTED ACTION:

ATTACHMENTS:

202505.SuelaFoodService.Langford.CL.TrexFrm.pdf
Memo for Suela Food Services, LLC.pdf
L-25-05 Maria's Sears and Spirits.PDF

OHIO LIQUOR LAWYER

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www.ohioll.com

May 18, 2025

Via E-mail Only (nlangford@delawareohio.net)
Mr. Nicolas Langford
Economic Development Director
City of Delaware
18 East William Street
Delaware, OH 43015

Re: Liquor Permit Trex Application:
Suela Food Service, LLC
18 South Sandusky Street
Delaware, OH 43015

Dear Mr. Langford:

I write regarding Suela Food Service, LLC's request to transfer an Ohio D-1-2 liquor permit to the City of Delaware in an Economic Development Project as there are no permits available in the State liquor permit quota for the City of Delaware. Attached please find the Economic Development Transfer Form submitted on behalf of Suela Food Service, LLC.

Suela Food Service, LLC will be a steak and seafood restaurant and will do business as Maria's Sears & Spirits at 18 South Sandusky Street, the former Opa Restaurant location.

Suela Food Service will be operated by Suela Osmenaj and Genti Kochi. Both are experienced restaurant operators with restaurants Opa in Delaware and Prohibition in Powell. Suela Food Service will employ 20 to 30 staff members. Suela Food Service would like to be able to offer its patrons the ability to enjoy a beer or glass of wine with their meals and respectfully requests the City of Delaware's "endorsement" to file an application to transfer a beer and wine liquor permit to its location in and Economic Development Project.

Suela, Genti and I are happy to meet with representatives of the City of Delaware to discuss this request further and to answer any questions they may have.

Thank you.

Respectfully,
/s/ Mark S. Gutentag
Mark S. Gutentag

MSG/bh
Attachments (1)

Ohio | Department of Commerce

Division of Liquor Control

Division Use Only	
Check #: _____	Permit #
# of Checks: _____	
Check Amt: _____	

ECONOMIC DEVELOPMENT TRANSFER FORM (TREX)

Ohio Revised Code 4303.29(B)(2)(b)

READ BEFORE YOU START THIS APPLICATION

Certain permits in Ohio are subject to a quota based upon a formula that factors in the total population of the city, village, or township where the permit will be issued and a ratio, specific to particular permit classes, as set forth in Ohio law (Learn more in our Quota Resource Guide). When transferring a specific quota permit (i.e., D-1, D-2, etc.) that will move locations to a NEW city, village, or township from where it is currently issued, there must be available spots in that new quota before the Division can process the transfer. If, for a particular quota permit class, there are **NO** spots available in the new quota, then the applicant has a few choices as discussed in our TREX Resource Guide. This form covers the specific permit classes that can be TREX'd under the Ohio law provision noted at the top of this application. A few things to understand before proceeding with the TREX option are that:

- The Division can **ONLY** process the TREX transfer application if the city, village, or township where the permit will transfer to APPROVES the transfer as an economic development project. The city, village, or township can document its approval by signing our form below in Section E.
- ONLY after we receive this completed form with the transfer application will the Division Superintendent review it for processing.
- The city, village, or township, despite approving the TREX transfer can still object to the issuance of your permit at the applied for location and the applicant must still be WET (Review our Local Option Election Guide for more information) for the requested sales at that address and meet all other rules and regulations before the permit(s) can be issued at that new location.

For this form to be deemed complete, you must fully and legibly complete this application, including:

- Answering all required questions ("*" indicates a required field);
- Submitting this application with your Transfer Application; **and**
- Securing signatures from the appropriate local government officials listed below.

SECTION A – Issued Permit Holder Information (i.e. Seller)

** This section **MUST** be completed.*

* Issued Permit Holder's Business Name as on File with the Division:	* Issued Permit Holder #:
Paceline Partners, LLC	**66199140050**

SECTION B – New Business Owner's Information (i.e., Buyer) ☐ N/A-Seller **REMAINS** the owner and is **ONLY** moving locations.

** **ONLY** fill out this section if the **ownership and location** is changing.*

* Business Entity or Sole Proprietor Name ("Applicant") (**MUST** match name listed on transfer application):

Suela Food Service, LLC

Section C – New Permit Premises Address Information

** This section **MUST** be completed.*

* New Permit Premises Address:

18 South Sandusky Street

* New Township (if outside city limits):	* New City:	* New County:
	Delaware	Delaware

SECTION D – Transferred Permits subject to TREX

* *This section identifies the permit classes that are being transferred into a **NEW** city, village, or township, consistent with the Transfer Application, that **REQUIRE** TREX sign-off from the local government official that signed below.*

* Select the Permit Type(s) being transferred that need to be TREX'd:

☐ C-1 ☐ C-2 ☒ D-1 ☒ D-2 ☐ D-3 ☐ D-5

* Note – there may be other permit types, like a C-2X, D-3A, or D-6, that are also part of your transfer that are not listed above. Your complete transfer listing needs to be identified on your transfer application (DLC 4120) that you must send with this signed TREX form.

Remember this form is ONLY for those permit classes that are subject to the quota and would require TREX sign-off because there are no permits available for the given class in the NEW locality when the transfer is filed. For example, you can be transferring a D-1, D-2, D-3 permit from City A to City B. In City B, there are D-1 and D-3 permits available, but no D-2 permits. In this situation, the only permit class that would REQUIRE TREX sign-off is the D-2.

Section E – Information that MAY be Used to Determine if the Transfer is an Economic Development Project

R.C. 4303.29(B)(2)(b)(ii) lists several factors the local legislative authority (City, Village or Township) can use when determining if it should approve this transfer as an Economic Development Project. While the law provides broad discretion to the legislative authority when making this decision, **SOME** factors that may be useful to the legislative authority in making its decision, include the:

- Total amount invested in this project: $ 225,000.00
- Total number of jobs that will be created by this project: 20-30
- Existing or estimated Tax Revenue generated by this project:
  - ➢ Ohio Unemployment Tax $ 15,000.00/yr.
  - ➢ Property Tax $ Paid through lease
  - ➢ Sales Tax $ 7,500.00/mo
  - ➢ State Withholding Tax $ 17,000.00/yr.
  - ➢ Other: BWC,CAT, etc.. $ 20,000.00

You may also be asked to provide a projected earnings statement (brand new business), or a profit and loss statement (existing business), or a copy of building plans/drawings outlining any construction plans.

Section F – Applicant Signature

* This section **MUST** be signed by either the applicant in:
  - ➢ *Section A if the seller **REMAINS** the owner of the permit and is **ONLY** moving the permit address to a **NEW** city, village, or township from where it is currently issued;* **OR**
  - ➢ *Section B if the ownership of the permit is changing **AND** the new permit address will be in a **NEW** city, village, or township from where the permit is currently issued.*

By signing below, I certify and understand that:

- I have authority to execute this document;
- The information provided is true, correct, and complete to the best of my knowledge and belief;
- Failing to complete this form, consistent with the above listed instructions, will result in this form and/or transfer application being returned to me, unprocessed, until a corrected, complete application is received by the Division;
- During the review of this form and/or my transfer application, further documentation may be needed, and I agree to comply timely and understand that failure to comply could delay the processing of my application;
- Even if the city, township, or village approves my TREX transfer application, the Division MUST still notify the applicable legislative authority about your transfer application and that legislative authority has the right to object to the issuance of the permit even for those permit classes that it approved as part of this TREX process; AND
- If this TREX form is required, the Division CANNOT process the transfer application until it is submitted with this completed (in its entirety) and signed form.

Suela Osmenaj

(Signature of Individual, Partner, Officer, Managing Member, or 5% or more Shareholder or Member)

Suela Osmenaj	**Managing Member**	
(Please Print Name)	(Title)	(Date)
18 South Sandusky, Delaware, OH 43015		**614-623-9375**
(Street Address, City, State, Zip Code)		(Telephone with Area Code)

SECTION G – NEW City, Village, or Township Signature

* This section MUST be completed by the City, Village or Township in which this Economic Development Project (TREX) will be located. Legislative officials who can sign this section are, as applicable, the/a:
  - Mayor,
  - City Council Member,
  - Law Director,
  - Clerk of Council,
  - Township Fiscal Officer,
  - County or Township Trustee Board Member; or
  - Other legislative office holder not specified with the authority to act on behalf of the applicable jurisdiction where the permit will be located.

THE APPLICANT MUST PROVIDE AN EXECUTED COPY OF THIS FORM WITH ITS TRANSFER APPLICATION.

The City, Village or Township of **Delaware** has considered the above-named applicant's TREX application consistent with the factors outlined in R.C. 4303.29(B)(2)(b) and hereby agrees and accepts that this transfer will be an economic development project within its jurisdiction.

By signing this form, I, the city, village, or township official listed below, acknowledges and understands that:

- I have the authority on behalf of my local government to sign this form;
- My signature, on behalf of my jurisdiction, means the Division can continue to process the applicant's transfer application for the applicable TREX'd permit classes;
- The city, village, or township will still be notified about the potential issuance of this permit and that it retains the right to object to this transfer for any and all permit classes applied for by the applicant;
- Once the applied for permit classes are transferred to the applicant within the city's, village's, or township's jurisdiction, the permit can then be transferred to other owners at the same location or to other locations within the city, village, or township by either the current or future owners subject to notice and hearing provisions under R.C. 4303.26;
- The TREX process ONLY contemplates the Division's ability to start processing the applicant's transfer application for the affected permit classes, the applicant MUST still meet any rules and regulations before the permit can be issued and the new location must also be wet for the type of permit classes that the applicant seeks to operate at the new location; and
- It is within the city, village, or township's sole discretion, consistent with Ohio law, to decide whether to approve the applicant's TREX application as an economic development project.

_____
(Signature of Local Official specified above)

(Please Print Name)	(Title)	(Date)

(Government Email Address)	(Telephone with Area Code)

Applicant MUST submit the transfer application, this TREX form, and any other required forms to:
Ohio Department of Commerce – Division of Liquor Control
c/o Licensing New & Transfer Section
6606 Tussing Road
Reynoldsburg, OH 43068-9005

For Questions call (614) 644-3155
Or email fileinquiry@com.ohio.gov

Office Hours: 8:00 a.m. - 5:00 p.m. EST

EST 1808
CITY OF
DELAWARE
OHIO

MEMORANDUM

TO: Paul J. Brake, City Manager
Natalia Harris, City Attorney
FROM: Nicolas Langford, Economic Development Director
DATE: 7/14/2025
RE: Economic Development Related Transfer of Liquor Permit (TREX) to Suela Food Services, LLC (18 S. Sandusky Street)

This is intended to provide information related to a requested transfer of a liquor permit for Suela Osmenaj, managing member of Suela Food Services, LLC as an economic development project ("TREX") into Delaware.

As you know, state law allows for the transfer of the ownership and location of liquor permits from one municipality to an economic development project located in another municipality in Ohio. Transferring a permit to an economic development project in a new municipality is known as TREX. It is required that the new municipality acknowledge that the liquor permit will be transferred to an economic development project.

This memorandum, and the information provided below is verification that the business is located at 18 S. Sandusky Street, Delaware, Ohio project is indeed an economic development project.

The following economic development impact has been provided to City staff by way of written information from the project owners:

- Estimated Investment (equipment, services, utilities, etc.): Lease agreement
- Total number of jobs to be created: 20-30
- Estimated Annual Tax Collections:
  - Sales Tax: $7,500/month
  - State Unemployment Tax: $15,000/year
  - State Withholding Tax: $17,000.00/year

On the basis of this information, I recommend that the City Manager acknowledge, by signature on TREX application, that the Suela Food Services, LLC project represents an economic development project within the City of Delaware.

Delaware Police Department
Liquor Permit Report

DPD Report Number **L-25-05**		**Investigating Officer** Detective Daniel Madden #56	
Applicant (Primary Shareholder) **Suela Osmenaj**		**Company Name: Suela Food Service, LLC** **DBA: Maria's Sears and Spirits**	
Common Name **Maria's Sears and Spirits**		**Address** 18 South Sandusky Street	
Applicant Phone Number **614-623-9375 (Genti)**		**Applicant E-Mail Address:**	
☒ **Existing Business** ☐ **New Business** (Supplement Attached)	**Type of Business** **Restaurant**	**Notification Type:** **IREX**	**Date of Report** 6/30/2025

Permit Type

☐**C1/C2X** Beer only in original sealed container for carry out only. ☐**C2** Wine and mixed beverages in sealed containers for carry out. ☒**D1/D2X** Beer only for on premises consumption or in sealed containers for carry out. ☒**D2** Wine and mixed beverages for on premises consumption or in sealed containers for carryout. ☐**D4** Beer and any intoxicating liquor to members only, for on premises consumption only until 1:00am. ☐**D5** Spirituous liquor for on premises consumption only, beer, wine, and mixed beverages for on premises, or off premises in original sealed containers, until 2:30am. ☐**Other** D6

Location Information

Churches, Libraries and or schools within 500 feet ☒Yes ☐No	**School, church, or library objection** ☐Yes (Supplement Attached) ☒No **Note:** Objections are only permitted for *new permits.*
Police Calls for Service in past 12 months: 0	**Number of Police Reports in past 12 months: 0**
Calls for Service *excluding calls not related to the business* in past 12 months: 0	**Location is excessive drain on Police Resources:** ☐Yes (Supplement Attached) ☒No
Nuisance Abatement Pending ☐Yes ☒No	**Accessible by Law Enforcement** ☒Yes ☐No
Site compliance checked by Dept. of Commerce ☒Yes ☐ No	**Private Club (Restricted Access Door)** ☐Yes ☒No

Applicant Information

Records Checked ☐**Ohio Law Enforcement Gateway**	☒**Delaware Police Department Database**
Applicant has an active warrant ☐Yes ☒No	**Record located for Liquor Law Violation** ☐ Yes ☒No
Local Record on file ☐Yes ☒No	**Criminal History Checked by Dept. of Commerce** ☒Yes ☐No
Problem History with DPD: ☐Yes (Supplement Attached) ☒No	**Contact made with Applicant** ☒Yes ☐No

Determination on Objection

☒**The Delaware Police Department does not find a legislative basis for requesting a hearing to object to the issuance of a liquor permit for this business.**

☐**The Delaware Police Department recommends requesting a hearing into the issuance of a liquor permit for this business, due to one or more of the following criteria for objection as set forth by the Ohio Revised Code.**

- ☐Site does not conform to local building, safety, and health codes (excluding zoning).
- ☐Law enforcement or state agents do not have ready access to the premises where alcoholic beverages are being served
- ☐Physical location causes a public nuisance.
- ☐Site has been officially classified as a nuisance according to State Law.
- ☐Conviction of a crime by the applicant that relates to operating a liquor establishment.
- ☐Past improper operation of a location with a liquor permit.
- ☐Misrepresentation of material fact on the application.
- ☐Addiction of the applicant to alcohol or narcotics.
- ☐Formal objection by specific types of other locations to which the site is in certain proximity.
- ☐Conviction of the applicant of food stamp or WIC fraud.

(Supplement Attached)

Delaware Police Department
Liquor Permit Report

Supplement

Supplement Type
☐**New Business Description**
☐**Police Department Objection**
☐**Community Objection**
☐**Other:**

In speaking with Genti Kochi, he explained that due to the recent move of Opa's, from 18 South Sandusky to 22 South Sandusky, the liquor license that was associated with Opa's moved as well. This TREX will allow a liquor license to exist at Opa's old location, which will be opening as a steak house called Maria Sear's and Spirts. Genti anticipates the new restaurant will open in the next two to three months.

The police department does not have any reason to object to the license, given that we do not have any negative history involving 18 South Sandusky or Opa, when it existed at that location.

Det. J. Mwl #314 — 7/3/2025
Investigating Officer Signature **Date**

Capt. K Russell — 7/3/25
Supervisor Signature **Date**

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sandra Pereira, Planning Department
ITEM TYPE:	Resolutions
AGENDA SECTION:	**7:20 PM PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 25-41**
SUBJECT:	Resolution No. 25-41, a resolution to approve a request by Metro Development for approval of a Development Plan for the Reserve at Northbourne containing 360 dwelling units on 21.51 acres located on the northwest corner of State Route 521 and Byxbe Parkway within Sub-Area A of the Northwood Planned Mixed Use Overlay.
SUGGESTED ACTION:	

ATTACHMENTS:

1 Fact Sheet.docx
2 CC Staff Report.docx
3 CC Resolution.docx
4 Exhibits.pdf
5 Signed PC Resolution.pdf

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: 9 | DATE: 7/14/25

ORDINANCE NO: | RESOLUTION NO: 25-41

READING: FIRST | PUBLIC HEARING: YES **(July 14, 2025 at 7:20 PM)**

TO: Mayor and Members of City Council

FROM: Paul J. Brake, City Manager

VIA: Sandra Pereira, Director of Planning and Community Development

TITLE OF PROPOSED ORDINANCE/RESOLUTION:
A RESOLUTION TO APPROVE A REQUEST BY METRO DEVELOPMENT FOR APPROVAL OF A DEVELOPMENT PLAN FOR THE RESERVE AT NORTHBOURNE CONTAINING 360 DWELLING UNITS ON 21.51 ACRES LOCATED ON THE NORTHWEST CORNER OF STATE ROUTE 521 AND BYXBE PARKWAY WITHIN SUB-AREA A OF THE NORTHWOOD PLANNED MIXED USE OVERLAY.

BACKGROUND:
See attached staff report.

REASON WHY LEGISLATION IS NEEDED:
To approve the Development Plan for the Reserve at Northbourne

COMMITTEE RECOMMENDATION:
Planning Commission recommended approval by a vote of 4-0 on June 4, 2025.

FISCAL IMPACT(S):
N/A

POLICY CHANGES:
N/A

PRESENTER(S):

Sandra Pereira, Director of Planning and Community Development

RECOMMENDATION:
Staff recommends approval as submitted with the documented conditions.

ATTACHMENT(S)
See attached

CITY COUNCIL STAFF REPORT

CASE ID: 2023-4356 Northwood PMU Development Plan #2
Sub-Area A – Reserve at Northbourne

APPLICANT: **Metro Development**
470 Olde Worthington Road
Westerville, OH 43082

REQUEST

A request by Metro Development for approval of a Development Plan for The Reserve at Northbourne, a multi-family development comprised of 360 dwelling units and located on 21.51-acres within the Northwood Planned Mixed Use Overlay on the northwest corner of SR 521 and Byxbe Parkway.

BACKGROUND/CASE HISTORY

The site received Zoning, Conditional Use, and Preliminary Development Plan approval (Ordinances 23-93-95) in April of 2024. Now, the applicant is requesting approval for a Development Plan for Sub-Area A to construct 360 multi-family dwelling units as approved in the Development Text set forth in the zoning approval.

EXISTING CONDITIONS/CURRENT ZONING

The subject property is currently farmland or vacant land and was rezoned in 2023. As a property within a Planned Mixed-Use (PMU) Overlay, this land is governed by the approved Development Text associated with that overlay.

Location	Zoning	Land Use
North	A-1 PMU	Vacant (proposed Northwood subdivision)
South	A-1 PMU / R-3	Office (County Complex)
East	FR-1	Single-Family Residential (township)
West	R-3	Single-Family Residential / Park

STAFF ANALYSIS
Zoning:

The approved Development Text for the Northwood subdivision permits multi-family residential development in Sub-Area A. The applicant's proposal to construct 360 dwelling units complies in all respects with this text.

Site Layout:

Sub-Area A would contain 15 residential buildings as well as a clubhouse, dog park, and parking infrastructure comprised of surface spaces and garages.

Roads and Traffic

As required by the approved zoning ordinance, the applicant is working with the City and their Traffic Engineer to finalize their Traffic Impact Study (TIS). As is permitted, the applicant may continue with the Development Plan process prior to the finalization of the TIS at their risk, as any improvements deemed necessary by the TIS and City Engineer are to be installed by the applicant. This development plan application includes two access points on the

north side of State Route 521. No access would be permitted from Byxbe Parkway. The internal vehicular access would all be privately maintained by the property owner.

Bike Paths and Pedestrian Routes

The applicant is proposing to install minimum 8-foot-wide asphalt paths on the north side of SR 521 and west side of Byxbe Parkway. This path shall connect to the existing stub in the Kensington Place Park located directly west of the subject site. The applicant is proposing a second connection to the existing public path on the north side of the site to connect to Sub-Area B of the Northwood development. The applicant shall also install sidewalks a minimum of 5 feet-wide to connect to all buildings onsite.

Open Space, Landscaping, and Buffering

The open space layout for Sub-Area A was generally determined at the zoning stage for this development and the applicant's submittal complies with the zoning approvals. The applicant will construct a basin on the southwest corner of the site in the large open space, which will also include leisure paths connecting to and through the site.

They will also construct low, undulating mounds with plantings along SR 521 and Byxbe Parkway, and 10-foot mounds with plantings on the west side of the site to provide a buffer to the existing single-family residences as required in the Development Text.

In addition, the proposed landscape plan shows street trees on both State Route 521 and Byxbe Parkway. These street tree plans were submitted to the Shade Tree Commission, which approved them on 5/27/25 with minor changes to species and spacing. A proposed condition of approval will require the applicant to revise their landscape plan to accommodate these changes.

The applicant's submitted landscaping plans for the internal landscaping meet all requirements of the zoning code and approved Development Text.

Tree Preservation

The applicant has submitted a Tree Canopy Management Plan for the three subject sections. This plan complies with Chapter 1168 and was routed to the Shade Tree Commission for their review.

Building Design

Being a PMU Overlay, the approved Development Text sets forth the development standards and requirements for the architectural design of this development. These standards include approved materials (brick, stone, vinyl, and fiber cement), and prohibited materials (EIFS and stucco). The Text also requires that buildings fronting SR 521 and Byxbe Parkway have a majority of their elevations constructed of brick or stone. The proposed building elevations for the 15 dwelling structures, garages, and clubhouse meet these requirements.

Lighting

A lighting plan has been submitted and is in review by City staff to ensure compliance with the zoning code.

RECOMMENDATION

Staff and the Planning Commission recommend approval of the request with the conditions of approval outlined in the attached resolution.

RESOLUTION NO. 25-41

A RESOLUTION TO APPROVE A REQUEST BY METRO DEVELOPMENT FOR APPROVAL OF A DEVELOPMENT PLAN FOR THE RESERVE AT NORTHBOURNE CONTAINING 360 DWELLING UNITS ON 21.51 ACRES LOCATED ON THE NORTHWEST CORNER OF STATE ROUTE 521 AND BYXBE PARKWAY WITHIN SUB-AREA A OF THE NORTHWOOD PLANNED MIXED USE OVERLAY.

WHEREAS, Metro Development, 470 Olde Worthington Road, Westerville, OH 43082, has filed an application requesting approval of a Development Plan for the Reserve at Northbourne containing 360 dwelling units on 21.51 acres located on the northwest corner of State Route 521 and Byxbe Parkway within Sub-Area A of the Northwood Planned Mixed Use Overlay.

WHEREAS, a public hearing was held on June 4, 2025, by the City of Delaware Planning Commission, and on July 14, 2025 by City Council, as required by law, at which time all people who wished to testify regarding the pending application were afforded the opportunity to give their comments at the public hearing; and

WHEREAS, the City Council of the City of Delaware finds that the facts submitted with this Development Plan application and presented at the public hearing and any amendments, or supplementary conditions, satisfy the standards and criteria for Development Plan approval as per §1129.06 of the Planning and Zoning Code; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Delaware, State of Ohio

SECTION 1. Approval of a request by Metro Development for approval of a Development Plan for the Reserve at Northbourne containing 360 dwelling units on 21.51 acres located on the northwest corner of State Route 521 and Byxbe Parkway within Sub-Area A of the Northwood Planned Mixed Use Overlay, except as further modified by the following conditions and requirements:

SECTION 2. Conditions of Approval:

1. The site plan dated 5/20/25 shall be the approved site plan for this development, unless modified herein.

2. All comments and concerns of the City Engineer, Fire Department, Utilities, and the Planning and Community Development Department shall be addressed prior to the release of any permits.

3. The applicant shall be responsible for paying the City's full cost of third-party engineering plan reviews.

4. The site shall comply in all respects with the approved Development Text.

5. Fountains and/or other aeration and water circulation devices are required for all retention ponds and shall be maintained by the owner, developer, or the master association in perpetuity.

6. Access:
    a. All access to subarea A will come from State Route 521. No access is permitted from Byxbe Parkway.
    b. Acceptance of Public Improvements (API) for improvements on State Route 521 shall be required prior to the occupancy of any structures within the development.
    c. Sidewalks shall be provided to accommodate full pedestrian connectivity between buildings and in particular to the clubhouse and mail kiosk.

7. Traffic Impact Study (TIS):
    a. This applicant shall be responsible for completing all design and construction of the required roadway improvements of SR 521, as determined by the Traffic Impact Study and as determined by the City Engineer. Improvements shall include, but not be limited to, widening to a 3-lane section between Ashburn Drive and Byxbe Parkway, addition of southbound right turn lanes into the site, and full-width mill and overlay of the existing roadway.
    b. A completed and accepted TIS is required for a Development Agreement to be executed.
    c. No Acceptance of Public Improvements for any section shall be provided until the TIS is completed and accepted.

8. Parking:
    a. The parking lot shall be kept in good condition. The City Engineer reserves the right to determine if the parking lot pavement condition is in disrepair and has not been maintained in a commercially acceptable condition, and that improvements are required. Those improvements shall be completed in a timely manner to the City Engineer's satisfaction.

b. A finalized parking plan with no more than 15 parking spaces between landscape islands shall be submitted to the Planning and Development Department prior to zoning approval

9. Building Design:
   a. The architectural elevations dated 5/20/25 shall be the approved elevations for the development unless modified herein.
   b. The trash compactor enclosures shall be constructed of brick or stone or an equivalent veneer product comparable to the materials utilized on the residential buildings. Final design of the enclosures shall be reviewed and approved by the Planning and Development Department prior to zoning approval

10. Lighting:
   a. The lighting plan dated 3/13/25 shall be the approved lighting plan for this development.

11. Landscaping, Buffering, and Screening:
   a. The landscape plan dated 5/7/25 shall be the approved landscape plan for this development, unless modified herein.
   b. The Tree Canopy Management Plan dated 5/7/25 shall be the approved Tree Canopy Management Plan, unless modified herein.
   c. The Street Tree Plan shall be modified to reflect the changes recommended by the Shade Tree Commission at their meeting on 5/27/25.
   d. The applicant shall install earthen mounds with plantings on the west side of the site. The mound adjacent to existing single-family residences shall be at least ten (10) feet in height.
   e. All landscaping shall be maintained in perpetuity by the owner or association of owners.
   f. All ground-mounted mechanical equipment shall be screened with fences, walls, or plantings.

12. Signage:
   a. The applicant shall be permitted one (1) temporary sign per frontage for up to 30 days at the time of opening. The temporary sign shall be no larger than 32 square feet and five feet tall, and shall be located at least 20-feet from all property lines. No other temporary signage shall be permitted.
   b. In accordance with Exhibit F5 included in the approved Development Text, the applicant shall be permitted a maximum of one column sign at the western entrance, one monument sign at the eastern entrance, and one sign at the clubhouse.

One development sign shall be permitted on the southeast corner of the site adjacent to the roundabout.

c. Signs shall be designed as shown on the drawings dated 5/7/25. Final design and location of the permanent signs shall be reviewed and approved by the Planning and Development Department prior to the release of a sign permit.
d. All ground-mounted signs shall be designed with stone bases to compliment the architectural features of the structures within the development.
e. All signage shall require a sign permit prior to installation.

13. Plat:
    a. The applicant shall submit a final subdivision plat for approval by the Planning Commission prior to the issuance of any building permits.
    b. The plat shall include all easements and dedicate fee simple right-of-way as determined by the TIS for associated roadway improvements, and as otherwise determined by the City Engineer.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

PASSED: _____, 2025 YEAS____ NAYS__ ABSTAIN ____

ATTEST: _____ _____
ACTING CITY CLERK MAYOR

ADVANCED
CIVIL DESIGN
ENGINEERS SURVEYORS

781 Science Boulevard
Suite 100
Gahanna, Ohio 43230
ph 614.428.7750
fax 614.428.7755

Reserve at Northbourne
Letter of Intent

The Reserve at Northbourne development will be an apartment complex constructed on a 21.51-acre parcel in the City of Delaware. The site is located northwest of the Kilbourne Road and Byxbe Parkway intersection. The development will consist of 15 apartment buildings, 13 garage buildings, a clubhouse, driveways, and parking spaces. Additionally, Kilbourne Road will be widened to include turn lanes into the apartment complex. The project will disturb 21.51-acres on the private site, and 3.50 in the Right-of-Way.

The subject property is currently farmland with farm structures and a house. The existing structures will be demolished and the site will become a multi-family apartment complex. The current owner is Kilbourne Village Farms, LLC. but it will change ownership to Reserve at Northbourne, LLC at closing.

Sincerely,

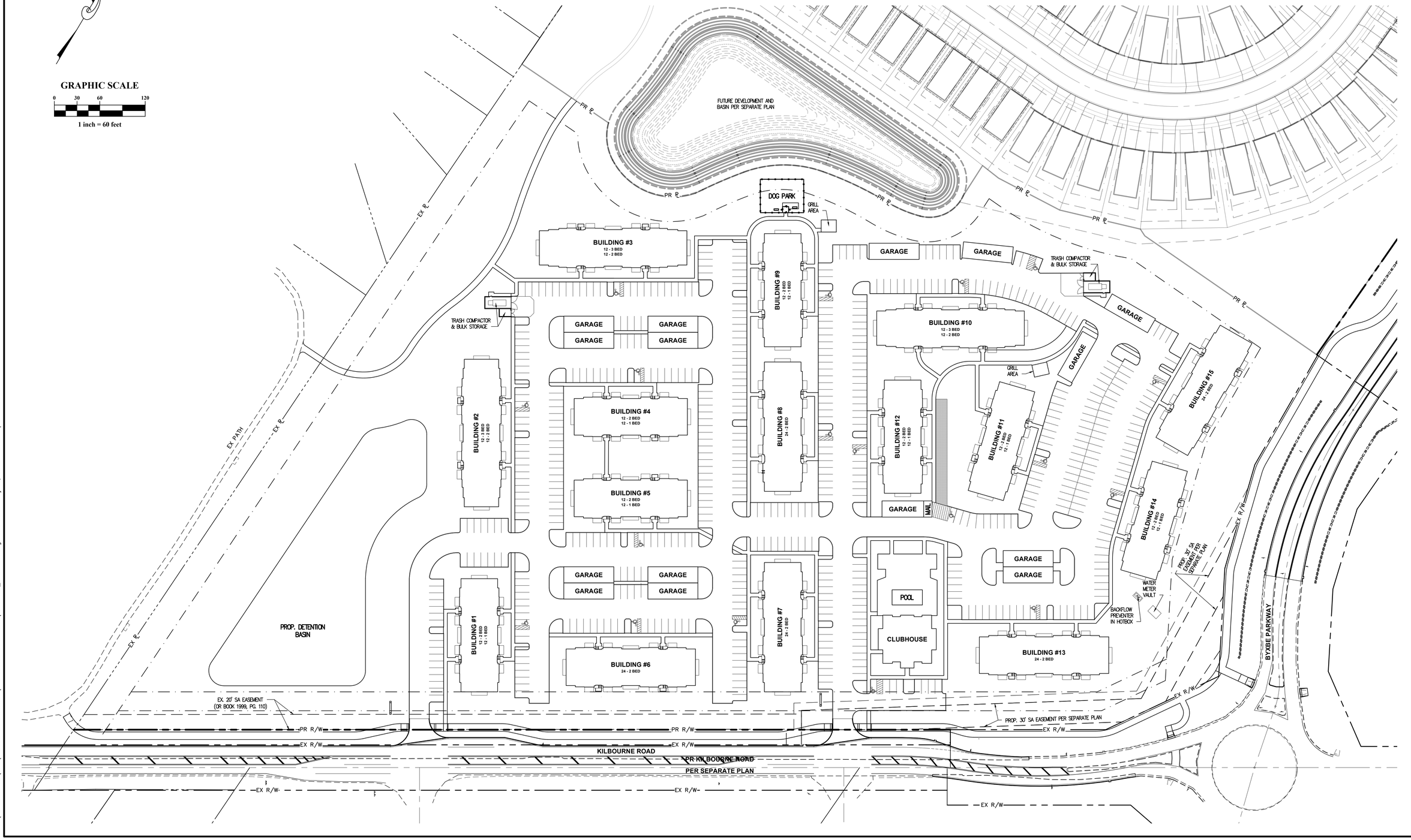
Advanced Civil Design, Inc.

Project Manager
Direct line-614.944.5089
tscheck@advancedcivildesign.com

GRAPHIC SCALE

0 30 60 120

1 inch = 60 feet



PLAN PREPARED BY:

ADVANCED CIVIL DESIGN
ENGINEERS | SURVEYORS
781 Science Boulevard, Suite 100
Gahanna, Ohio 43230
ph. 614.428.7750
fax. 614.428.7755

PLAN PREPARED FOR:

METRO DEVELOPMENT LLC
470 GLOE WORTHINGTON ROAD
WESTERVILLE, OHIO 43082

CITY OF DELAWARE / DELAWARE, OHIO

SITE DEVELOPMENT PLAN
FOR
RESERVE AT NORTHBOURNE
SITE PLAN

Issue Dates:

Date: 5/20/2025
Scale: 1" = 60'

Drawn By:	Checked By:
AMR	TS

Project Number: 23-0286-128

Drawing Number: 8 / 8

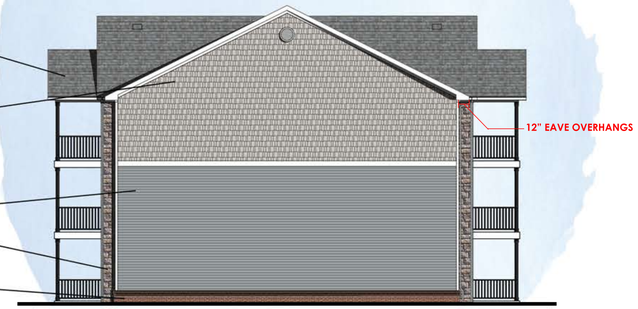
Z:\23-0286-128\DWG\PRODUCTION DRAWINGS\SITE DEVELOPMENT PLAN\0286-128_SITE PLAN.dwg SITE PLAN May 20, 2025 - 3:55:49pm TScheck



1 **FRONT & REAR ELEVATION - TYPE G - BUILDINGS 6, 7, 8, 13, & 15**

SCALE: 1"=10'

* HARDI-PLANK TO REPLACE ALL VINYL SIDING ON THE SIDES OF BLDGS 6, 7, & 13 FACING KILBOURNE RD, AND ON THE SIDES OF BLDGS 13 & 15 FACING BYXBE RD
- COPING AND DOWNSPOUTS TO MATCH BUILDING FACADE



2 **SIDE ELEVATION - TYPE G**

SCALE: 1"=10'



3 **FRONT & REAR ELEVATION - TYPE J - BUILDINGS 1, 4, 5, 9, 11, 12, & 14**

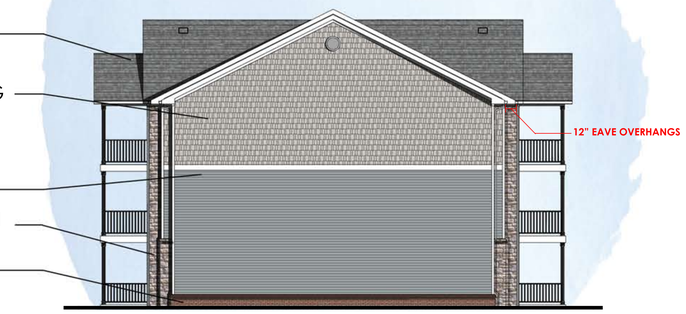
SCALE: 1"=10'

* HARDI-PLANK TO REPLACE ALL VINYL SIDING ON THE SIDES OF BLDGS 1 & 14 FACING KILBOURNE RD, AND ON THE SIDE OF BLDG 14 FACING BYXBE RD
- COPING AND DOWNSPOUTS TO MATCH BUILDING FACADE



4 **SIDE ELEVATION - TYPE J**

SCALE: 1"=10'



5 **FRONT & REAR ELEVATION - TYPE L - BUILDINGS 2, 3, & 10**

SCALE: 1"=10'

- COPING AND DOWNSPOUTS TO MATCH BUILDING FACADE

6 **SIDE ELEVATION - TYPE L**

SCALE: 1"=10'

3-STORY BUILDING ELEVATIONS

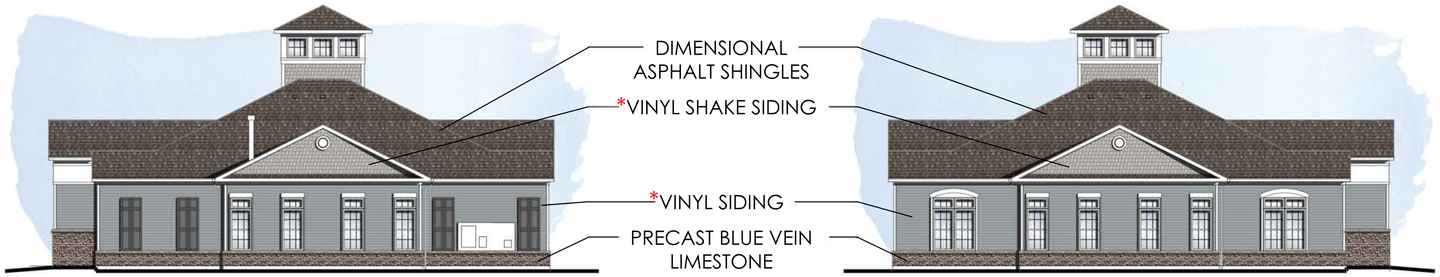
RESERVE AT NORTHOURNE

PREPARED FOR METRO DEVELOPMENT

DATE: 05.20.25

NORTH
SCALE: 1"=10'
0 5' 10' 20' 30'

Faris Planning & Design
LAND PLANNING ◆ LANDSCAPE ARCHITECTURE
4876 Cemetery p (614) 487-1964
Hilliard, OH 43026
www.farisplanninganddesign.com



1 **CLUBHOUSE - SIDE ELEVATION**
SCALE: 1"=10'

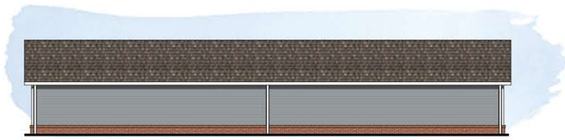
2 **CLUBHOUSE - SIDE ELEVATION**
SCALE: 1"=10'



3 **CLUBHOUSE - FRONT ELEVATION**
SCALE: 1"=10' * HARDI-PLANK TO REPLACE ALL VINYL SIDING ON THE FRONT OF CLUBHOUSE
- COPING AND DOWNSPOUTS TO MATCH BUILDING FACADE



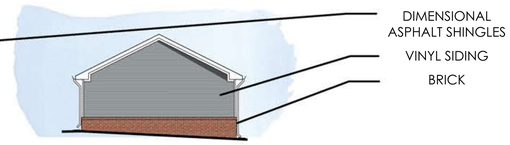
4 **CLUBHOUSE - REAR ELEVATION**
SCALE: 1"=10'



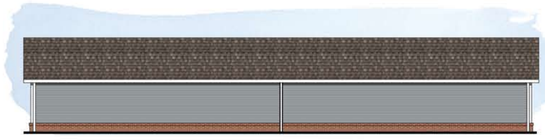
5 **GARAGE - BACK ELEVATION**
SCALE: 1:10 - COPING AND DOWNSPOUTS TO MATCH BUILDING FACADE



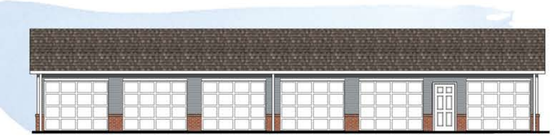
6 **GARAGE - FRONT ELEVATION**
SCALE: 1:10



7 **GARAGE - SIDE ELEVATION**
SCALE: 1:10



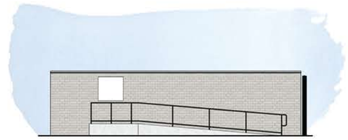
8 **GARAGE WITH ADA ACCESS - BACK ELEVATION**
SCALE: 1:10 - COPING AND DOWNSPOUTS TO MATCH BUILDING FACADE



9 **GARAGE WITH ADA ACCESS - FRONT ELEVATION**
SCALE: 1:10



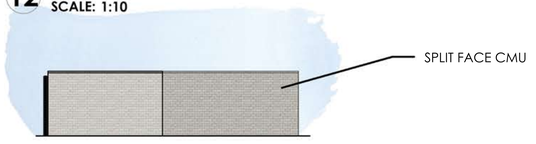
10 **GARAGE WITH ADA ACCESS- SIDE ELEVATION**
SCALE: 1:10



11 **COMPACTOR - SIDE A ELEVATION**
SCALE: 1:10



12 **COMPACTOR - FRONT ELEVATION**
SCALE: 1:10



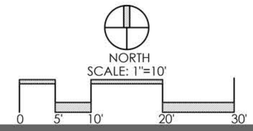
13 **COMPACTOR - SIDE B ELEVATION**
SCALE: 1:10

ARCHITECTURAL ELEVATIONS - ANCILLARY STRUCTURES

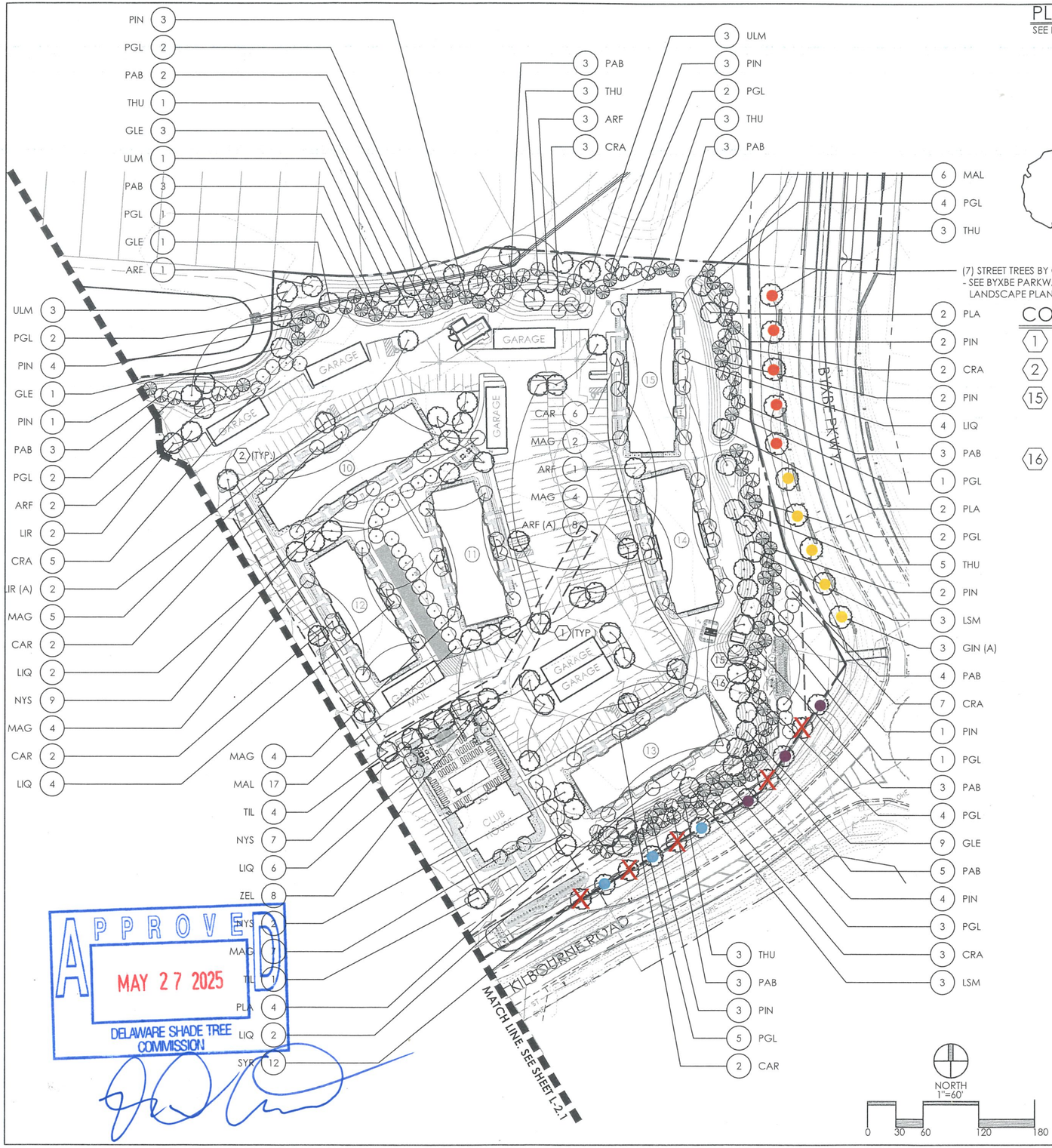
RESERVE AT NORTHBOURNE

PREPARED FOR METRO DEVELOPMENT

DATE: 05.20.25

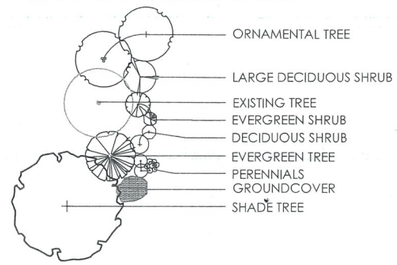


Faris Planning & Design
LAND PLANNING ◆ LANDSCAPE ARCHITECTURE
4876 Cemetery
p (614) 487-1964
Hilliard, OH 43026
www.farisplanninganddesign.com



PLANT KEY TYPICALS

SEE PLANT LIST FOR SPECIFIC PLANT SPECIES



CONSTRUCTION NOTES

1. LAWN AREA. PROVIDE POSITIVE DRAINAGE ACROSS ALL SURFACES.
2. LANDSCAPE AREA. PROVIDE 3" DEPTH HARDWOOD MULCH. POSITIVE DRAINAGE ACROSS ALL SURFACES.
15. FLAGPOLE LIGHTING. 150W LED – PHOTOCELL – TENNON MOUNT "KNUCKLE". 120-277V UNLV – 5000 KELVIN TEMP – 3X3 SPOT – 2" SLIPFITTER, OR OWNER APPROVED EQUAL. SEE DETAIL 11, SHEET SD-1 FOR MORE INFORMATION.
16. FLAGPOLE - MODEL: 70FT COMMERCIAL FIBERGLASS POLE - INTERNAL HALYARD, SATIN FINISH, SKU: FLGPCOM1000034701, OR OWNER APPROVED EQUAL. AVAILABLE FROM WWW.UNITED-STATES-FLAG.COM. FLAGS TO BE FURNISHED BY OWNER. CONTRACTOR TO FURNISH ALL NECESSARY APPURTENANCES TO MEET MANUFACTURER'S RECOMMENDED INSTALLATION. LOCATE AND ORIENT AS INDICATED. SEE DETAIL 5, SHEET SD-1 FOR MORE INFORMATION.

GENERAL PLANTING NOTES:

1. ALL PLANTS SHALL MEET OR EXCEED STANDARDS SET IN THE USA STANDARD FOR NURSERY STOCK.
2. ALL PLANTING OPERATIONS SHALL ADHERE TO THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS.
3. PLANT LOCATIONS AND BEDS SHALL BE LOCATED BY CONTRACTOR AND APPROVED BY LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
4. PLANTING BEDS SHALL HAVE A MINIMUM 3" DEEP SHREDDED HARDWOOD BARK MULCH. MULCH HEDGES IN A CONTINUOUS BED.
5. ALL PLANTING BEDS TO BE TILLED TO A MINIMUM DEPTH OF 12". **PLANTING BEDS NOT ASSOCIATED WITH BUILDINGS SHALL BE RAISED TO A MIN. OF 6" ABOVE FINISH GRADE OF LAWN AREA AND NOT TO IMPEDE ON DRAINAGE FLOW. CONTRACTOR TO CONSULT WITH OWNER PRIOR TO ADDITIONAL TOPSOIL FOR PLANTING BEDS. PLANTING BEDS SHALL BE GRADED TO PROVIDE POSITIVE DRAINAGE AT A MINIMUM OF 2% SLOPE.**
6. ALL PLANTING BEDS TO BE FERTILIZED WITH 10-10-10 OR APPROVED EQUAL.
7. SODDING / SEEDING BY LANDSCAPE CONTRACTOR.
8. THE LOCATION OF THE EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES PRIOR TO COMMENCING WORK AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
9. ALL AREAS DISTURBED BY CONSTRUCTION ARE TO BE RESTORED, FINE GRADED AND SEEDED/ SODDED.
10. ALL EXISTING PLANT MATERIAL SHOWN ON THIS PLAN IS TO BE PRESERVED UNLESS SPECIFICALLY NOTED OTHERWISE.

Street Tree Changes:
- Emerald City Tulip Poplar (Liriodendron tulipifera)
- Bloodgood London Plane Tree (Platanus x acerifolia)
- Chestnut Oak (Quercus prinus)

OVERALL LANDSCAPE PLANT LIST (EAST)

(CONTRACTOR RESPONSIBLE FOR ALL PLANTS SHOWN ON PLAN)

QTY	KEY	BOTANICAL NAME	COMMON NAME	SIZE	COND.	REMARKS
DECIDUOUS TREES						
7	ARF	ACER RUBRUM 'FRANK JR'	REDPOINTE RED MAPLE	1.75" CAL.	B&B	
8	ARF (A)	ACER RUBRUM 'FRANK JR'	REDPOINTE RED MAPLE	3" CAL.	B&B	
14	GLE	GLEDITSIA TRIACANTHOS F. INERMIS 'SKYCOLE'	SKYLINE HONEYLOCUST	1.75" CAL.	B&B	
2	LIR	LIRIODENDRON TULIPFERA 'JFS-OZ' EMERALD CITY	EMERALD CITY TULIP TREE	1.75" CAL.	B&B	
2	LIR (A)	LIRIODENDRON TULIPFERA 'JFS-OZ' EMERALD CITY	EMERALD CITY TULIP TREE	3" CAL.	B&B	
6	LSM	LIQUIDAMBAR STYRACIFLUA 'MORAINE'	MORAINE SWEETGUM	1.75" CAL.	B&B	
18	NYS	NYSSA SYLVATICA 'WILDFIRE'	WILDFIRE BLACK GUM	1.75" CAL.	B&B	
8	PLA	PLATANUS X ACERIFOLIA 'MORTON CIRCLE' EXCLAMATION!	EXCLAMATION LONDON PLANE TREE	1.75" CAL.	B&B	
5	TIL	TILIA AMERICANA 'BOULEVARD'	BOULEVARD AMERICAN LINDEN	3" CAL.	B&B	
7	ULM	ULMUS 'FRONTIER'	FRONTIER HYBRID ELM	1.75" CAL.	B&B	
8	ZEL	ZELKOVA SERRATA 'MUSASHINO'	MUSASHINO ZELKOVA	3" CAL.	B&B	
STREET TREES						
	GIN (A)	GINKGO BILOBA 'AUTUMN GOLD'	AUTUMN GOLD MAIDENHAIR TREE	1.75" CAL.	B&B	
~~12~~	~~SYR~~	~~SYRINGA RETICULATA 'IVORY SILK'~~	~~JAPANESE TREE LILAC 'IVORY SILK'~~	~~1.75" CAL.~~	B&B	
EVERGREEN TREES						
32	PAB	PICEA ABIES	NORWAY SPRUCE	6-7' HGT.	B&B	
29	PGL	PICEA GLAUCA	WHITE SPRUCE	6-7' HGT.	B&B	
25	PIN	PINUS STROBUS	WHITE PINE	6-7' HGT.	B&B	
18	THU	THUJA PLICATA X STANDISHII 'GREEN GIANT'	WESTERN GREEN GIANT ARBORVITAE	6-7' HGT.	B&B	
ORNAMENTAL TREES						
12	CAR	CARPINUS BETULUS 'LUCAS'	LUCAS EUROPEAN HORNBEAM	1.75" CAL.	B&B	
20	CRA	CRATAEGUS VIRIDIS 'WINTER KING'	WINTER KING HAWTHORN	1.75" CAL.	B&B	
18	LIQ	LIQUIDAMBAR STYRACIFLUA 'SLENDER SILHOUETTE'	SLENDER SILHOUETTE SWEETGUM	1.75" CAL.	B&B	
26	MAG	MAGNOLIA VIRGINIANA	SWEETBAY MAGNOLIA	1.75" CAL.	B&B	
23	MAL	MALUS 'JFS-KW5'	ROYAL RAINDROPS CRABAPPLE	1.75" CAL.	B&B	

REVISIONS

OVERALL LANDSCAPE PLAN (EAST)

RESERVE AT NORTHBOURNE
PREPARED FOR:
METRO DEVELOPMENT
470 OLDE WORTHINGTON ROAD, SUITE 100
WESTERVILLE, OH 43082

Faris Planning & Design
LANDSCAPE ARCHITECTURE
Hillsrc, OH 43026
www.farisplanninganddesign.com
LAND PLANNING
4876 Cemetery Road
p (614) 487-1964

PRELIMINARY NOT FOR CONSTRUCTION

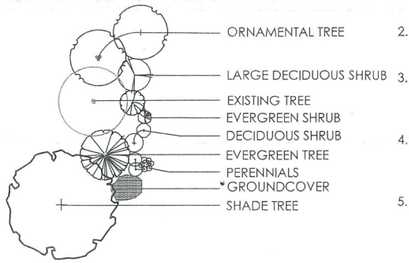
DATE	05/7/25
PROJECT	23163
SHEET	

L-2



PLANT KEY TYPICALS

SEE PLANT LIST FOR SPECIFIC PLANT SPECIES



CONSTRUCTION NOTES

1. LAWN AREA. PROVIDE POSITIVE DRAINAGE ACROSS ALL SURFACES.
2. LANDSCAPE AREA. PROVIDE 3" DEPTH HARDWOOD MULCH. POSITIVE DRAINAGE ACROSS ALL SURFACES.
9. FOUNTAIN GEYSER 2 HP.240 V. L1PHASE FOUNTAIN BY AQUAMASTER; MODEL #M5422-SC. OR OWNER APPROVED EQUAL.
11. RECHARGE WELLS AT PONDS. FINAL LOCATION BY OWNER.

Street Tree Changes:
- Emerald City Tulip Poplar (Liriodendron tulipifera)
- Bloodgood London Plane Tree (Platanus x acerifolia)
- Chestnut Oak (Quercus prinus)
- Autumn Gold Gingko (Gingko biloba)

GENERAL PLANTING NOTES:

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OVERALL LANDSCAPE PLANT LIST (WEST)

(CONTRACTOR RESPONSIBLE FOR ALL PLANTS SHOWN ON PLAN)

QTY	KEY	BOTANICAL NAME	COMMON NAME	SIZE	COND.	REMARKS
DECIDUOUS TREES						
1	AES	AESCULUS X CARNEA 'FORT MCNAIR'	FORT MCNAIR RED HORSECHESTNUT	1.75" CAL.	B&B	
3	ARF	ACER RUBRUM 'FRANK JR'	REDPOINTE RED MAPLE	1.75" CAL.	B&B	
16	ARF (A)	ACER RUBRUM 'FRANK JR'	REDPOINTE RED MAPLE	3" CAL.	B&B	
15	GIN	GINKGO BILOBA 'AUTUMN GOLD'	AUTUMN GOLD MAIDENHAIR TREE	1.75" CAL.	B&B	
12	GLE	GLEDITSIA TRIACANTHOS F. INERMIS 'SKYCOLE'	SKYLINE HONEYLOCUST	1.75" CAL.	B&B	
24	LIR	LIRIODENDRON TULIPFERA 'JFS-OZ' EMERALD CITY	EMERALD CITY TULIP TREE	1.75" CAL.	B&B	
4	LIR (A)	LIRIODENDRON TULIPFERA 'JFS-OZ' EMERALD CITY	EMERALD CITY TULIP TREE	3" CAL.	B&B	
15	LSM	LIQUIDAMBAR STYRACIFLUA 'MORAINE'	MORAINE SWEETGUM	1.75" CAL.	B&B	
14	NYS	NYSSA SYLVATICA 'WILDFIRE'	WILDFIRE BLACK GUM	1.75" CAL.	B&B	
13	PLA	PLATANUS X ACERIFOLIA 'MORTON CIRCLE' EXCLAMATION!	EXCLAMATION LONDON PLANE TREE	1.75" CAL.	B&B	
19	TIL	TILIA AMERICANA 'BOULEVARD'	BOULEVARD AMERICAN LINDEN	3" CAL.	B&B	
15	ULM (A)	ULMUS 'FRONTIER'	FRONTIER HYBRID ELM	3" CAL.	B&B	
STREET TREES						
~~28~~	~~SYR~~	~~SYRINGA RETICULATA 'IVORY SILK'~~	~~JAPANESE TREE LILAC 'IVORY SILK'~~	1.75" CAL.	B&B	
EVERGREEN TREES						
30	PAB	PICEA ABIES	NORWAY SPRUCE	6-7' HGT.	B&B	
20	PAB (A)	PICEA ABIES	NORWAY SPRUCE	8' HGT.	B&B	
29	PGL	PICEA GLAUCA	WHITE SPRUCE	6-7' HGT.	B&B	
16	PGL (A)	PICEA GLAUCA	WHITE SPRUCE	8' HGT.	B&B	
25	PIN	PINUS STROBUS	WHITE PINE	6-7' HGT.	B&B	
27	PIN (A)	PINUS STROBUS	WHITE PINE	8' HGT.	B&B	
27	THU	THUJA PLICATA X STANDISHII 'GREEN GIANT'	WESTERN GREEN GIANT ARBORVITAE	6-7' HGT.	B&B	
10	THU (A)	THUJA PLICATA X STANDISHII 'GREEN GIANT'	WESTERN GREEN GIANT ARBORVITAE	8' HGT.	B&B	
ORNAMENTAL TREES						
28	AME	AMELANCHIER LAEVIS 'SPRING FLURRY'	SPRING FLURRY SERVICEBERRY			
37	CAR	CARPINUS BETULUS 'LUCAS'	LUCAS EUROPEAN HORNBEAM	1.75" CAL.	B&B	
22	CRA	CRATAEGUS VIRIDIS 'WINTER KING'	WINTER KING HAWTHORN	1.75" CAL.	B&B	
42	LIQ	LIQUIDAMBAR STYRACIFLUA 'SLENDER SILHOUETTE'	SLENDER SILHOUETTE SWEETGUM	1.75" CAL.	B&B	
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25	MAL	MALUS 'JFS-KW5'	ROYAL RAINDROPS CRABAPPLE	1.75" CAL.	B&B	

REVISIONS

OVERALL LANDSCAPE PLAN (WEST)

RESERVE AT NORTHBOURNE

PREPARED FOR
METRO DEVELOPMENT
470 OLDE WORTHINGTON ROAD, SUITE 100
WESTERVILLE, OH 43082

Paris Planning & Design
LAND PLANNING
LANDSCAPE ARCHITECTURE
4876 Cemetery Road
p (614) 487-1964
Hilliard, OH 43026
www.parisplanninganddesign.com

PRELIMINARY NOT FOR CONSTRUCTION

DATE	05/7/25
PROJECT	23163
SHEET	

L-2.1

Schedule

Symbol	Label	Image	QTY	Manufacturer	Catalog	Description	Number Lamps	Lamp Output	LLF	Input Power	Polar Plot
	P3 HSS		14	American Electric Lighting	247CL P303 XXXX 30K R3 HSS	247CL American Revolution LED Full Cutoff, P303 Performance Package, 3000K CCT, R3 Distribution, with House Side Shield	1	7928	0.92	79.9822	Max: 7364cd
	P4		40	American Electric Lighting	247CL P202 XXXXX 30K R4	247CL American Revolution LED Full Cutoff, P202 Performance Package, 3000K CCT, R4 Distribution	1	7987	0.92	80	Max: 5174cd
	P5		2	American Electric Lighting	247CL P303 XXXX 30K R5	247CL American Revolution LED Full Cutoff, P303 Performance Package, 3000K CCT, R5 Distribution,	1	8874	0.92	79.9822	Max: 3509cd

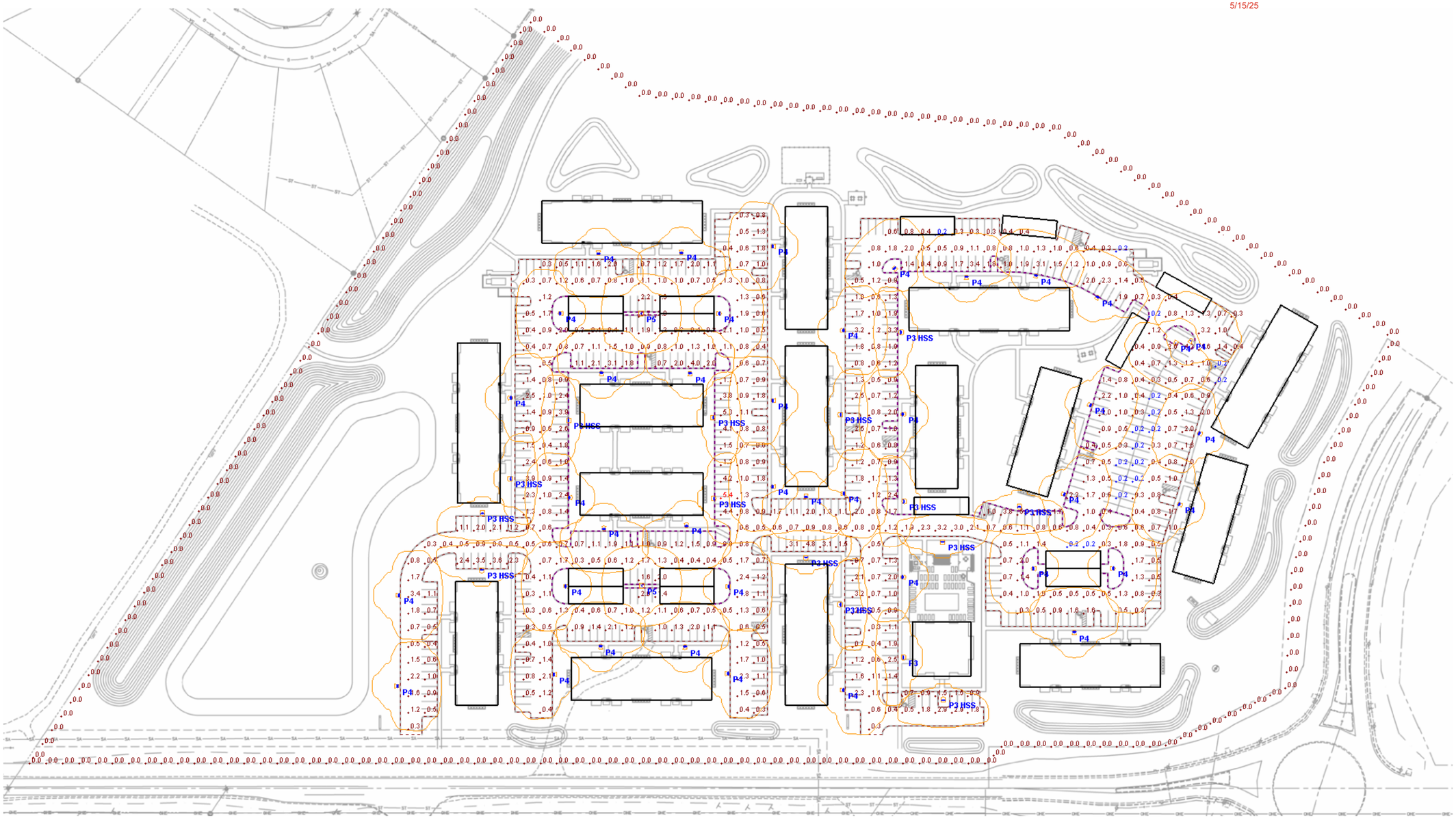
Statistics

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
PROPERTY LINE	+	0.0 fc	0.0 fc	0.0 fc	N/A	N/A
PARKING LOT	+	1.2 fc	5.4 fc	0.2 fc	27.0:1	6.0:1

City of Delaware Approved Plans

Jerry Warner
Chief Building Official

5/15/25



OVERALL PHOTOMETRICS PLAN

RESERVE AT NORTHBOURNE PHOTOMETRIC PLAN

Designer
CF
Date
03/13/2025
Scale
Not to Scale
Drawing No.

Summary

RESOLUTION

CITY OF DELAWARE
PLANNING COMMISSION
June 4, 2025

2023-4256 DVP #2
NORTHWOOD SUB-AREA A:
RESERVE AT NORTHBOURNE
DEVELOPMENT PLAN

WHEREAS, Metro Development, 470 Olde Worthington Road, Westerville, OH 43082, has filed an application requesting approval of a Development Plan for the Reserve at Northbourne containing 360 dwelling units on 21.51 acres located on the northwest corner of State Route 521 and Byxbe Parkway within Sub-Area A of the Northwood Planned Mixed Use Overlay.

WHEREAS, a public hearing was held on June 4, 2025, by the City of Delaware Planning Commission, as required by law, at which time all people who wished to testify regarding the pending application were afforded the opportunity to give their comments at the public hearing; and

WHEREAS, the City of Delaware Planning Commission finds that the facts submitted with this Development Plan application and presented at the public hearing and any amendments, or supplementary conditions, satisfy the standards and criteria for Development Plan approval as per §1129.06 of the Planning and Zoning Code; and

NOW THEREFORE, BE IT RESOLVED that the City of Delaware Planning Commission recommends to the City of Delaware City Council:

SECTION 1. Approval of a Development Plan for The Reserve at Northbourne on 21.51-acres, except as further modified by the following conditions and requirements:

SECTION 2. Conditions of Approval:

1. The site plan dated 5/20/25 shall be the approved site plan for this development, unless modified herein.

2. All comments and concerns of the City Engineer, Fire Department, Utilities, and the Planning and Community Development Department shall be addressed prior to the release of any permits.

3. The applicant shall be responsible for paying the City's full cost of third-party engineering plan reviews.

4. The site shall comply in all respects with the approved Development Text.

5. Fountains and/or other aeration and water circulation devices are required for all retention ponds and shall be maintained by the owner, developer, or the master association in perpetuity.

6. Access:
   a. All access to subarea A will come from State Route 521. No access is permitted from Byxbe Parkway.
   b. Acceptance of Public Improvements (API) for improvements on State Route 521 shall be required prior to the occupancy of any structures within the development.
   c. Sidewalks shall be provided to accommodate full pedestrian connectivity between buildings and in particular to the clubhouse and mail kiosk.

7. Traffic Impact Study (TIS):
   a. This applicant shall be responsible for completing all design and construction of the required roadway improvements of SR 521, as determined by the Traffic Impact Study and as determined by the City Engineer. Improvements shall include, but not be limited to, widening to a 3-lane section between Ashburn Drive and Byxbe Parkway, addition of southbound right turn lanes into the site, and full-width mill and overlay of the existing roadway.
   b. A completed and accepted TIS is required for a Development Agreement to be executed.
   c. No Acceptance of Public Improvements for any section shall be provided until the TIS is completed and accepted.

8. Parking:
   a. The parking lot shall be kept in good condition. The City Engineer reserves the right to determine if the parking lot pavement condition is in disrepair and has not been maintained in a commercially acceptable condition, and that improvements are required. Those improvements shall be completed in a timely manner to the City Engineer's satisfaction.
   b. A finalized parking plan with no more than 15 parking spaces between landscape islands shall be submitted to the Planning and Development Department prior to zoning approval

9. Building Design:
   a. The architectural elevations dated 5/20/25 shall be the approved elevations for the development unless modified herein.

b. The trash compactor enclosures shall be constructed of brick or stone or an equivalent veneer product comparable to the materials utilized on the residential buildings. Final design of the enclosures shall be reviewed and approved by the Planning and Development Department prior to zoning approval

10. Lighting:
    a. The lighting plan dated 3/13/25 shall be the approved lighting plan for this development.

11. Landscaping, Buffering, and Screening:
    a. The landscape plan dated 5/7/25 shall be the approved landscape plan for this development, unless modified herein.
    b. The Tree Canopy Management Plan dated 5/7/25 shall be the approved Tree Canopy Management Plan, unless modified herein.
    c. The Street Tree Plan shall be modified to reflect the changes recommended by the Shade Tree Commission at their meeting on 5/27/25.
    d. The applicant shall install earthen mounds with plantings on the west side of the site. The mound adjacent to existing single-family residences shall be at least ten (10) feet in height.
    e. All landscaping shall be maintained in perpetuity by the owner or association of owners.
    f. All ground-mounted mechanical equipment shall be screened with fences, walls, or plantings.

12. Signage:
    a. The applicant shall be permitted one (1) temporary sign per frontage for up to 30 days at the time of opening. The temporary sign shall be no larger than 32 square feet and five feet tall, and shall be located at least 20-feet from all property lines. No other temporary signage shall be permitted.
    b. In accordance with Exhibit F5 included in the approved Development Text, the applicant shall be permitted a maximum of one column sign at the western entrance, one monument sign at the eastern entrance, and one sign at the clubhouse. One development sign shall be permitted on the southeast corner of the site adjacent to the roundabout.
    c. Signs shall be designed as shown on the drawings dated 5/7/25. Final design and location of the permanent signs shall be reviewed and approved by the Planning and Development Department prior to the release of a sign permit.

d. All ground-mounted signs shall be designed with stone bases to compliment the architectural features of the structures within the development.
e. All signage shall require a sign permit prior to installation.

13. Plat:
    a. The applicant shall submit a final subdivision plat for approval by the Planning Commission prior to the issuance of any building permits.
    b. The plat shall include all easements and dedicate fee simple right-of-way as determined by the TIS for associated roadway improvements, and as otherwise determined by the City Engineer.

SECTION 3. These plans and all papers relating to the approved plan shall be submitted with this resolution to City Council

The Clerk is directed to transmit this case to City Council for further determination as required by law.

PASSED: June 4, 2025 YEAS 4 NAYS Ø ABSTAIN Ø

ATTEST: Sarah Dinow
CITY CLERK

COMMISION CHAIRMAN

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Nicolas Langford, Economic Development
ITEM TYPE:	Ordinances
AGENDA SECTION:	**7:25 PM PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 25-42**
SUBJECT:	Ordinance No. 25-42, an ordinance approving and authorizing the City Manager to execute a Community Reinvestment Area agreement with Sawmill Delaware Investments, LLC, for investment in real property improvements on +/- 100,000 square feet at 115 Innovation Court (parcels #41922002003003 and #41922002003004).

SUGGESTED ACTION:

ATTACHMENTS:

FAQ - FedONE - CRA_Final_Updated.docx
CRA Ordinance - FedOne - final.docx
CRA Agreement - FedOne - final.doc

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: 10 DATE: 7/14/2025

ORDINANCE NO: 25-42 RESOLUTION NO:

READING: SECOND PUBLIC HEARING: YES **(JULY 14, 2025 AT 7:25 PM)**

TO: Mayor and Members of City Council

FROM: Paul Brake, City Manager

VIA: Nic Langford, Director of Economic Development

TITLE OF PROPOSED ORDINANCE/RESOLUTION:

AN ORDINANCE APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A COMMUNITY REINVESTMENT AREA AGREEMENT WITH SAWMILL DELAWARE INVESTMENTS, LLC, FOR INVESTMENT IN REAL PROPERTY IMPROVEMENTS ON +/- 100,000 SQUARE FEET AT 115 INNOVATION COURT (PARCELS #41922002003003 AND #41922002003004).

BACKGROUND:

Sawmill Delaware Investments, LLC, is proposing an investment of approximately $14 million to construct a new building of approximately 100,000 square feet at 115 Innovation Court, Delaware, Ohio, to provide leasable space. The total project includes the acquisition of land at approximately $1.3 million and construction costs of approximately $11.5 million. This significant investment aims to enhance economic growth and commercial development in the designated Community Reinvestment Area. The Project will create at least 20 jobs and payroll of at least $1,000,000, yielding a minimum of $18,500 in new payroll/income taxes. Once complete and leased, the company intends to build another 100,000 square feet building adjacent to this building. Staff is recommending a 15-YR/75% CRA (Tax Abatement) for this project as Sawmill Delaware Investments, LLC needs the abatement to close their construction loan with their lender and commence with constructing the project. Note: there is no school compensation/PILOT agreement associated with this project.

COMMITTEE RECOMMENDATION:

N/A

FISCAL IMPACT(S):
N/A

POLICY CHANGES:
N/A

PRESENTER(S):
Nic Langford, Director of Economic Development

RECOMMENDATION:
Approval

ATTACHMENT(S)
CRA School Notification (Email)
Incentives Application (Original)
CRA Agreement (To Be Executed After Ordinance Approval)

ORDINANCE NO. 25-42

AN ORDINANCE APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A COMMUNITY REINVESTMENT AREA AGREEMENT WITH SAWMILL DELAWARE INVESTMENTS, LLC, FOR INVESTMENT IN REAL PROPERTY IMPROVEMENTS ON +/- 100,000 SQUARE FEET AT 115 INNOVATION COURT (PARCELS #41922002003003 AND #41922002003004).

WHEREAS, the City has encouraged development of, and investment in, real property located in designated Community Reinvestment Areas (CRAs) pursuant to ORC Chapter 3735; and

WHEREAS, this Council, by Ordinance No. 25-21, authorized real property tax abatements for commercial/industrial new construction for up to 100% of new building value for a maximum term of 15-years, with the percentage of new building value abated and the term of the abatement to be determined on a case-by-case basis; and

WHEREAS, Sawmill Delaware Investments, LLC (the "Company") proposes to develop a new building of approximately 100,000 square feet located on ±13.064 acres at 115 Innovation Court, Delaware, Ohio (Delaware County Auditor Tax Parcels #541922002003003 and #41922002003004) to provide new leasable commercial space in the City (the "Project"); and

WHEREAS, the City desires to authorize a fifteen-year (15-year), seventy-five percent (75%) real property tax exemption (the "CRA Tax Abatement") for the increase in assessed value of the Project's real property improvements to induce the Company to construct the Project, all as set forth in the proposed Community Reinvestment Area Agreement now on file with the Clerk of Council (the "CRA Agreement"); and

WHEREAS, this Council has determined that the Company is qualified by financial responsibility and business experience to construct, own, and operate said Project in a manner that will add to the economic environment in the City; and

WHEREAS, the Project is located in the Delaware City School District and the Delaware County Career Center, and the Board of Education of the Delaware City School District and the Board of Education of the Delaware County Career Center have been notified of the proposed CRA Agreement in accordance with Ohio Revised Code Sections 3735.671 and 5709.83; and

WHEREAS, this Council desires to authorize and approve the CRA Tax Abatement and the CRA Agreement with the Company and authorize the City Manager to execute the CRA Agreement on behalf of the City.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DELAWARE, STATE OF OHIO THAT:

SECTION 1. The CRA Tax Abatement is hereby authorized and the CRA Agreement is hereby approved in substantially the form on file with the Clerk of Council.

SECTION 2. The City Manager is hereby authorized to (a) execute and deliver the CRA Agreement on behalf of the City in substantially the form on file with the Clerk of Council, as such form may be modified or amended consistent with this Ordinance, (b) carry out the terms of the CRA Agreement, and (c) take such other actions as may be necessary to implement the Project and the CRA Agreement.

SECTION 3. This Council hereby ratifies the notices given to the School Districts and the estimates therein that the amount of taxes charged and payable on any portion of the assessed valuation of the new structures subject to the exemption from real property taxation approved herein that will not be exempted from such taxation under the CRA Agreement equals or exceeds twenty-five per cent of the amount of total taxes of the new structures subject to the exemption from real property taxation. This Council certifies to each Board of Education of the School Districts that the estimates have been made in good faith.

SECTION 4. This Council hereby authorizes the City Manager, the City Attorney, the Finance Director, and the Director of Economic Development, or other appropriate officers of the City to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this ordinance, the terms and conditions of the aforesaid Agreement and the requirements and policies of the Community Reinvestment Area Program.

SECTION 5. Pursuant to Section 3735.671 of the Ohio Revised Code, the Clerk of Council is hereby directed to deliver a copy of the CRA Agreement to the Director of the Ohio Department of Development within fifteen days after the CRA Agreement is entered into. On or before March 31 of each year that the exemption set forth in Section 1 hereof remains in effect, the Mayor or other authorized officer of this City shall prepare and submit to the Director of the Ohio Department of Development a status report required under Section 3735.672 of the Ohio Revised Code.

SECTION 6. This Council finds and determines that all formal actions of this Council, and any of its committees concerning and relating to the passage of this Ordinance, were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with the law including Section 121.22 of the Ohio Revised Code.

SECTION 7. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

VOTE ON RULE SUSPENSION: YEAS____ NAYS____

ABSTAIN____

PASSED: _____, 2025 YEAS____ NAYS____

ABSTAIN____

ATTEST: _____ _____
CITY CLERK MAYOR

COMMUNITY REINVESTMENT AREA AGREEMENT
SAWMILL DELAWARE INVESTMENTS, LLC

This Community Reinvestment Area Agreement (this "Agreement") is made and entered into by and between the City of Delaware, Ohio, a municipal government, with its main offices located at 1 South Sandusky Street, Delaware, Ohio 43015 (the "City") and Sawmill Delaware Investments, LLC (the "Company"), with its main offices at 8400 Industrial Parkway, Plain City, Ohio 43064, WITNESSETH;

WHEREAS, the Company desires to construct a new building at 115 innovation Ct. Delaware, Ohio 43015 (tax parcels #541922002003003 and #41922002003004)(the "Project Site") for a +/- 100,000 square foot commercial space with an approximate construction cost of $12.7 million (the "Project") provided that the appropriate development incentives are available to support the economic viability of the Project; and

WHEREAS, the Council of the City, by Resolution No. 25-21 adopted May 12, 2025, included the Project Site within a Community Reinvestment Area (commonly referred to as a "CRA") pursuant to Chapter 3735 of the Ohio Revised Code; and

WHEREAS, effective _____, 2025, the Director of Development of the State of Ohio determined that the CRA designated in Resolution No. 25-21 contains the characteristics set forth in Section 3735.66 of the Ohio Revised Code and confirmed the CRA area as Community Reinvestment Area #[ ] under said Chapter 3735; and

WHEREAS, the City, having the appropriate authority, desires to provide the Company, with incentives available for the development of the Project under Chapter 3735 of the Ohio Revised Code; and

WHEREAS, the Company has submitted a proposed agreement application (herein attached as Exhibit A) to the City (hereinafter referred to as "Application"); and

WHEREAS, the Tax Incentive Negotiating Committee of the City investigated the Application and recommended approval to City Council on the basis that the Company is qualified by financial responsibility and business experience to create and preserve employment opportunities in the CRA and improve the economic climate of the City; and

WHEREAS, the Project Site is located in the Delaware City School District and the Delaware Area Career Center, and the Board of Education of each School District has been notified of this Agreement in accordance with Section 3735.671; and

WHEREAS, pursuant to Section 3735.67(A) and in conformance with the format required under Section 3735.671(B) of the Ohio Revised Code, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

1. The Company shall construct the Project on the Project Site. Construction will commence on or before December 31, 2025, and all construction shall be completed on or before December 31, 2026.

2. The Company shall create or cause to be hired at least 20 new full-time (FTE) jobs within a period not exceeding 60 months after the completion of construction of the Project.

   The Company currently has 0 full-time employees, and 0 part-time employees at the Project Site.

   This increase in the number of employees shall result in at least 20 new jobs and $1,000,000.00 in total annual payroll.

   Based on new job and payroll creation levels, the City estimates an annual new employee income tax revenue amount of $18,500.00 generated from the Project (based on the current income tax rate of 1.85%). If in any year of this Agreement the level of new and retained payroll does not reach or falls below levels established by this Agreement, the Company agrees to reimburse the City of Delaware for lost employee income taxes. Should the City's income tax rates change, these figures shall adjust accordingly.

3. The Company shall provide to the proper Tax Incentive Review Council (TIRC) any information reasonably required by the council to evaluate the property owner's compliance with the agreement, including returns filed pursuant to section 5711.02 of the Ohio Revised Code if requested by the council. Additionally, the Company shall gather employment data from all tenants and subtenants, specifically regarding Full Time Employee Count and Payroll, to provide an annual report to the TIRC.

4. City of Delaware hereby grants the Company a real property tax exemption for Project pursuant to Section 3735.67 of the Ohio Revised Code. The tax exemption shall be for fifteen (15) years in the following amounts (the "Tax Exemption"):

Year of Tax Exemption	Tax Exemption Amount
Year 1	75%
Year 2	75%
Year 3	75%
Year 4	75%
Year 5	75%
Year 6	75%
Year 7	75%
Year 8	75%
Year 9	75%
Year 10	75%
Year 11	75%
Year 12	75%
Year 13	75%
Year 14	75%
Year 15	75%

The Tax Exemption shall commence on the first full taxable year that the Project is complete. The Tax Exemption n shall be based on the increase on the assessed value of real property attributed to the real property improvements at the Project Site. The

Company must notify the City of completion of the Project and the requested Year 1 of the Tax Exemption. The Tax Exemption shall begin no later than Tax Year 2028.

5. The Company shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If the Company fails to pay such taxes or file such returns and reports after written notification, the Tax Exemption granted under this Agreement shall be rescinded beginning in and after the year for which such taxes are charged or such reports or returns are required to be filed thereafter.

6. The City shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain the Tax Exemption including, without limitation, joining in the execution of all documentation and providing any necessary certificates required in connection with the Tax Exemption.

7. If for any reason the Community Reinvestment Area designation expires, the Director of the Ohio Department of Development revokes certification of the area, or the City revokes the designation of the area, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless the Company materially fails to fulfill its obligations under this agreement and the City terminates or modifies the exemptions from taxation granted under this agreement.

8. If the Company materially fails to fulfill its obligations under this agreement, or if the City determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City may terminate or modify the Tax Exemption and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this Agreement.

9. The Company hereby certifies that at the time this Agreement is executed, the Company does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which the Company is liable under Chapter 5735., 5739., 5741., 5743., 5747., or 5753. of the Ohio Revised Code, or, if such delinquent taxes are owed, the Company currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against the Company. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Ohio Revised Code governing payment of those taxes.

10. The City has developed a policy to ensure recipients of Community Reinvestment Area tax benefits practice non-discriminating hiring in its operations. By executing this agreement, the Company is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely based on race, religion, sex, disability, color, national origin, or ancestry.

11. The Company confirms that it has made no false statements to the State or local political subdivisions in the process of obtaining approval of the Tax Exemption. If any representative of the Company has knowingly made a false statement to the State or political subdivision to obtain the Tax Exemption, the Company shall be required to immediately return all benefits received under this Agreement pursuant ORC Section

9.66 (C)(2) and shall be ineligible for any future economic development assistance from the State, any state agency or a political subdivision pursuant to ORC Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC Section 2921.13A3.

12. The Company acknowledge that this agreement is not transferable or assignable without the express written consent and approval by City Council.

13. The Company hereby represents that it has full authority to act, negotiate, and execute this agreement.

IN WITNESS WHEREOF, the City of Delaware, Ohio, by Paul Brake, its City Manager, and pursuant to Ordinance 25-____ adopted on the _____ day of _____, 2025, has caused this instrument to be executed this _____ day of _____ 2025 and Sawmill Delaware Investments, LLC has caused this instrument to be executed on this _____ day of _____ 2025.

CITY OF DELAWARE

By:_____
Paul Brake, City Manager

SAWMILL DELAWARE INVESTMENTS, LLC

_____
Name:
Title:

Approved as to form:

By: _____
Natalia Harris, City Attorney

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Natalia Harris, City Attorney
ITEM TYPE:	Ordinances
AGENDA SECTION:	**THIRD READING OF ORDINANCE NO. 25-37**
SUBJECT:	Ordinance No. 25-37, an ordinance authorizing the City Manager to execute a settlement agreement.

SUGGESTED ACTION:

ATTACHMENTS:

Fact Sheet - RE - Lisa Keller Settlement Agreement.docx
Ord. No.25-37 RE - Keller Settlement Authorization.docx

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: 11 DATE: 7/14/2025

ORDINANCE NO: 25-37 RESOLUTION NO:

READING: THIRD PUBLIC HEARING: NO

PRESENTER: Natalia S. Harris, City Attorney

TO: Mayor and Members of City Council

FROM: Paul J. Brake, City Manager

VIA: Natalia S. Harris, City Attorney

TITLE OF PROPOSED ORDINANCE/RESOLUTION:
AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A SETTLEMENT AGREEMENT.

BACKGROUND: Legal counsel for Lisa Keller sent a letter to the City in November 2024 concerning her employment with the Delaware Municipal Clerk of Court's Office from May 30, 2023-October 7, 2024. The Delaware Municipal Clerk of Court and the City deny all allegations made by Lisa Keller in the November 2024 letter. This agreement resolves the dispute between Ms. Keller, the Delaware Municipal Clerk of Court's Office, and the City without more costly litigation.

REASON WHY LEGISLATION IS NEEDED:
Pursuant to the City Charter, the City Manager needs authority from this Council to execute a settlement agreement.

COMMITTEE RECOMMENDATION: N/A

FISCAL IMPACT(S): The City is obligated to pay a $50K monetary payment pursuant to the agreement.

RECOMMENDATION: The City Manager and outside legal counsel recommend approval.

ORDINANCE 25-37

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A SETTLEMENT AGREEMENT.

WHEREAS, in 2024, Lisa Keller alleged damages related to her employment with the Delaware Municipal Clerk of Court's Office from May 30, 2023 through October 7, 2024; and

WHEREAS, after review, assessment and consultation, the City of Delaware maintains that its conduct and operations related to Lisa Keller's allegations are supportable and defensible, and it denies all allegations of Lisa Keller; and

WHEREAS, after review, assessment and consultation, the Delaware Municipal Clerk of Court's Office maintains that its conduct and operation related to Lisa Keller's allegations are supportable and defensible, and denies all allegations of Lisa Keller; and

WHEREAS, Lisa Keller, the Delaware Municipal Clerk of Court's Office, and the City discussed their respective positions and reached a negotiated agreement to settle their dispute to the satisfaction of them all without the Delaware Municipal Clerk of Court's Office or the City admitting any liability or wrongdoing.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. The City Manager is authorized to execute the settlement agreement between Lisa Keller, the Delaware Municipal Clerk of Court, and the City.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

PASSED: _____, 2025 YEAS____ NAYS____
ABSTAIN ____

ATTEST: _____ _____
MAYOR CITY CLERK

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Sandra Pereira, Planning Department
ITEM TYPE:	Ordinances
AGENDA SECTION:	**THIRD READING OF ORDINANCE NO. 25-38**
SUBJECT:	Ordinance No. 25-38, an ordinance approving a request by the City of Delaware for approval to repeal and replace Part 11: Planning and Zoning Code within the City of Delaware Codified Ordinances and the corresponding official zoning map of the City of Delaware **(AS AMENDED)**.

SUGGESTED ACTION:

ATTACHMENTS:

Fact Sheet-Third Reading.docx
2 Zoning Code Summary.pdf
3 Ordinance Third .doc
5 Arch Standards update memo.docx
6 planning commission Draft New Zoning Map.pdf
Zoning Code-Third.pdf

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: 12 | DATE: 07/14/2025

ORDINANCE NO: 25-38 | RESOLUTION NO:

READING: THIRD | PUBLIC HEARING: YES (6/23/25)

TO: Mayor and Members of City Council

FROM: Paul J. Brake, ICMA-CM, CEcD, City Manager

VIA: Sandra Pereira, Planning and Community Development Director

TITLE OF PROPOSED ORDINANCE/RESOLUTION:
AN AMENDED ORDINANCE APPROVING A REQUEST BY THE CITY OF DELAWARE FOR APPROVAL TO REPEAL AND REPLACE PART 11: PLANNING AND ZONING CODE WITHIN THE CITY OF DELAWARE CODIFIED ORDINANCES AND THE CORRESPONDING OFFICIAL ZONING MAP OF THE CITY OF DELAWARE.

BACKGROUND:
A public hearing was held at City Council on June 23rd, 2025. The attached proposed zoning code has been amended to include changes highlighted in red. There are three significant changes: the first would allow supergraphics (murals) within the Historic District, the second would implement parking maximums. The third permits public and private schools in the C/I district as opposed to previously being conditionally permitted. The remaining changes are minor.

REASON WHY LEGISLATION IS NEEDED:
Chapter 1130 of the Planning and Zoning Code of the City of Delaware outlines the zoning amendment procedures.

COMMITTEE RECOMMENDATION:
The Planning Commission recommended approval 4-0 on June 4, 2025.

FISCAL IMPACT(S):

N/A

POLICY CHANGES:
N/A

PRESENTER(S):
Anna Kelsey, Planning and Zoning Administrator

RECOMMENDATION:
Approval

ATTACHMENT(S)
Staff Memo
Amended Ordinance
Zoning Code and Map Attachments

CHAPTER	SUMMARY	REASONING/CHANGES
1101. Title, Purpose, & Applicability	Introduction to the Planning and Zoning Code. The Zoning Ordinance regulates land use, structures, and development to promote public health, safety, and welfare in the City.	Minor grammatical changes.
1102. Definitions	This section defines terms and concepts used in the Zoning Ordinance, including building types, land uses, and regulatory measures.	Definitions were previously scattered throughout the code. They have been consolidated and updated to reflect words that may need defining in the context of Planning and Zoning.
1103. Administration, Powers, & Duties	Outlines the roles, responsibilities, and organizational structures of various city planning and zoning bodies, including the Director, Planning Commission, Board of Zoning Appeals, Historic Preservation Commission, and City Council.	This section remains generally unchanged with the exception of moving the Historic Preservation Commission powers and duties into this chapter as opposed to being located in the Historic District Chapter.
1104. Comprehensive Plan & Thoroughfare Plan	Procedures for amending the Comprehensive Plan, including submission requirements, public hearings, and final actions by the City Council. Adoption of Thoroughfare Plan	Previously two separate chapters that have been combined for simplicity. Aligned the procedures to amend the comprehensive plan with the procedures to amend zoning.
1105. Procedures	Procedures for zoning compliance, amendments, development plans, conditional use approvals, appeals, and variances.	Appeals and Variances, Amendments, Conditional Use Approvals, and Development Plans have all been incorporated into a singular chapter, which allows the procedures for all processes handled by the department to be found in one place.
1106. Subdivision Regulations	Subdivision regulations in the City of Delaware, including platting, public improvements, and parkland dedication requirements.	Approved changes to the Charter in 2024 removed the requirement of Council approval for plats. Therefore, all references to Council have been removed from the chapter. New parkland dedications requirements reflect current policy in providing several options for the dedication of parks and open space. All newly created lots must now be platted, which allows for the opportunity to dedicate right-of-way and appropriate easements.
1110-1115. Districts Established/Residential/ Commercial/Industrial/ PUDs and Historic Districts	Outlines the zoning districts in the City of Delaware and the zoning requirements for each district. Also specifies the uses that are permitted in all districts	There are currently 13 residential zoning districts, 9 commercial districts, 2 industrial districts and several overlay districts. In the proposed code, that number has been reduced to 5 residential, 5 commercial, 2 industrial, the historic district, and PUDs. Many of the current districts are unused and inconsistent with the built environment of Delaware. Additionally, the use of the PUD district supplants a significant number of larger rezonings due to its flexibility. An update to the zoning map will be brought forth in tandem with the Zoning Code update and will reflect the district changes.
1120. Site/Bldg. Design Requirements	Site and building design requirements are specified in this chapter and are separated into three categories: Commercial, Residential, and Industrial	Overhauled to reflect the design standards Delaware has come to expect form new construction. The current chapter improperly houses a variety of regulations not directly related to design including landscaping, platting requirements, and open space regulations.

1121. Landscaping & Screening	Outlines the requirements for street trees, buffering between differing uses and landscaping in and around parking lots, along rights-of-way and between properties	Street tree requirements have been updated for consistency with the policies of the City Forester. Expanded landscaping, buffering, and screening requirements throughout sites to create higher quality development.
1122. Tree Preservation	Requirements for maintenance of tree canopy on lands within the city, payments in lieu of tree canopy, and planting and maintenance requirements.	This chapter has minor verbiage and procedure updates from what was approved in September of 2023 to ensure intent of regulations are maintained.
1123. Parking & Loading	This Chapter specifies the design and amount of parking and waiting spaces required for specific uses. Also outlines requirements for bicycle parking and off-street loading.	Provide more flexible and less prescriptive parking code while introducing minimum parking requirements for non-motorized transportation options such as bicycle parking. Parking minimums have been reduced across all uses to adjust to changing lifestyles, remote work, demand for new housing and its increasing cost, and environmental considerations.
1124. Lighting	Regulates how sites are lit throughout the City.	More consideration for light pollution in residential areas and commercials areas that abut residential. Reduced maximum pole heights.
1125. Signage	Specifies wall, ground, and temporary sign requirements for each of the zoning districts as well as what types of signs are prohibited and where they may or may not be located.	Chapter is now content neutral and legally defensible. Reduced overall sign heights and sizes.
1126. External Effects	New chapter that regulates air, noise, and light pollution as well as fumes, odors, fire hazards, and waste.	These regulations are currently located in a chapter of the code that has been removed. (supplemental regulations) Reducing the impact of external effects is important thus warranting a separate chapter.
1130. Accessory Structures & Fences	Outlines regulations for installing garages, fences, and sheds within all districts.	Combines part of four existing chapters and provides more concrete design and material requirements to align with the rest of the design requirements. The most substantive change in in the way the maximum permitted size of an accessory structure is calculated by using the footprint of the primary structure. This ensures accessory structures are truly accessory with the principal structure on the lot.
1131. Accessory Dwelling Units	New chapter regulates the bulk, location, density, and distribution of ADUs, ensuring they provide diverse housing options while maintaining neighborhood character. ADUs will be permitted in all one and two family districts.	Fulfills the goals of the comprehensive plan to ensure a broad spectrum of housing options are available to meet the current and future needs of the growing population of Delaware
1132. Home Occupations	Regulations aim to protect residential neighborhoods while allowing home occupations that are undetectable outside the dwelling and subordinate to residential use. Removed “Major home occupations”	“Major Home Occupations” as previously included in this code allow for a specific parcel to be spot-zoned, which is generally understood not to align with municipal zoning best practices. Home Occupations should be permitted so long as they do not affect the residential character of the home or surrounding neighborhood.
1133. Short Term Rentals	New Chapter. Short-term rental (STR) regulations aim to allow residents to supplement income, diversify housing options, protect housing affordability, and support economic development in through	The zoning code does not currently address short term rentals (Airbnb, VRBO, etc.) Because short-term rentals are extremely common, it is essential that there be some guidelines in place.

1134. Alternative Energy Sources	New chapter regulates wind and solar energy in residential, commercial, and industrial districts	Code does not currently address alternative energy in any form. This chapter allows for regulations regarding placement and height.
1135. Wireless Telecommunications	Regulations for wireless telecommunications facilities, including zoning, placement, size, and maintenance requirements.	“small cell facilities” are currently the most commonly installed wireless facility and are not currently addressed in code. This addition allows the City to regulate location and design.
1136. Age Restricted Retail Sales	The Chapter outlines regulations for age restricted retail sales, including proximity restrictions, signage rules, and operational guidelines.	Chapter was approved in 2024. New changes relate to consistency with sign code and grouping tobacco and vape together.
1137. Adult Entertainment Businesses	Outlines the regulations, licensing requirements, and operational restrictions for sexually oriented businesses to ensure public health, safety, and welfare.	The regulations within this chapter remain unchanged from current standards.
1138. Temporary Uses	The regulations, permits, and criteria for temporary uses, events, and structures in the City of Delaware.	Temporary uses were previously addressed within the removed “supplemental regulations” chapter. This chapter emphasis uses that are considered temporary such as construction trailers, food trucks, the keeping of certain animals, and temporary sales and events.
1139. Nonconforming Uses	The chapter recognizes the existence of nonconforming uses, buildings, lots, and structures that were lawful at the time of the ordinance's enactment but do not conform to current regulations. This chapter outlines regulations for nonconforming uses, buildings, lots, and structures, including limitations on alterations, reconstructions, and expansions.	Substantively, this chapter has not changed. Language has been refined as to when a nonconforming building can be replaced and how we determine the continuation of a nonconforming setback.
1199. Penalty	Penalties for violating any chapter or section of the Planning and Zoning Code	Consolidated all penalties and remediation in one chapter
Appendix A	Full Schedule of Permitted Uses	Easy reference guide for all of the uses permitted and in what zoning districts. Useful for new businesses looking to locate in the City
Appendix B	New Appendix Outlining sign requirements per district	Ease of Use
Appendix C	New Appendix of Architectural Standards for the historic district	Currently a separate document

ORDINANCE NO. 25-38

AN ORDINANCE APPROVING A REQUEST BY THE CITY OF DELAWARE FOR APPROVAL TO REPEAL AND REPLACE PART 11: PLANNING AND ZONING CODE WITHIN THE CITY OF DELAWARE CODIFIED ORDINANCES AND THE CORRESPONDING OFFICIAL ZONING MAP OF THE CITY OF DELAWARE. **(AS AMENDED)**

WHEREAS, the Planning Commission, at its meeting of June 4, 2025 recommended approval of the request by the City of Delaware for approval to repeal and replace Part 11: Planning and Zoning Code within the City of Delaware Codified Ordinances and the corresponding Official Zoning Map of the City of Delaware (PC 25-7), and

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. Part 11: Planning and Zoning Code set forth in attached "Exhibit A" is hereby approved and accepted **AS AMENDED**.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

VOTE ON AMENDMENT: YEAS____ NAYS____
ABSTAIN____

PASSED: _____, 2025 YEAS____ NAYS____
ABSTAIN ____

ATTEST: _____ _____
ACTING CLERK MAYOR

Section	*Proposed*	Changes	Reasoning
General Regulations			
Location, Lighting, Sight Interference, Stability, Maintenance, Traffic Safety, Lettering, Projection, Removal, Sign Area (Calculation), Address	*Removed from Architectural Standards.*	No change.	Regulations are duplicated in base code, which applies to all signage city-wide.
Non-Historic Paint and Materials	*No change.*	No change.	n/a
Installation	*Re-iterating that signage shall not impact historic architectural details.*	Added section.	Clarification of regulations.
Illuminated Vending Machines	*Vending machines with illuminated fronts to be unviewable from "ordinary public view" or right of way.*	Removed references to content regulation.	Cannot regulate based on content.
Signs Permitted in Any Subdistrict (No Certificate of Appropriateness Required) – AKA "Temporary Signs"			
All Sections	*Removed from Architectural Standards. Downtown business owners would still be permitted to have portable sidewalk signs and other temporary signs, many without permits.*	Minimal changes – largely simplification of regulation.	Updated temporary sign regulations to be defensible; moved all temporary sign regulations into base code for ease of administration.
Signs Permitted in Any Subdistrict – [NEW SECTION]			
	Added to Architectural Standards – no COA required for signs exempt from sign permits or temporary signs.	No change.	Clarification of regulations.
Signs and Sign-Like Devices Prohibited in Any Subdistrict			
	1. Off-premise signs *2. Changeable copy signs* *3. Freestanding signs* *4. Signs on street furniture or fences* *5. Signs prohibited in base code*	No substantive change – only clarification.	Clarification of regulations.
Special Requirements for Certain Signs in Any Subdistrict			
Bank Machine Signs, Changeable Copy Signs, Gas Station Signs, Restaurant Menu Signs	*Removed from Architectural Standards.*	Section removed. Changeable copy signs regulated based on base code.	Cannot regulate signage based on the content.

Section	*Proposed*	Changes	Reasoning
Signs Permitted in the Downtown Core and Transitional Subdistrict			
General Requirements for All Signs			
Number of Signs	*Removed from Architectural Standards. No maximum number of building signs.*	No maximum number of building signs. Property or business owners could determine how to divvy up their sign allowance.	Regulations are duplicated in base code, which applies to all signage city-wide.
Sign Area	*Removed from Architectural Standards. Each building unit could have sign area equal to 1 square foot per lineal foot on the front elevation and 0.5 square feet per lineal foot.*	Reduction in sign area from 1.5 square feet per lineal foot to 1 square foot per lineal foot on primary facades.	Consistency with new base code to keep sign area proportional with building façade.
Specific Requirements for Certain Signs			
Awning Signs	*No change.*	No change.	n/a
Building Directory Sign	*Removed from Architectural Standards.*	Building owners can still install these signs as long as they don't surpass their maximum total sign area.	Cannot regulate signage based on the content.
Canopy Signs	*Permit new canopy signs, including those with vertically projecting letters.*	Current code does not permit new canopy signs.	Canopies are becoming more common.
Historic Signs	*Removed from Architectural Standards.*	Section removed.	Historic signs are protected as legal nonconforming signs. No need for them to be called out.
Murals	*Removed from Architectural Standards.*	Section removed.	Removed due to inability to regulate content.
Portable Signs	*Removed from Architectural Standards.*	No change.	Regulations are duplicated in base code, which applies to all signage city-wide.
Projecting Signs (Auto-Oriented) and Projecting Signs (Pedestrian-Oriented)	*Combined into one section. One 9 square foot projecting sign per building unit on first floor; one 24 square foot projecting sign per building unit on upper floors. Maximum 2 projecting signs per building.*	Combined all projecting sign regulations into one section; reduced square footage to 9 (consistent with current Ped-Oriented signs) on the first floor; reduced to 24 square feet for upper floors (current code allows 30).	Simplification; consistency with new base code.

Section	*Proposed*	Changes	Reasoning
Rear Entrance Signs	*Removed from Architectural Standards. Each secondary façade would be permitted 0.5 square feet of sign area per lineal foot.*	All wall signs on "secondary facades" to be consistently regulated city-wide. Current code sets maximum size of 12 square feet.	Consistency with new base code. Current code does not take into account the scale of facades.
Temporary Signs	*Removed from Architectural Standards.*	No change.	Regulations are duplicated in base code, which applies to all signage city-wide.
Theater Marquees	*Removed from Architectural Standards.*	Section removed.	Only one marquee. No need to lay out regulations for it. If needed, variances can be granted in the future.
Vending Machine Signs	*Removed from Architectural Standards.*	Section removed.	Addressed elsewhere.
Wall Signs	*Removed requirement for a wall sign. Other regulations relating to height to remain the same*	No requirement to have a wall sign.	If a business owner only wants to have a window or projecting sign, they should be able to.
Window Signs	*Removed from Architectural Standards.*	Section moved into base code. First floor tenants could have window signs with up to 20% coverage (consistent with current regulations). Upper floor commercial tenants could have one window sign up to 6 square feet.	Regulations are duplicated in base code, which applies to all signage city-wide.
Signs Permitted in the Residential Subdistrict (Certificates of Appropriateness Required)			
	Signage in the Residential Subdistrict will follow the same regulations as residential and agricultural zoning districts outlined in Section 1125.08	• Home occupation signs permitted in accordance with Chapter 1132. • Signs for residential buildings or developments reduced to 16 square feet. • Non-residential uses permitted one post and arm sign (under one acre) or one monument sign (over one acre).	Regulations are duplicated in base code.

Section	*Proposed*	Changes	Reasoning
	Abandoned Signs		
	Removed from Architectural Standards.	No change.	Regulations are duplicated in base code.
	Nonconforming Signs		
	Removed from Architectural Standards.	No change.	Regulations are duplicated in base code.
	Definitions		
	Definitions moved to Chapter 1102 (Definitions).	No change.	Regulations are duplicated in base code.

City of Delaware Zoning Map

CITY OF DELAWARE OHIO

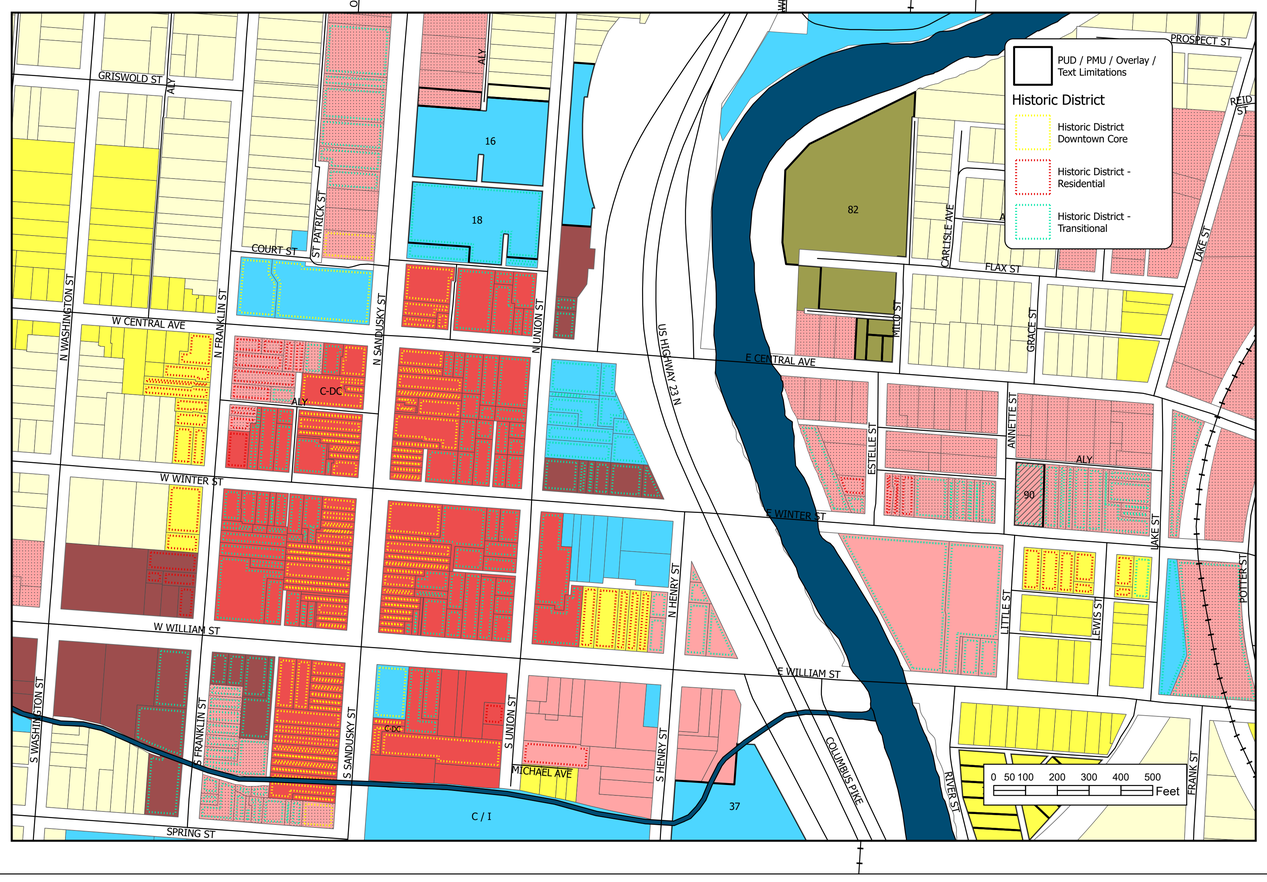
0 0.13 0.25 0.5 Miles

This map was compiled from information which was current as of March 5, 2025. The information from which this map was compiled is constantly being updated and is subject to change. The information has been received from various available sources, particularly the City of Delaware and Delaware County Auditor's Office DALIS Project. Please bring any errors to the attention of the Planning and Community Development Department (740) 203-1600 or planning@delawareohio.net.

- A-1 Agricultural District
- C/I Civic/Institutional District
- C-NX Neighborhood Mixed Commercial District
- C-GC General Commercial District
- C-DC Downtown Commercial District
- C-CC Community Commercial District
- C-PUD
- MX-PUD
- R-SF Single-Family Residential District
- R-NT Neighborhood Transition Residential District
- R-NX Neighborhood Mixed Residential District
- R-MF Multi-Family Residential District
- R-PUD
- I-1 Light Industrial District
- I-2 General Industrial District
- I-PUD
- PUD / PMU / Overlay / Text Limitations
- Right-of-Way
- Railroad
- Streams
- Street Centerlines

Zoning Overlay and PUD Index

Map Number	Ordinance	PC Case	Map Number	Ordinance	PC Case No.
1	87-33	86-024	49	09-08	09-004
2	87-98	87-032	50	09-17	09-012
3	90-40	90-012	51	10-33	10-015
4	90-74	90-008	53	11-09	10-1722
5	90-75	90-007	54	11-42	11-0429
6	93-27	93-007	55	12-07	11-2403
7	94-37	94-006	56	12-32	12-0327
8	94-61	94-027	57	12-81	12-2128
9	95-60	95-027	58	13-36	13-0621
10	98-07	97-050	59	13-50	2013-1130
11	98-93	98-044	60	19-26	2019-0648
12	99-74	99-024	61	15-119	2015-1899
13	00-28	00-022	62	14-105	2014-1845
14	00-38	00-038	63	16-28	2016-0631
15	00-116	00-066	64	15-08	2014-2505
16	00-124	00-088	65	15-10	2015-0013
17	01-17	00-084	66	15-25	2015-0201
18	15-94	2015-1550	67	21-31	2021-1052
19	01-128	01-072	68	15-78	2015-1332
20	01-141	01-077	69	19-67	2019-1578
21	14-94	2014-1635	70	17-24	2017-0408
22	02-140	02-076	71	17-54	2017-1394
23	03-46	03-049	72	01-54	00-0073
24	20-33	2020-0400	73	18-11	2017-3115
25	10-58	2010-0003	74	18-48	2018-0955
26	04-31	04-002	75	18-70	2018-1394
27	04-102	02-025	76	18-91	2018-2385
28	04-114	03-023	77	19-29	2019-0640
29	04-133	04-068	78	19-49	2018-1965
30	04-202	04-063	79	20-89	2020-2571
31	05-11	05-004	80	21-63	2021-3531
32	05-69	05-026	81	22-04	2021-3843
33	05-92	05-048	82	22-66	2022-1497
34	05-93	05-049	83	22-78	2022-0632
35	05-109	05-050	84	22-98	2022-2366
36	06-05	05-080	85	23-68	2023-3400
37	06-15	05-024	86	23-93	2023-4256
38	06-20	08-082	87	23-83	2023-3777
39	06-35	06-030	88	24-58	PUD 24-1
40	06-60	06-035	89	24-64	PUD 24-2
41	06-64	06-001	90	24-68	PUD 24-3
42	16-57	2016-1692	91	25-05	PUD 25-1
43	18-32	2018-0442	92	25-06	PUD 25-2
44	07-40	07-026	93	25-07	PUD 25-3
45	07-63	07-011	94	25-08	PUD 25-4
46	08-30	08-003	95	25-17	PUD 25-5
47	20-10	2020-0258	96	25-17	PUD 25-6
48	18-94	2018-2459	97	25-19	PUD 25-7



PART ELEVEN. PLANNING AND ZONING CODE

TITLE ONE. PLANNING

1101. Title, Purpose, and Applicability

1102. Definitions

1103. Administration, Powers, and Duties

1104. Comprehensive Plan and Thoroughfare Plan

1105. Procedures

1106. Subdivision Regulations

TITLE TWO. USE DISTRICT REGULATIONS

1110. Districts Established, Map

1111. Residential Districts

1112. Commercial Districts

1113. Industrial Districts

1114. Planned Unit Developments (PUDs)

1115. Historic District Overlay

TITLE THREE. GENERAL DEVELOPMENT REGULATIONS

1120. Site and Building Design

1121. Landscaping and Screening

1122. Tree Preservation

1123. Off-Street Parking and Loading

1124. Standards for Exterior Lighting

1125. Signage

1126. External Effects

TITLE FOUR. GENERAL ZONING REGULATIONS

1130. Accessory Structures and Fences

1131. Accessory Dwelling Units (ADUs)

1132. Home Occupations

1133. Short-Term Rentals (STRs)

1134. Alternative Energy

1135. Wireless Telecommunications

1136. Age Restricted Businesses

1137. Adult Entertainment

1138. Temporary Uses

1139. Nonconforming Lots, Uses, and Structures

TITLE FIVE: ENFORCEMENT AND PENALTIES

1199. Enforcement and Penalties

APPENDICES

Appendix A. Schedule of Permitted Uses

Appendix B. Schedule of Sign Allowances Per District

Appendix C. Architectural Standards for Downtown Delaware

CHAPTER 1101. TITLE, PURPOSE, AND APPLICABILITY

1101.01. Title.

The rules, regulations, procedures, and accompanying maps in Part 11 of the City of Delaware Codified Ordinances shall be known, cited, and referred to as the Delaware Zoning Ordinance. This Ordinance includes standards for planning, subdividing, and developing land within the City.

1101.02. Authority and scope.

This Zoning Ordinance is adopted by the City pursuant to its authority under the Ohio Revised Code and the City of Delaware Charter. Nothing in this Zoning Ordinance shall be construed to limit City Council in the exercise of all of the powers to zone or redistrict now or hereafter as authorized by the Ohio Revised Code or the City Charter.

1101.03. Purpose.

The purpose of this Zoning Ordinance is to promote and uphold the public health, safety, and general welfare of the City through regulation of the use of land and of the type, size, and use of structures. More specific purposes are to:

(a) Establish districts of such classification and number to implement any applicable plans, including the City's Comprehensive Plan and Thoroughfare Plan, that encourages the most appropriate uses of the land and guides the future development of the City.

(b) Ensure and encourage the most appropriate use of land to stabilize and preserve property values, to provide safety from hazards such as fire, flood, water, land and air contamination, and to guarantee adequate light, air, and open space to all residents of the City.

(c) Encourage compatibility between different land uses and protect the scale and character of existing development from the encroachment of incompatible uses.

(d) Preserve unique historical and/or natural features of structures or land within the City.

(e) Regulate and restrict the location, bulk, height, design, and land coverage of buildings to protect the character and value of the City's residential, commercial, industrial, institutional, and recreational areas.

(f) Regulate the area and dimension of lots, yards, and other open spaces.

(g) Ensure efficient traffic circulation, manage congestion on the ~~streets~~thoroughfares, and improve public safety by locating buildings and uses adjacent to ~~streets~~ thoroughfares in such a manner that they will cause the least interference with, and be damaged least by, traffic movements.

(h) Facilitate development of land uses according to a comprehensive design that ensures the availability of and provision for adequate traffic capacity, water and sewer service, schools, public parklands, and other such public facilities.

(i) Provide regulations, standards, and procedures for the administration, amendment, and enforcement of this Zoning Ordinance.

1101.04. Applicability.

(a) After the effective date of this Zoning Ordinance, no use of a structure or land shall be changed, and no structure or part thereof shall be erected, moved, or altered unless for a use expressly permitted by and in

conformity with, the regulations specified in this Zoning Ordinance. Existing buildings, structures, and uses of land that do not comply with the regulations of this Zoning Ordinance are non-conforming and subject to the regulations set forth in this Ordinance.

(b) No trees shall be removed from land within the City of Delaware except in conformity with the regulations specified in this Ordinance.

(c) No lot, yard, parking area, or other space shall be reduced in area or dimensions so as to make such area or dimension less than the minimum required by this Zoning Ordinance. No part of a yard, parking area, or other space provided about or for any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, parking area, or other space required under this Ordinance for another building or structure.

(d) Nothing in this Zoning Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the proper authority.

(e) Essential services shall be permitted as authorized and regulated by law and other ordinances of the City, it being the intention hereof to exempt such essential services from the application of this Zoning Ordinance.

1101.05. Interpretation.

The interpretation and application of the provisions of this Ordinance shall be held to be minimum requirements, unless otherwise specified within this text. The provisions of this Zoning Ordinance shall be liberally construed to further the purposes and objectives set forth herein and the purposes and intent of each district as set forth in each district chapter.

1101.06. Conflicting laws.

(a) Except as specifically provided herein, the provisions of this Zoning Ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with any existing ordinances, laws, rules, or permits previously adopted or issued.

(b) Where provisions of this Ordinance impose greater restrictions than other existing laws, regulations, or ordinances, the provisions of this Zoning Ordinance shall govern. Conversely, other regulations shall govern where they are more restrictive in nature than this Zoning Ordinance.

(c) These regulations shall not change any approved development plan or subdivision.

1101.07. Severability.

It is the legislative intent that, in adopting Part 11 of the City of Delaware Codified Ordinances, all its provisions shall be liberally construed to protect and preserve the peace, health, safety, and general welfare of the City of Delaware. It is the further legislative intent of the Council that Part 11 shall stand, notwithstanding the invalidity of any part, and that, should any provision be held to be unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions.

CHAPTER 1102. DEFINITIONS

1102.01. Interpretation.

For the purpose of this Zoning Ordinance, terms or words used herein shall be interpreted according to this Section. In the case of a discrepancy in meaning or implication between the text of this Ordinance and any illustration or caption, the text shall control.

(a) The word "shall" signifies a mandatory requirement, one that is not discretionary; the word "may" signifies a permissive or discretionary requirement; and the word "should" is a preference.

(b) The word "building" includes the word "structure." The word "structure" includes the word "building".

(c) The word "person" includes a firm, association, organization, partnership, trust, company, corporation, or similar entity, as well as an individual.

(d) The words "used" and "occupied" include the words "arranged, designed, constructed, altered, or intended to be used."

(e) The word "lot" includes the words "plot" and "parcel."

(f) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

(g) Whenever a number of days are specified, days shall mean calendar days, unless specifically noted otherwise.

(h) Whenever a word is not defined, the dictionary definition shall apply.

1102~~21~~.02. Definitions.

(1) ACCESSORY USE OR STRUCTURE. A use, object or structure constructed or installed on the same lot as, and of a nature subordinate and customarily incidental to the principal (primary) use, object, or structure of a lot.

(2) ACCESSORY DWELLING UNIT (ADU). An internal, attached, or detached independent residential dwelling unit located on the same lot as a stand-alone single-family home or two-family dwelling which includes its own entrance and space for living, eating, sleeping, and cooking.

A. ADU, ATTACHED. Dwelling units that are created by dividing space within a principal building, or by adding floor area to an existing dwelling.

B. ADU, DETACHED. Dwelling units that are located inside of accessory buildings located on the same lot as a principal dwelling.

(3) ACCESSORY RETAIL/SERVICE. A retail or service facility that is clearly incidental and subordinate to the primary use of a structure.

(4) ADDITION. A section added to a structure either through construction, thereby forming one architectural whole, or by joining, as by a passage, so that each section is a necessary adjunct or appurtenance of the other and thus constitutes the same structure.

(5) ADJUSTED TOTAL AREA (FOR A SITE). The area that is equal to the total area of the site that is subject of the development application, minus the area of any right-of-way required to be dedicated pursuant to the City's thoroughfare plan and any cleared stormwater detention or retention areas, as required by the City Engineer.

(6) AGE RESTRICTED RETAIL SALES. The sale at retail of:

A. Tobacco or vapor products or alternative nicotine products.

1. When these products account for more than 50% of sales at the business.

B. "Medical Marijuana" and "Adult Use Cannabis," as those terms are defined in Sections 3719.01, 3796.01, and 3780.01 of the Ohio Revised Code.

(7) AGRICULTURE. The production, keeping or maintenance, for sale, lease or personal use, of plants and/or animals useful to humans, including but not limited to: forages and crops; dairy, poultry and livestock including products breeding and grazing thereof; trees and forest products; or lands devoted to a soil conservation of forestry management program.

(8) AIRPORT-RELATED USE. A use that supports airport operations, including but not limited to aircraft repair and maintenance, flight instruction, and aircraft chartering.

(9) ALLEY. A minor street used primarily for vehicular service access to the back or side of properties abutting on another street. For the purposes of frontage calculation, alleys shall not be considered a public street.

(10) ALTERNATIVE ENERGY. Energy from sources that are naturally replenishing, such as water, wind, and the sun.

(11) ANTENNA. Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennae shall include devices having active elements extending in any direction, and directional beam type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted upon and rotated through a vertical mast or tower interconnecting the boom and Antenna support, all of which elements are deemed to be a part of the Antenna.

(12) ANTENNA SUPPORT STRUCTURE. Any building or other structure other than a Tower which can be used for location of Wireless Telecommunications Facilities.

(13) APPLICANT. A person, corporation or other legal entity submitting an application to the City for legislative or administrative approval including, but not limited to, zoning amendments, subdivision or lot splits, conditional uses, development plan approval, variances or appeals. The applicant shall be the owner of the property for which action is being sought or be its representative who shall have express written authority to act on behalf of the owner.

(14) AUTOMOTIVE REPAIR GARAGE, MAJOR. The commercial repair or restoring of motor vehicles, including the repair, reconditioning or rebuilding of engines and/or transmissions; collision service (such as body, frame or fender straightening or repair); and the overall painting, or undercoating of vehicles all conducted within a completely enclosed building.

(15) AUTOMOTIVE REPAIR GARAGE, MINOR. A commercial building or part of a building, structure or space where the retail sale of lubricants and motor vehicle accessories, the routine maintenance and service of vehicles and/or the making of repairs to motor vehicles are conducted. This definition~~s~~ excludes all work defined within AUTOMOTIVE REPAIR GARAGE, ~~HEAVY~~ MAJOR

(16) AUTOMOTIVE SALES AND RENTAL. The use of any building, land area or other premise for the display and sale, lease or rental of three (3) or more new or use motor vehicles, and which may include the display and sale, lease or rental or new or use motorcycles, light trucks and vans, trailers or recreation vehicles that are used primarily for personal needs.

(17) BERM. An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

(18) BLOCK. In describing the boundaries of a district, "block" refers to the legal description. In all other cases, a "block" refers to the property abutting on one side of a street between intersecting or intercepting streets or a street and a railroad right-of-way or waterway.

(19) BREEZEWAY. ~~:~~ An enclosed hallway with a width of less than ten (10) feet connecting a primary structure to an accessory structure.

(20) BREWERY or WINERY, MACRO. ~~:~~ An industrial use that brews ales, beers, meads, wines and/or similar beverages on site.

(21) BREWERY or WINERY, MICRO. ~~:~~ A facility for the production and packaging of malt beverages of low alcoholic content or wines for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment.

(22) BUFFER OR BUFFER YARD. A unit of land, together with a specified type and amount of planting thereon, that is intended to eliminate or minimize conflicts between land uses.

(23) BUILDING. Any structure having a roof support by or suspended from columns or walls designed or intended for the support, enclosure, shelter or protection of persons, animals or property. The term "building" does not include any vehicle, trailer (with or without wheels), or any removable device, such as furniture, machinery, or equipment.

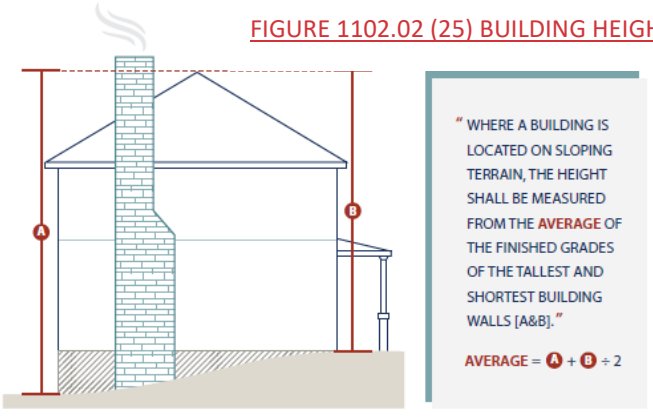
A. BUILDING, ACCESSORY. A subordinate building detached from, but located on the same lot as, the principal building, the use of which is incidental and accessory to that of the principal building.

B. BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which said building is situated.

(24) BUILDING COVERAGE. The total area of a site covered by principal and accessory buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

(25) BUILDING HEIGHT. The vertical distance, measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat roofs; to the deck lines of mansard roofs; and to the peak of the roof for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height shall be measured from the average of the finished grades of the tallest and shortest building walls.

FIGURE 1102.02 (25) BUILDING HEIGHT



(26) BUILDING LINE or BUILDING SETBACK LINE. An imaginary linear extension of the building wall parallel to the street right-of-way line defining the limits of the front yard(s).

(27) CAR WASH. A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices and/or which may employ hand labor for the washing and/or waxing of automobiles.

(28) CALIPER. The American Association of Nurseryman standard for trunk measurement of nursery stock. Caliper of the trunk shall be taken six (6) inches above the ground up to and including four-inch caliper size, and twelve (12) inches above the ground for a caliper size greater than four (4) inches

(29) CEMETERY. Land used or intended to be used for the burial of the human or animal dead, and which is dedicated for cemetery purposes. Cemetery purposes include crematories, mausoleums, and mortuaries if operated in connection with, and within the boundaries of, a cemetery. The burial of cremains is not a cemetery.

(30) CERTIFICATE OF APPROPRIATENESS. A certificate issued to an applicant by the Historic Preservation Commission authorizing a specific environmental change within an historic district.

(31) CERTIFICATE OF BUILDING AND ZONING COMPLIANCE. A certificate issued by the Director of Planning and Community Development, which declares that plans for a proposed structure, building, use, or zoning lot conform to the provisions of this Ordinance.

(32) CITY. The City of Delaware, Ohio.

(33) CITY ENGINEER. The City Engineer for the City of Delaware, Ohio or their designee.

(34) CO-LOCATION (WIRELESS TELECOMMUNICATIONS). The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

(35) CODE. Codified ordinances and all regulations of the City of Delaware, Ohio.

(36) COMMERCIAL VEHICLE. Any motor vehicle, trailer, or semi-trailer designed or used to carry freight, passengers for a fee, or merchandise in the furtherance of any commercial enterprise and having a cargo capacity classification of more than one ton.

(37) COMPREHENSIVE PLAN. The general recommended guide, consisting of maps, texts, data, etc. For the future development of the City as adopted in Chapter 1104. Also known as the master plan.

(38) COMPOSITION BOARD. A hardboard made up of wood fibers and resins to form a sheet or simulated board to be used as an exterior siding.

(39) 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

(40) DAY CARE CENTER, CHILD OR ADULT. Any building in which day care is provided for five (5) or more infants, preschool children, or school-age children outside of school hours, or five (5) or more adults; with or without compensation. An adult day care center shall not include a convalescent home, hospital or any other full-time care facility. Centers shall meet all applicable state laws governing such centers as administered by the Ohio Department of Human Services.

(41) DENSITY. The number of dwelling units per acre of land.

(42) DEVELOPMENT. The construction of a new structure on a lot; the expansion or relocation of an existing structure on a lot; the use of open land for construction of a structure; the use of open land for any non-agricultural use that does not involve the construction of a principal structure, including (but not limited to) paving, mining, drilling (but not including exploratory surveys, soil testing, or the first water well on a parcel), and dredging; plus the preparation of land for a use, including (but not limited to) demolition, grading, excavating, or filling of land, as well as the removal of trees but does not include a homeowner's lot with an existing home.

(43) DEVELOPMENT PLAN. A set of scaled drawings that includes a detailed layout of a development proposal and shows lot lines, access roads, rights of way, major landscape features, environmentally sensitive areas, existing and proposed utility easements, building elevations, ~~lignitng~~ lighting plans, signage, etc.

(44) DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT: The director of the Planning and Community Development Department of the City of Delaware or their designee.

(45) DISTRIBUTION FACILITY. A facility where vehicles load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

(46) DRIVE-THRU FACILITY. Any portion of a building or structure from which a business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions. The term "drive-thru" shall also include "drive-up" and "drive-in" but shall not include "car wash", "~~gasoline~~ fueling station", or "automotive service station".

(47) DWELLING. Any building or portion thereof intended or designed to be used for sleeping, living, cooking and dining purposes, having its own permanently installed cooking and sanitary facilities; and which shall consist of one or more dwelling units.

A. DWELLING, CLUSTER SINGLE-FAMILY. A dwelling unit designed and used exclusively by one family and separated from all other dwelling units by open space from ground to sky, which is grouped with other dwelling units in an arrangement on a site. The dwelling does not need to be located on its own subdivided lot and is not required to have a front, side, and/or rear yard that complies with the standard zoning district regulations. Property ownership outside the building envelopes is commonly held by all single-family cluster dwellings in the cluster development.

B. DWELLING, MULTIPLE-FAMILY. A dwelling consisting of five or more dwelling units for occupancy by five or more families living independently of each other with varying arrangements of entrances and party walls. This definition does not include accessory dwelling units.

C. DWELLING, SINGLE-FAMILY. A dwelling consisting of a single dwelling unit used for residential purposes by one family.

D. DWELLING, TWO/ THREE/ FOUR-FAMILY. A dwelling consisting of two (2), three (3) or four (4) dwelling units, which may be either attached side by side, or one above the other, with each dwelling unit having a separate entrance, and each occupied by one family.

(48) DWELLING UNIT. A building or portion thereof providing complete housekeeping facilities including kitchen and toilet facilities for only one (1) family. An attached or detached garage shall not be included as part of the dwelling unit.

(49) EASEMENT. Authorization by a property owner for the use, for a specified purpose, of a designated area of their property by another.

(50) EASEMENT, HIGHWAY. Type of easement that conveys, in perpetuity, the right to construct and maintain a highway facility on the land of the fee holder. The owner retains the underlying fee.

(51) ELEVATIONS. The exterior view of the front, rear, or sides of a building or structure.

(52) ENGINEER. A registered engineer, authorized to practice professional engineering by the State Board of Registration, as specified in Ohio R.C. 4733.14.

(53) ENGINEERING DESIGN STANDARDS. The standard construction specifications and regulations in accordance with City Code Chapter 903 and any policies enacted by the City Engineer.

(54) ENTERTAINMENT, INDOOR. Predominantly spectator uses conducted within an enclosed building. Typical uses include, movie theaters, bowling alleys, concert or music halls.

(55) ENTERTAINMENT, OUTDOOR. Predominantly spectator uses conducted in open or partially enclosed or screened facilities. Typical uses include sports arenas, motor vehicle or animal racing facilities, and outdoor amusement parks.

(56) EQUIPMENT SHELTER (WIRELESS TELECOMMUNICATIONS). A structure in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed.

(57) ESSENTIAL SERVICES. The 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) EVENT VENUE: A location or facility used for the purpose of organizing or assembling public or private entertainment, educational or cultural events.

(59) FAÇADE. The face or front of a structure or any vertical surface thereof adjacent to a public way.

(60) FAMILY. A person living alone, any number of individuals related by blood, adoption, foster or marriage plus no more than two persons related by blood, marriage or adoption, or not more than five (5) unrelated persons living together occupying a dwelling unit but not including groups occupying motel or hotel, dormitory or fraternity and sorority.

(61) FCC. The Federal Communications Commission or any legally appointed, designated or elected agent or successor.

(62) FENCE. Any structure composed of wood, steel or other material, erected in such a manner and positioned to enclose or partially enclose any premises or part of any premises.

A. FENCE, BARBED WIRE. A fence made with metal wire having sharp points or barbs along its length.

B. FENCE, CHAIN LINK. A fence made of metal loops interconnected in a series of joined links.

C. FENCE, ELECTRIFIED. All fences or structures included or attached to any device or object which emits or produces an electrical charge, impulse or shock when the same comes into contact with any other object, person or animal or which causes or may cause burns to any person or animal.

D. FENCE, PRIVACY. A fence made to inhibit public view and provide seclusion and when viewed at right angles, has less than fifty percent (50%) of the area of its vertical plane open to light and air.

E. FENCE, TEMPORARY. A portable fencing system~~s~~ designed for temporary use that is neither permanently anchored to the ground, nor permanently affixed to a structure and is intended for a limited period of enclosure, typically used for activities such as gardening, construction, or bordering for special events.

(63) FLEET VEHICLE. A truck, van, or other vehicle used as part of the operation of a principal use, but does not include privately owned customer or employee vehicles or farm equipment.

(64) FLOODPLAIN. A watercourse and its adjacent area subject to inundation by the base flood. The flood plain is composed of the floodway and the floodway fringe and is the total area subject to Floodplain Development Regulations pursuant to Chapter of the Codified Ordinances.

(65) FLOOR AREA, GROSS. The total number of square feet of all floor space within the outside surface of the exterior faces of the exterior walls or from the centerline of common walls separating two (2) buildings. The floor area measurement is exclusive of the areas of unfinished attics without flooring, attached garages, terraces, open porches or uncovered steps.

(66) FLOOR AREA, NET. The usable floor space of a property, determined as the internal area not occupied by stairways, structural elements, utilities, closets, restrooms, and employee only areas.

(67) FOOTCANDLE. A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle. Footcandles will be measured with the meter pointed perpendicular to the property line or grade plane.

(68) FOOTPRINT, BUILDING: The outline of the total area covered by a building's perimeter at the ground level.

(69) FRATERNITY. A building, associated with an institution of higher learning, containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors.

(70) FRONTAGE: The boundary of a lot along an existing or dedicated public street or, where no public street exists, along a public way, either publicly owned or privately owned.

(71) FUNERAL HOME. A building or part thereof used for human funeral services. Such building may contain space and facilities for: (a) embalming and the performance of other services used in preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) associated crematorium; and (e) associated funeral chapel.

(72) GARAGE, PRIVATE. An accessory building or portion of a principal building designed for the storage of motor vehicles, boats or similar vehicles owned and used by the occupants of the building to which it is accessory.

(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 other service shall be provided for remuneration.

(74) GASOLINE STATION. An establishment where motor fuels are stored and dispersed into the fuel tanks of motor vehicles and may include facilities for the sale of other retail products.

(75) GLARE. The direct light that causes annoyance, discomfort, or loss in visual performance and visibility.

(76) GRADE, FINISHED. The average level of the finished surface of ground adjacent to the exterior walls of the building after final grading and normal settlement.

(77) GRADE, NATURAL. The elevation of the undisturbed natural surface of the ground prior to any recent excavation, dredging, or fill.

(78) HEADER. The portion of a storefront below the lintel, separated from the rest of the storefront by a horizontal mullion or other member.

(79) HEADER AREA. An area (on buildings without a header) extending in a band from wall to wall across the front of a building a maximum of four feet above the top of the storefront or display windows. The header area shall not extend above the top of the wall or the sills of the second story windows. Also known as the Sign band.

(80) HEALTH CLUB. A facility where members or nonmembers use equipment or space for the purpose of physical exercise.

(81) HISTORIC DISTRICT. A designated district 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.

(82) HISTORIC LANDMARK. An individual property, structure, or building designated by the City that is worthy of rehabilitation, restoration and/or preservation because of its architectural or historical significance.

(83) HOME OCCUPATION. A secondary use of a dwelling unit or accessory building of said dwelling, carried on by one or more persons who reside in the home.

(84) HOSPITAL. An establishment which provides accommodations and medical or surgical facilities and services for the observation, diagnosis and care of two (2) or more individuals, primarily inpatients, suffering from illness, disease, injury, and other physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient, or training facilities.

(85) HOTEL OR MOTEL. Any building, or part of a building, other than a short-term rental, which provides transient lodging accommodations to the general public in exchange for a fee.

(86) HOTEL, BOUTIQUE. A small-capacity hotel that provides more personalized service than typical hotels. It will typically have fewer than one hundred rooms, and is considered more "intimate", often due to its location in urban areas.

(87) ILLUMINANCE. The quantity of light arriving at a surface divided by the area of that surface, measured in footcandles.

(88) IMPROVEMENTS: Street pavements, with or without curb~~,~~ and gutter, sidewalks and trails, water mains, sanitary and storm sewers, street trees and other appropriate items. Also known as public improvements.

(89) JUNK OR SCRAP YARD. The use of any land, property, building, structure or combination thereof, to store, dump, sell, exchange, disassemble, or otherwise handle partly dismantled, obsolete, or wrecked vehicles or their parts, secondhand building materials, waste, debris, or other salvaged material which, unaltered or unchanged and without further reconditioning, cannot be used for its original purpose as readily as when new. It does not include salvaged materials incidental to manufacturing operations.

(90) KENNEL or CATTERY. Any lot or premises on which four (4) or more dogs or cats at one time more than four (4) months old are housed, groomed, bred, boarded, trained or sold.

(91) LIGHT POLLUTION. Any measurable exterior artificial illumination that strays beyond a property line both horizontally at grade and vertically to the structure height.

(92) LIGHT TRESPASS. Light in sufficient quantity that crosses over property boundaries, impacts surfaces, and produces a negative response in persons owning or using the violated space.

(93) LIGHT UNIFORMITY RATIOS. The light uniformity ratio is expressed as either the maximum or average illuminance divided by the minimum illuminance.

(94) LINTEL. A cornice, stringcourse, or other horizontal building element separating the storefront from the upper part of the building ~~facade~~façadefaçade.

(95) LITE. A single pane or section of glass within a window frame.

(96) LOADING SPACE. Space logically and conveniently located for bulk pickups and deliveries, which is scaled to delivery vehicles, and accessible to such vehicles when required off-street parking spaces are filled.

(97) LONG-TERM BICYCLE PARKING: Bicycle parking which accommodates employees, students, residents, commuters, and other persons who intend to leave their bicycle parked for more than two hours. Fixtures include lockers and bicycle racks in secured areas and are always sheltered or enclosed.

(98) LOT. A parcel of land that is a lot of record in the Delaware County Recorder's office. Specific lot types include the following (see illustration, also):

A. LOT, DOUBLE FRONTAGE. An interior lot other than a corner lot with frontage on more than one street. On a double-frontage lot only one lot line shall be considered the front lot line and the lot line opposite and approximately parallel to the front lot line shall be considered the rear lot line. The depth of the front yard shall be consistent with the block.

B. LOT, CORNER. A lot located at the intersection of two (2) streets on which the interior angle of two adjacent sides of the two streets is less than 135 degrees. A lot abutting on a curved street or streets shall be considered a corner lot if the arc is of less radius than 150 feet and the tangents to the curve, at the two points meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.

C. LOT, FLAG. A lot utilizing a strip of land to provide access to or legal frontage on a public street, but where the majority of the area of the lot is situated immediately behind one or more lots relative to the street right-of-way to which such lot has access. Such lots are also commonly referred to as "panhandle lots".

D. LOT, INTERIOR. A lot with only one frontage on a street.

E. LOT, NON-BUILDABLE. A designated parcel, tract, or area of land established by plat or as otherwise permitted by plat, to be separately owned, but cannot be used, developed, or built upon, and includes lots created on a temporary basis in order to expedite the transfer of ownership and are replatted at a future date to remove the “non-buildable” designation.

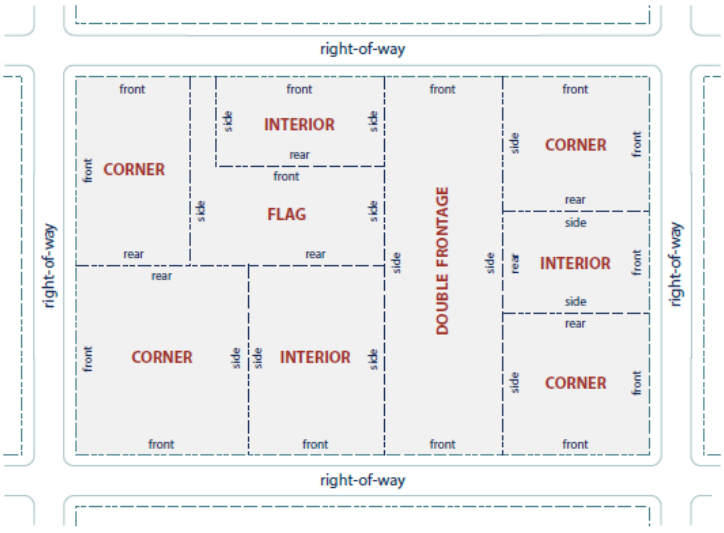


FIGURE 1102.02 (98) LOT TYPES

(99) LOT AREA. The area of a lot computed exclusive of any portion of the right-of-way of any public or private street.

(100) LOT DEPTH. The distance between the midpoints 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.

(101) LOT FRONTAGE. The width of the lot, as measured at the right-of-way line or where no public street exists, along a public way.

(102) LOT LINE. The line of demarcation between properties. Lot line is synonymous with "property line". More specifically:

A. LOT LINE, FRONT. Any lot line separating a public street from a parcel.

B. LOT LINE, REAR. The lot line opposite and most distant from the front lot line.

C. LOT LINE, SIDE. Any lot line, other than a front or rear lot line.

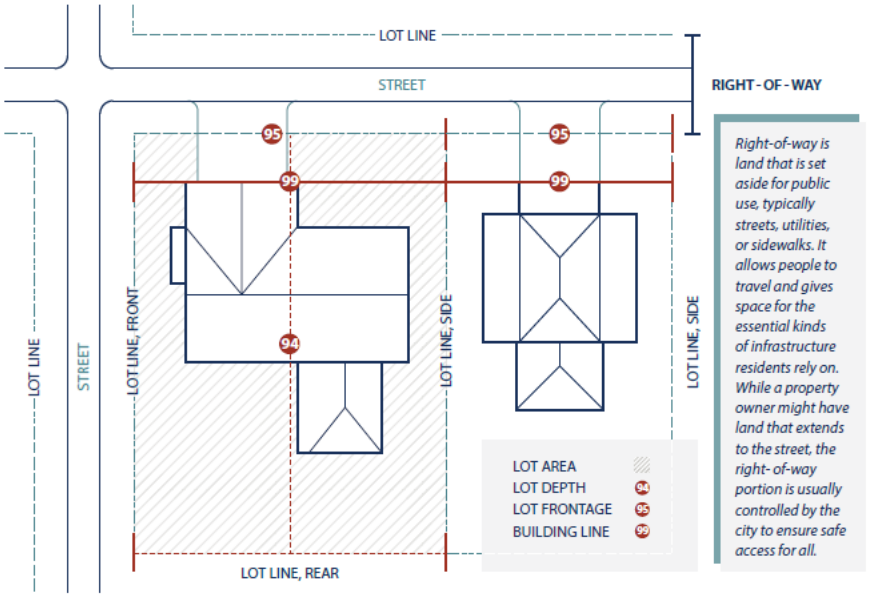


FIGURE 1102.02 (99) LOT TERMS

Finalized Code will change the number in the above graphic to 100,101, & 26

(103) LOT OF RECORD. Any lot, which, individually or as part of a subdivision, has been recorded in the office of the Recorder.

(104) LOT OF RECORD, NONCONFORMING. Any lot, which, individually or as part of a subdivision, has been recorded in the office of the recorder, which does not conform to the zoning regulations of the district with which it is located.

(105) LOT WIDTH. The distance between the side lot lines, as measured at the building setback line.

(106) LUMINAIRE. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.

(107) MANUFACTURED HOME. A dwelling unit fabricated at an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) and meeting all applicable regulations of the City of Delaware.

(108) MASSAGE. The use of any method on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, pressing, compressing, percussing, stretching, rotating, heating, cooling, or

stimulating of, the external soft parts of a living human body, which may be performed with direct or indirect human contact, or with the aid of an apparatus, appliance, or other tool or object. Massage does not mean any form of adult entertainment business as defined and regulated elsewhere within this Code.

(109) MASSAGE TREATMENT. Providing for a fee or any consideration whatsoever any of the following services:

A. Massage;

B. The application of liniments, antiseptics, oils, powders, creams, lotions, ointments, hot or cold liquids or solid objects, or other similar treatments.

(110) MASSAGE ESTABLISHMENT, LICENSED. Any establishment having a fixed place of business where a person or entity advertises the availability of, offers, provides, or permits to be carried on, massage treatments. Prior to issuance of a certificate of zoning compliance for a licensed massage establishment, the applicant must certify to the City that all individuals providing massage treatments reside at separate addresses th~~a~~en the proposed licensed massage establishment and that all massage treatments shall be provided by individuals licensed by the State Medical Board of Ohio pursuant to R.C. 4731.15 to practice "massage therapy." Holders of a certificate of zoning compliance for a licensed massage establishment are subject to inspection by the City at any time for the purpose of ensuring individuals providing massage treatments hold the appropriate license. If an individual providing massage treatments does not hold the appropriate license, the certificate of zoning compliance shall be revoked and the use shall cease and desist immediately.

A. A "massage establishment" does not include any establishment where massage treatment is provided as a portion of services provided by individuals licensed by, any of the following:

1. The Ohio State Cosmetology and Barber Board or its predecessors pursuant to R.C. 4709 or 4713;

2. The State of Ohio Board of Nursing pursuant to R.C. 4723;

3. The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board pursuant to R.C. 4755;

4. The Ohio State Chiropractic Board pursuant to R.C. 4734;

5. The State Medical Board of Ohio pursuant to R.C. 4730 or R.C. 4762; except those licensed pursuant to R.C. 4731.15 to practice "massage therapy."

(111) MICRO-FULFILLMENT CENTER. A small warehouse that stores inventory near consumers.

(112) MINING AND MIXING OF STONE, SAND, AND GRAVEL. Any mining, quarrying, or processing of limestone, sand, and gravel, or other mineral resources but not including oil or gas.

(113) MOBILE HOME OR MOBILE UNIT. A factory-constructed, transportable structure designed as a permanent residential unit when placed upon a foundation and connected to utilities.

(114) MOBILE HOME PARK. Any tract of land upon which at least one mobile home is used for habitation are parked, either free of charge or for revenue purposes, and including any roadway, building, structure, vehicle or enclosure used or intended for use as part of the facilities of such a park. "Mobile home park" does not include a tract of land used solely for the storage or display for sale of mobile homes.

(115) MODEL DWELLING UNIT. A dwelling unit used as a sales or leasing office by a builder/developer and which is built with the purpose of displaying the craftsmanship of that builder/developer. The unit may initially serve as a marketing tool to sell future, similar units in the building or on other lots but eventually is occupied as a residential dwelling unit.

(116) MONOPOLE. A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

(117) MULTI-FAMILY COMPLEX. A grouping of two or more TWO/ THREE/ FOUR-FAMILY and/or MULTIPLE-FAMILY DWELLINGS.

(118) MUNTIN. A narrow strip of wood or metal that divides a window or door into smaller panes of glass. It is used to separate individual pieces of glass within a single window frame.

(119) NATURAL MATERIALS. Building materials such as wood, brick, stone and stucco, including synthetic or cultured products, exterior insulation and finish system (EIFS), composition board products designed to mimic natural materials as approved by the Planning and Community Development Director, and fiber cement lap siding. Natural Materials shall exclude vinyl and aluminum siding.

(120) NEIGHBORHOOD COMMERCIAL ESTABLISHMENT. Low-impact commercial businesses with a gross floor area dedicated to business purposes of less than 2,000 square feet on the first floor. Uses include counter-service restaurants, retail stores, art studios, etc.

(121) NEIGHBORHOOD-SCALE: Site and building design elements with physical characteristics compatible with the surrounding character of the neighborhood in size, scale, location, and intensity of land use.

(122) NONCONFORMING STRUCTURE. A structure lawfully existing on the effective date of this Zoning Ordinance or any amendment thereto, which, on such effective date, does not conform to the regulations of the district in which it is located.

(123) NONCONFORMING USE. A use of land or a building or portion thereof, lawfully existing on the effective date of this Zoning Ordinance or any amendment thereto, which, on such effective date, does not conform to the regulations of the district in which it is located.

(124) NON-MANUFACTURED GOODS: Items or materials which require no manufacturing or processing or are manufactured by a third party and may be purchased for supply and distribution.

(125) NON-RESIDENTIAL ZONING DISTRICTS. Those Districts classified in the Codified Ordinances of the City of Delaware Planning and Zoning Code, as C/I, C-NX, C-DC, C-CC, C-GC, I-1, I-2, C-PUD, I-PUD, MX-PUD.

(126) NURSING HOME. A home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care per Ohio Revised Code section 3721. Hospitals are not included in this definition.

(127) ORDINARY PUBLIC VIEW. The sight line within the normal visual range of a person, unassisted by visual aids, from a public street or sidewalk adjacent or real property, or from within an adjacent property.

(128) OPEN SPACE. Land, open to the sky, devoted to conservation or recreational purposes and/or land designated by the City to remain undeveloped (may be specified on a zoning map). Open Space may be on the same lot with a building, and may include, along with the natural environmental features, recreation facilities that the Planning Commission deems permissive.

(129) OPEN SPACE, REQUIRED. The portion of the open space that is of sufficient size and shape to meet the minimum zoning requirements.

(130) OUTDOOR DISPLAY. The placing of merchandise in an outdoor area that is open to the general public when the merchandise on display is removed from its shipping packaging and is representative of merchandise that is available for purchase inside the building and/or is available for purchase by the general public directly from the display area.

(131) OUTDOOR STORAGE. The keeping, in an area outside of a building, of any goods, material, merchandise, or vehicles in the same place for more than 24 hours, except for merchandise placed in an area for outdoor display.

(132) OVERLAY DISTRICT. A district that is added on top of another zoning district and imposes additional regulations and requirements beyond those normally required for the underlying district.

(133) PARKING SPACE, OFF-STREET. A permanently surfaced rectangular area, exclusive of any driveways or circulation areas, accessible from a street or alley, designed for parking a motor vehicle.

(134) PERFORMANCE STANDARD. A criterion established in the interest of protecting the public health, safety and welfare from nuisance factors and other objectionable or dangerous elements generated by, or inherent in, uses of land or buildings.

(135) PLACE OF WORSHIP. A building, structure, or other indoor or outdoor facility used for public worship. The term "place of worship" includes the words "church", "chapel", "synagogue" and "temple" and their uses and activities that are customarily related.

(136) PLANNED UNIT DEVELOPMENT. An area of land to be planned and developed as a single entity, in which a single-use or variety of residential, commercial, or industrial uses are accommodated under more flexible standards, such as lot size, density, height and setbacks, than those that would normally apply under zoning district regulations.

(137) PLAT. A map of a tract or parcel of land made by a surveyor. Pre-construction plat map means the plat map initially submitted for review through the required Zoning Code review processes contained elsewhere within this code. Post-construction plat map means the plat map containing all conditions of approval from the pre-construction plat map approval process, any field changes from construction required by the city, and produced in the format required for final signature and recording.

(138) PRIMARY RESIDENCE. A~~a~~ residential dwelling unit that a person physically occupies and lives in on a day-to day basis. A person may only have one primary residence.

(139) PROJECT BOUNDARY. The boundary defining the tract(s) of land that is included in a proposed development to meet the minimum required project area for a planned residential multiple-family, commercial or industrial development. The term "project boundary" shall also mean "development boundary".

(140) PUBLIC SAFETY FACILITY. A governmentally owned and operated facility established to provide police, fire, or other safety services to the surrounding area.

(141) PUBLIC SERVICE FACILITY. The buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants, and other public or essential service structures used by a utility, by a railroad or by a municipal or governmental agency, including the furnishing of electrical, gas, rail transport, communications, public water and sewerage services.

(142) PUBLIC USE. Any use of a building or land by any governmental entity for any public purpose.

(143) PUBLIC UTILITY. A public service or services for the generation, transmission and/or distribution of electricity, gas or steam, including water and irrigation systems and sanitary systems used for the collection and disposal of garbage, sewage and other wastes by means of destroying or processing materials.

(144) PUBLIC WAY. An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parking right-of-way, road, sidewalk, street, viaduct, walk, bicycle path, or other ways, in which the general public or a public entity has an access right, or which are dedicated for public access, whether improved or not.

(145) REAL PROPERTY. Land and anything permanently attached to it, such as buildings or natural resources. These are fixed assets that cannot be easily moved or altered. Real property also extends to the rights and interests associated with owning land or buildings,

(146) RECREATIONAL FACILITY, NONCOMMERCIAL. A recreational facility that is privately owned and intended to serve the residents of the development, such as an apartment complex, a homeowners' association, a condominium association, an assisted living facility, and the like and may include, but is not limited to, such facilities as swimming pools, tennis courts, etc. A non-commercial recreation facility may sell memberships or charge a fee to non-resident households, provided such households may not exceed ten percent (10%) of the total number of households in the development.

(147) RECYCLING FACILITY. A building or area where recyclable materials are sorted and temporarily stored prior to shipment for remanufacture into new materials. This shall not include junkyards or scrapyards.

(148) RESIDENTIAL CARE FACILITY. A facility that provides 24-hour accommodation, supervision and personal or custodial care services, for three (3) or more unrelated individuals who are dependent on the services of others by reason of age and/or physical or mental impairment. Specific services provided by a residential care facility are limited by the Ohio Department of Health and residential care facilities are licensed by the Ohio Department of Health. "Residential care facility" does not include clinics, institutions, hospitals, convalescent or nursing homes, dormitories or similar uses.

(149) RESIDENTIAL ZONING DISTRICTS. Those districts classified in this Code as A-1, R-SF, R-NT, R-NX, R-MF, R-PUD.

(150) RESTAURANT, COUNTER SERVICE. A retail service establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume servings, for consumption either within the restaurant building or for carry-out, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed.

(151) RESTAURANT, TABLE SERVICE. A retail service establishment wherein the entire business activity, or substantially all of the business activity, consists of the sale of food and service to patrons seated at tables for consumption within the building.

(152) RESEARCH AND DEVELOPMENT FACILITY. A building or group of buildings used for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

(153) RETAIL ESTABLISHMENT. An establishment engaged in the selling of goods or merchandise to the general public for personal or household consumption, which is open to the general public during regular business hours and which has display areas that are designed and laid out to attract the general public.

(154) REVIEWING BODY. The designated individual or group of individuals, including but not limited to the Planning and Community Development Director, City Engineer, Chief Building Official, Planning Commission, Board of Zoning Appeals, Historic Preservation Commission, or City Council, identified by local ordinance as having the responsibility and authority to review and approve or disapprove the ~~permit or development~~ application.

(155) RIGHT-OF-WAY. A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates at least curbs, lawn strips, sidewalks, lighting, and drainage facilities, and may include special features, as required by the topography or treatment (such as grade separation, landscaped areas, viaducts, and bridges).

(156) SATELLITE EARTH STATION (DISH-TYPE). A round parabolic antenna designed to send or receive television broadcasts from communications satellites orbiting the earth.

(157) SCHOOL, PUBLIC OR PRIVATE. Publicly or privately owned facilities providing full-time day instruction and training at the elementary, junior high, and high school levels in accordance with the requirements of Chapter 3313 of the Ohio Revised Code, or facilities providing kindergarten or nursery school training and care whose annual sessions do not exceed the school sessions for full-time day schools and which are operated by a board of education or an established religious organization.

(158) SCHOOL, TRADE, BUSINESS, OR CULTURAL ARTS. Facilities primarily teaching usable skills that prepare students for jobs within a specific trade or facilities providing instruction on social and religious customs and activities, performing arts and/or sports. Such facilities may include beauty schools, dance instruction centers and martial arts schools.

(159) SELF-SERVICE STORAGE FACILITY OR MINI-WAREHOUSE. A facility consisting of a building or group of buildings, usually, in a controlled access compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for the dead storage of customers' residential goods or wares.

(160) SEMI-CONDUCTOR FACILITY: A facility or plant where integrated circuits (ICs), also known as microchips, are manufactured.

(161) SETBACK. The required minimum horizontal distance between a property line or other line and a structure, parking lot, or use.

(162) SETBACK LINE. The line established by the Zoning Ordinance, generally parallel to and measured from the lot line, defining the limits of a yard in which no building or other structure may be located above ground, except as may be provided in this Ordinance.

(163) SHADE TREE. A tree with foliage that usually sheds annually and is planted primarily for its high crown of foliage or overhead canopy.

(164) SHORT-TERM BICYCLE PARKING: Bicycle parking located in designated areas where cyclists can securely park their bikes for brief periods, typically ranging from a few minutes to a few hours.

(165) SHORT-TERM RENTAL. A residential dwelling unit, or a portion of a residential dwelling unit, that is rented, or offered for rent, in exchange for a rental fee, for a period of 30 consecutive days or less. These may be advertised and rented through third-party services including but not limited to ~~like~~ AirbB~~B~~nbB~~B~~ or VRBO or be a bB~~B~~ed and bB~~B~~reakfast.

A. SHORT-TERM RENTAL HOST. A person who occupies as their primary residence a residential dwelling unit located on the same lot as a short-term rental.

B. SHORT-TERM RENTAL, HOSTED. A host has a physical presence at their primary residence located on the same lot as a short-term rental during the entire period that the short-term rental is rented.

C. SHORT-TERM RENTAL, NON-HOSTED. A host is absent from their primary residence located on the same lot as a short-term rental during some or all of the period that the short-term rental is rented.

(166) SHRUB, LANDSCAPE. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

A. SHRUB, SCREENING. An evergreen LANDSCAPE SHRUB of at least three feet in height at time of planting.

(167) SIGN DEFINITIONS. Definitions related to signs, or types of signs, or the regulation of signs as described in Chapter 1125 of this Ordinance are found below:

A. ALTER: Any change in a sign, or any structural component or support system for a sign or sign copy, that changes its exterior dimensions or otherwise changes the sign's size, height, structure type, or illumination.

B. ANIMATION: Changeable sign copy, including graphics, images, and text, that appears to move toward or away from the viewer, expands or contracts, bounces, rotates, spins, twists or otherwise portrays movement or animation, including streaming, scrolling, flashing, fading, and blinking.

C. AWNING: A shelter projecting from and supported by the exterior wall of a building, constructed of non-rigid materials on a supporting framework. See also definition of "canopy."

D. AWNING SIGN: A permanent, attached sign that is painted on, applied to, or otherwise is a part of a fabric or other non-structural awning which awning is affixed to the building. An awning sign is considered a type of "building sign".

E. BANNER OR BANNER SIGN: Any non-rigid cloth, plastic or canvas sign with no enclosing framework that is mounted along all of its edges to a building or structure. A banner sign is one type of temporary sign. Flags are not considered banners or banner signs.

F. BUILDING SIGN: Any sign that is directly attached to a building or that is attached to a non-structural element, such as an awning or canopy, which is affixed to the building. For the purposes of this chapter, building signs include "wall signs," "awning signs," "canopy signs," and "projecting signs." Window signs are not considered to be a building sign and are regulated separately.

G. BUILDING UNIT: A stand-alone building or a building divided into separate units or spaces that are individually owned or leased by different enterprises, businesses, firms, or people, may be considered one or multiple building units based on the provisions of Section 1125.01(a).

H. CANOPY: A permanent structure typically made of rigid materials such as metal, composites, wood or other similar materials attached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure. See also the definition of "awning."

I. CANOPY SIGN: A sign which is attached or made an integral part of a canopy. A canopy sign is considered a type of "building sign". Canopy signs may be attached above, below, or on the edge of the canopy, provided that the sign complies with the clearance requirements of Chapter 1125.

J. CHANGEABLE COPY SIGN: A sign, or portion of a sign, designed so that the characters, letters, or illustrations can be changed or rearranged manually or electronically without altering the sign display surface. May also be known as readerboards. See also the definition of "electronic message center," which is digital or electronic form of a changeable copy sign.

K. CLEARANCE: The distance from the bottom of a sign face elevated above grade and the grade below.

L. DRIVEWAY SIGN: A small permanent sign located near driveway access points and/or at the intersection of internal access drives.

M. ELECTRON~~I~~IC MESSAGE CENTER: A sign designed so that the characters, letters, or illustrations can be changed or rearranged automatically on a lamp bank or through mechanical means (e.g., electronic or digital signs).

N. FAÇADE, PRIMARY: For the purpose of the sign regulations, a primary ~~facade~~façade shall be as defined in Section 1125.09(b)(4).

O. FAÇADE, SECONDARY: For the purpose of the sign regulations, a secondary ~~facade~~façade shall be as defined in Section 1125.09(b)(4).

P. FLAG. A non-rigid cloth or canvas sign with that is connected to a freestanding flag pole or to a wall-mounted post along one edge of the flag. Flags are not considered a banner or banner sign.

Q. FREESTANDING SIGN. Any sign affixed to or supported upon the ground by a monument, pedestal, pole, bracing, or other permanent structural element and not attached to any building. See also the definition of "monument sign," "pole sign," and "post and arm sign," which are three forms of a freestanding sign.

R. ILLUMINATED SIGN. Any sign which has characters, letters, figures, designs, or outlines illuminated externally or internally by any light source other than non-reflected natural daylight.

A. EXTERNALLY ILLUMINATED SIGN. A sign that is illuminated by an external source, which reflects light off the surface of a sign face.

B. INTERNALLY ILLUMINATED SIGN. A sign with internal electronic circuitry emitting light through the sign face.

S. LETTERING AREA. The area of the smallest rectangle that can be drawn around the lettering, logos and graphics of a sign, or of each individual letter if these are detached. Also known as Sign Area.

T. MONUMENT SIGN. A permanent freestanding sign, not attached to a building, that is placed upon or supported by the ground independently of any other structure. A monument sign, unlike a pole sign or post and arm sign, is placed on a monument or pedestal structure.

U. NONCONFORMING SIGN. Any sign that was erected legally prior to the adoption of this ordinance, or amendment thereto, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the regulations of Chapter 1125.

V. ON-PREMISE SIGN. A sign that identifies or advertises a business, person, or activity, and is installed and maintained on the same premises as the business, person, or activity to which it advertises.

W. PENNANT. A triangular-shaped banner displaying no images or words.

X. PERMANENT SIGN. A sign permitted by this ordinance to be located on the premises and designed to be permanently attached to a structure or the ground. Such signs are typically constructed of rigid, non-flexible materials or may be constructed of durable fabric or similarly materials if intended to be attached to a permanent structure (e.g., an awning sign made of fabric) and which is not specifically defined as a temporary sign.

Y. POLE SIGN. A permanent freestanding sign which is supported from below by poles, posts, or other structural members regardless of material or dimension, where the sign does not otherwise meet the definition of a "monument sign" or a "post and arm sign." See Section 1125.09(a)(2) for specific provisions related to pole signs.

Z. PORTABLE SIGN. Any sign not attached to a building or the ground that is designed to be transported, including signs designed to be transported by means of wheels. This definition shall not include "sidewalk sign" or other defined temporary sign types.

AA. POST AND ARM SIGN. A permanent freestanding sign that is supported by a single pole or post with a support arm that allows the sign copy to hang from the arm.

BB. PROJECTING SIGN. A permanent sign that is affixed perpendicular to a building or wall and extends more than 12 inches beyond the face of such building or wall.

CC. RIBBON. A rectangular-shaped banner displaying no signage.

DD. ROOF SIGN. Any sign or part of sign erected upon, against or directly above a roof or on top of or above the parapet or cornice of a building.

EE. SIDEWALK SIGN. A temporary sign that may be placed on a private sidewalk/walkway, during business hours in accordance with this chapter and which may include an "A-frame sign" or a "T-frame sign" as defined below:

A. A-FRAME SIGN. A detached temporary sign that is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.

B. T-FRAME SIGN. A detached temporary sign that is ordinarily in the shape of an upside down "T" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.

FF. SIGN. Any object, device, display or structure or part thereof situated outdoors or adjacent to the interior of a window or doorway which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, illumination or projected images.

GG. SIGN AREA. The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to Section 1125.04.

HH. SIGN BAND. An area (on buildings without a header) extending in a band from wall to wall across the front of a building extending a maximum of four feet above the top of the storefront or display windows in buildings without a header. The sign band shall not extend above the top of the wall or the sills of the second story windows. Also known as the Header Area.

II. SIGN COPY. Those letters, numerals, and figures, symbols, logos, and graphic elements comprising the content or message of a sign.

JJ. SIGN FACE. The surface of the sign upon, against, or through which the message of the sign is exhibited.

KK. SIGN HEIGHT. The vertical distance of a sign, from top to bottom, as measured in accordance with Section 1125.04.

LL. STATIC/ INSTANT MESSAGE CHANGE. On electronic message centers, a static or instant message change is when one message changes to another message instantly without scrolling, flashing, or other movement of the message.

MM. STOREFRONT. The lower portion of a building façade, consisting primarily of glass and slender elements separating panels of glass and/or other materials.

NN. STREAMER. A ribbon-shaped or cord-like rope that may have multiple pennants or ribbons attached and which is stretched or hung between two supports.

OO. SUPERGRAPHIC. A sign that is temporarily or permanently attached to a side or rear ~~facade~~façade that covers a substantial area of the ~~facade~~façade and that is not classified as any other form of building sign.

PP. TEMPORARY SIGN. A sign that is neither permanently anchored to the ground, nor permanently affixed to a structure, nor mounted on a chassis, and/or is intended for a limited period of display.

QQ. WALL SIGN. A permanent sign attached directly to an exterior wall of a building and which does not extend more than a 12 inches from the ~~facade~~façade, as established in this chapter, nor above the roof line or beyond the limits of the outside wall. The exposed face of the sign in a plane parallel to the building wall.

RR. WINDOW DISPLAY. Merchandise or depictions of merchandise or services offered within the premises or by the occupant of the premises, placed so as to be viewed from the public way. Verbal descriptions of the merchandise, services, or the name of the business may be included, provided these are clearly subordinate to the merchandise or depictions. Non-sign portions of window displays shall not be treated as signs.

SS. WINDOW SIGN. A sign painted on or attached to a window or to glass paneling of any door or opening. A window sign shall include any sign that is installed inside of a building within two feet of the window that is legible from outside of the building.

TT. YARD SIGN. Any temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.

(168) SITE PLAN. A plan prepared to scale, showing accurately and with complete dimensioning the boundaries of the site, the location of buildings, landscaping, parking areas, access drives, signs, outdoor storage areas and any other features that comprise a proposed development.

(169) SOLAR ENERGY SYSTEM (SES). Any photovoltaic or solar collection system device used for the purposes of heating, cooling, or generating electricity for a primary or accessory structure.

A. SOLAR ENERGY SYSTEM, ACCESSORY: A ground-mounted or structure mounted solar energy system with the purpose primarily of generating electricity for the principal use on the site.

B. SOLAR~~Y~~ ENERGY SYSTEM, BUILDING MOUNTED: A solar energy system mounted on racking that is attached to or ballasted on the roof of a building or structure.

C. SOLAR ENERGY SYSTEM, GROUND MOUNTED: A solar energy system mounted on support posts, like a rack or pole, that are attached to or rest on the ground.

D. SOLAR ENERGY SYSTEM, PRINCIPAL USE: A commercial, ground-mounted solar energy system that converts sunlight into electricity for the primary purpose of off-site use through the electrical grid or export to the wholesale market.

(170) SORORITY. A building, associated with an institution of higher learning, containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for sorority members and their guests or visitors.

(171) STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

(172) STREET, PRIVATE. A local private way or driveway that provides vehicular access to more than one residential structure that is not and will not be dedicated to public use, but which is owned and maintained by an association, person, corporation or similar private entity.

(173) STREET, PUBLIC. An avenue, highway, road, thoroughfare, boulevard, parkway, or other way proposed for vehicular traffic, and any existing State, County, or City street or way shown upon a plat heretofore duly approved, filed and recorded in the office of the County Recorder that has been dedicated or deeded to the public for public use and which affords principal access to abutting property. Included is the land between the street right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulder, gutters, sidewalks, division strips or other areas within the street lines. This definition excludes ALLEYS.

(174) STREET RIGHT-OF-WAY. See “Right-of-way”.

(175) STREETWALL. The building wall, or portion of a wall, facing the front of a lot.

(176) STRUCTURE. Anything constructed or erected, with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, and billboards. For the purposes of this Zoning Code, fences and architectural features are separately regulated and are not considered structures.

(177) SUBDIVISION. The division of a lot, tract, or parcel into two or more lots, tracts or parcels or other divisions of land.

(178) SUBSTANTIAL ALTERATION. An alteration or expansion of existing development is substantial when such alteration or expansion involves or exceeds twenty-five percent (25%) of the total floor area of the existing building, structure, or vehicular use area.

(179) SUBSTANTIAL COMPLETION. The state of completion reached when an improvement upon real property may be used or occupied for its intended use following the issuance of an occupancy permit.

(180) SURVEYOR. A registered surveyor, authorized to practice professional surveying by the State Board of Registration, as specified in Ohio R.C. 4733.14.

(181) THOROUGHFARE. See "Street".

(182) TOBACCO LOUNGE. An establishment, whether attached to a retail or wholesale tobacco shop or not, that is dedicated to the use of tobacco products including hookah or shisha.

(183) TOWER (WIRELESS TELECOMMUNICATIONS). 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.

(184) TRAILER. A structure on wheels, towed, or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods, or objects, or as a temporary office.

(185) TRAINING FACILITY. A building or place used in connection with vocational training in an activity that is associated with an industry but does not include a business premises or retail premises.

(186) TREE CANOPY COVERAGE (FOR THE CITY). The total area of the City covered by tree canopy, as determined by the Director of Parks and Recreation, divided by the total area of the City and multiplied by one hundred.

(187) TREE CANOPY COVERAGE (FOR A SITE). The total area of the site covered by tree canopy, as determined by the arborist or landscape architect who prepared the tree canopy management plan, divided by the adjusted total area of the site and multiplied by one hundred.

(188) TREE LAWN. The part of a street not covered by a sidewalk or other paving lying between the property line and the roadway.

(189) TRUCK TERMINAL. A facility where vehicles load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

(190) USE, ACCESSORY. A use, object or structure constructed or installed on the same lot as, and of a nature subordinate and customarily incidental to the principal (primary) use, object or structure of a lot.

(191) USE, CONDITIONAL. A use, which is permitted but only with conditions as determined by the Planning Commission of the City of Delaware.

(192) USE, PERMITTED. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

(193) USE, PERMITTED BY RIGHT. A use approved administratively when it complies with the standards and requirements set forth for the zoning district in which it is located.

(194) USE, PRINCIPAL. The use or uses that are of primary importance or which is the predominant use on a parcel of land.

(195) USE, TEMPORARY. A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and does not involve the construction or alteration of any permanent structure.

(196) VARIANCE. A modification of the strict terms of the relevant regulations.

(197) VETERINARY HOSPITAL. A place where animals are given medical treatment and the boarding of animals occurs only as an incidental use.

(198) WIND ENERGY SYSTEM (WES). An apparatus for converting the energy available in the wind to mechanical energy that can be used to power a primary or accessory structure.

A. WIND ENERGY SYSTEM, BUILDING MOUNTED. A wind energy system attached to the top of a building or structure.

B. WIND ENERGY SYSTEM, GROUND MOUNTED. A freestanding pole or tower supported wind energy system.

(199) WIRELESS TELECOMMUNICATION FACILITY. Any cables, wires, lines, wave guides, antennae, towers and any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC and does not include any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category or used by amateur radio operators. Such facilities are further defined in Chapter 1135.

(200) YARD. An open space on the same lot with a principal use or building extending between a building or structure and the adjoining lot lines, unoccupied and unobstructed from the ground upwards, except as otherwise permitted by this Ordinance.

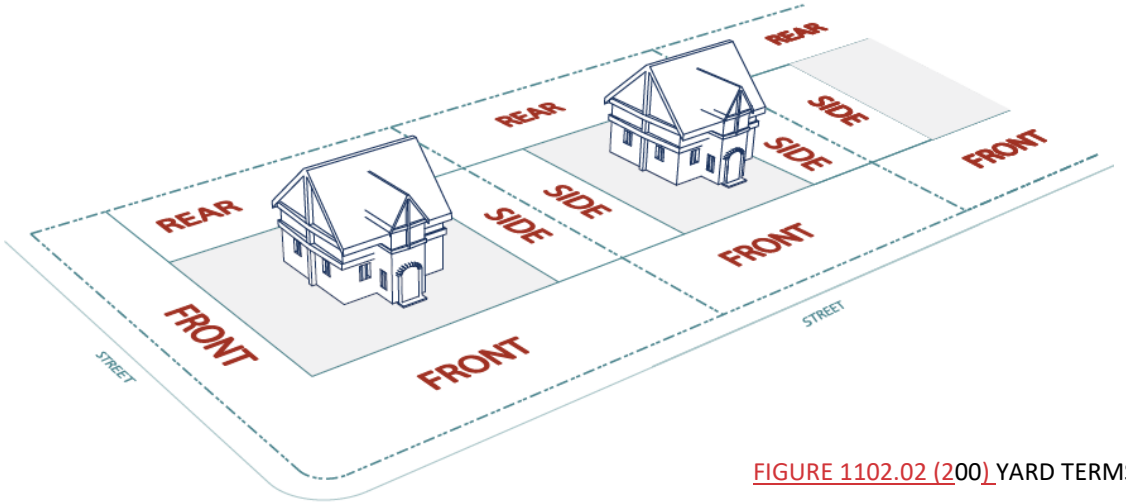


FIGURE 1102.02 (200) YARD TERMS

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 side yards.

(201) YARD, REQUIRED. The space between a lot line and a setback line for a building, parking area or use that is the minimum area required to comply with the regulations of the district in which the lot is located, and within which no structures shall be located except as expressly permitted in this Ordinance.

(202) ZONING MAP. An accurate map depicting the City of Delaware, Ohio, and indicating the boundaries of the zoning districts established by this Ordinance.

(203) ZONING ORDINANCE. Ordinance as amended, which comprises Titles One through ~~Size~~ Five of this Part Eleven - Planning and Zoning Code.

CHAPTER 1103. ADMINISTRATION, POWERS, AND DUTIES

1103.01. Purpose.

This Chapter sets forth the powers and duties of the Director of Planning and Community Development, the Planning Commission, the Board of Zoning Appeals, the Historic Preservation Commission, and City Council with respect to the provisions of this Zoning Ordinance.

1103.02. Director of Planning and Community Development.

(a) Establishment. The Director of Planning and Community Development shall act as the administrative officer for the purpose of effecting the proper administration and enforcement of the Zoning Ordinance. All duties required of the Director of Planning and Community Development shall be assumed by or delegated to any person he or she designates.

(b) Powers and Duties. The Director of Planning and Community Development shall have the following powers and duties and shall:

(1) Issue certificates of building and zoning compliance or refuse to issue the same in the event of noncompliance and keep a record of the same, with a notation of any special conditions involved.

(2) Accept, review for completeness, and respond to questions regarding those applications which the Director of Planning and Community Development is authorized to review by the provisions of this Zoning Ordinance, including but not limited to, amendments to the Zoning Ordinance, development plans, modifications to development plans, conditional uses, variances, appeals, preliminary plats, final plats, and certificates of appropriateness.

(3) Coordinate the City's administrative review of zoning applications, development plans, modifications to development plans, conditional use applications, subdivision plat applications, and certificates of appropriateness.

(4) Collect the designated fees as set forth in the schedule of fees adopted by Council.

(5) Maintain any records required by this Zoning Ordinance including inspection documents and records of all variances, amendments, conditional uses, and similar use determinations.

(6) Make such records available for the use of Council, Planning Commission, Board of Zoning Appeals, Historic Preservation Commission, and the public.

(7) Keep Planning Commission, Historic Preservation Commission, and Board of Zoning Appeals advised of all matters other than routine duties pertaining to the enforcement of this Ordinance and transmit to them all applications and records pertaining to applications, amendments, conditional use permits, appeals, or variances thereto.

(8) Conduct or cause the inspection of buildings and uses of land to determine compliance with this Zoning Ordinance.

(9) Maintain in current status the "Official City Zoning Map" of the City of Delaware.

(10) Enforce this Ordinance and take all necessary steps to remedy any condition found in violation by ordering, in writing, a stop work order, notice of violation, or the revocation of any certificate of building and zoning compliance or certificate of appropriateness and may request the City Attorney to commence appropriate action.

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1103.03. Planning Commission.

(a) Appointment. The Planning Commission shall be composed of seven (7) members, consisting of one (1) elector from each of the four (4) City wards, two (2) at-large, and one (1) member of Council. Each resident member shall be an elector and hold no elective office. The City Manager shall be an ex-officio member/advisor without a vote. All members shall receive no compensation for service.

(b) Term. The six (6) elector members shall be appointed by the Mayor with the concurrence of Council for three (3) years and their terms shall be so arranged that the term of no more than two (2) shall expire each year. The terms of all six (6) elector members shall end on the date of November 30, three (3) years after appointment. The term for the Council member shall be two (2) years, ending on November 30 of the odd- numbered years.

(1) Removal. Members of the Commission shall be removable for nonperformance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing either personally or by registered mail, or by leaving the same at the member's place of residence. The member shall be given an opportunity to be heard and answer such charges.

(2) Vacancies. Vacancies shall be filled by appointment by the Mayor, with concurrence of Council, and shall be for the unexpired term.

(c) Organization.

(1) The Planning Commission shall organize by the end of January or the first scheduled meeting of each year and elect a chairperson and a vice-chairperson.

(2) The Chairperson may, within budgetary limits, retain the services of a recording secretary.

(3) The Commission may call upon the City Manager, and through the City Manager, any department of the City to render such assistance to the Commission as may be reasonably required.

(d) Meetings. Administrative meetings of the Commission shall be held at the call of the chairperson and at such other times as determined by a majority of the Commission. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of the board and shall keep records of its examinations and other official action, all of which shall be public record and be immediately filed with the City Clerk.

(e) Quorum and Voting. The presence of four (4) members shall constitute a quorum. The concurring vote of four (4) members of the Commission shall be necessary to take action.

(f) Powers and Duties. The Planning Commission shall have the following powers and duties and shall:

(1) Recommend to City Council a comprehensive plan, Official City Zoning Map, area plans, development standards for the Municipality, and at least every five (5) years undertake a review and recommend appropriate revision of the comprehensive plan.

(2) Carry on the continuous review of the effectiveness and appropriateness of this Ordinance, report to Council on the land use planning needs of the Municipality and recommend to Council amendments to the Zoning Ordinance and other related ordinances of the City as it feels would be appropriate.

(3) Review all proposed amendments to this Zoning Ordinance and make recommendations to City Council as provided in this Zoning Ordinance.

(4) Recommend to Council appropriate zoning classifications of newly annexed areas.

(5) Review and approve all plans and plats for the subdivision of land.

(6) Review all applicable development plan and zoning amendment applications and make recommendations

to Council.

(7) Adopt rules and bylaws for the holding of regular and special meetings for the transaction and disposition of its business and the exercise of its powers.

(8) Review and approve all conditional uses and determinations of similar use.

(9) Review and approve development plan extensions.

1103.04. Board of Zoning Appeals.

(a) Appointment. There shall be a Board of Zoning Appeals (BZA) composed of seven (7) members, consisting of two (2) at-large members, one (1) resident member from each of the four (4) wards, and one (1) member of Council. Each resident member shall be an elector of the City and hold no elective office. All members shall be chosen by the Mayor and confirmed by Council. The City Manager shall be an ex-officio member/advisor without a vote. Members of the Board shall receive no compensation for service as such.

(b) Term. The term of all resident members appointed shall be for three (3) years, ending November 30. The term for the appointed Council member shall be two (2) years, ending on November 30 of the odd-numbered years.

(1) Removal. Members of the BZA shall be removable for nonperformance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least 10 days prior to the hearing either personally or by registered mail, or by leaving the same at the member's place of residence. The member shall be given an opportunity to be heard and answer such charges.

(2) Vacancies. Vacancies shall be filled by appointment by the Mayor, with concurrence of Council, and shall be for the unexpired term.

(c) Organization. By the end of January or at the first scheduled meeting of each year, the BZA shall elect a chairperson and vice-chairperson.

(d) Meetings. Meetings of the BZA shall be held at the call of the chairperson and at such other times as the Board shall determine. All meetings of the Board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of the board, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the City and shall be a public record.

(e) Quorum and Voting. Four (4) members of the BZA shall constitute a quorum. The board shall act by resolution, and the concurring vote of four (4) members of the BZA shall be necessary to reverse any order, requirement, decision, or determination of the Director of Planning and Community Development or any other administrative official of the City of Delaware, to decide in favor of an applicant in any matter on which it is required to pass under this Ordinance, or to grant any variance from the requirements stipulated in this Ordinance. The grounds of every such determination shall be stated.

(f) Powers and Duties. The BZA shall have the following powers and duties and shall:

(1) Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the Director of Planning and Community Development or any other administrative official carrying out or enforcing any provision of this Zoning Ordinance.

(2) Authorize such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this Ordinance will result in extreme practical difficulty or unnecessary hardship provided that such variance will serve the public interest, observe the spirit of this Zoning Ordinance, and secure substantial justice to all parties concerned.

(3) Hear and decide upon disputes concerning the exact location of zoning district boundaries.

(4) Subpoena witnesses, punish for contempt, and require the production of documents, under such regulations as it may establish. The chairperson, or in the chair's absence, the vice-chairperson, may administer oaths.

(5) Hear and decide applications, in accordance with the provisions of this Ordinance, filed as herein provided, for interpretation of the Zoning Map, or for decision upon other special questions on which the Board is authorized by this Ordinance to pass.

(6) Adopt rules or bylaws for the holding of regular and special meetings, for the transaction and disposition of its business, and the exercise of its powers conferred herein.

(7) Hear and decide floodplain variances per Sections 1347.20 and 1347.21 of the City of Delaware Code of Ordinances.

1103.05 Historic Preservation Commission.

(a) Appointment and Membership. The Historic Preservation Commission (HPC) shall be composed of seven (7) members, of which the majority shall be City residents.

(1) The members shall be appointed by the Mayor with the concurrence of Council.

(2) The Commission shall include among its members at least one (1) member of City Council.

(3) If possible, the Mayor shall appoint members with the following professional background(s):

A. A professional historic preservationist or an historian;

B. An architect;

C. A real estate agent or a developer; and

D. An historic district property owner.

(4) Members shall serve without compensation.

(b) Term. The six (6) elector members shall be appointed by the Mayor with the concurrence of Council for three (3) years and their terms shall be so arranged that the term of no more than two (2) shall expire each year. The terms of all six (6) elector members shall end on the date of November 30, three (3) years after appointment. The term for the Council member shall be two (2) years, ending on November 30 of the odd-numbered years.

(1) Removal. Members of the Commission shall be removable for nonperformance of duty, misconduct in office, or other reasonable cause by the Mayor upon written charges and after a public hearing has been held regarding such charges, a copy of the charges having been served upon the member so charged at least ten (10) days prior to the hearing either personally or by registered mail, or by leaving the same at the member's place of residence. The member shall be given an opportunity to be heard and answer such charges.

(2) Vacancies. Vacancies shall be filled by appointment by the Mayor, with concurrence of Council, and shall be for the unexpired term.

(c) Organization.

(1) By the end of January or at the first scheduled meeting of each year, the HPC shall elect one of its members to serve as chairperson and one to serve as vice-chairperson.

(2) The HPC shall adopt rules and regulations consistent with this chapter governing its procedures and transactions. The HPC shall meet as required to carry out the review of applications for certificates of appropriateness for compliance with the adopted standards and guidelines for the historic district overlay and such other related work as may be accepted or undertaken.

(d) Meetings. Meetings shall be held once a month when there are applications to be considered, and special meetings may be held at the call of the chairperson. The chairperson shall conduct the meeting of the HPC, and a record of minutes shall be kept as required by the approved Records Retention Policy of the City of Delaware. All meetings shall be open to the public.

(e) Quorum and Voting. Four (4) members of the Commission serving at any given time shall constitute a quorum. The concurring vote of four (4) members shall be necessary to take action

(f) Powers and Duties. The Historic Preservation Commission (HPC) shall have the following powers and duties:

(1) Recommend properties and initiate the process for historic listing designation and to hear, review, grant, deny, and recommend modifications to proposals for certificates of appropriateness involving environmental changes within a historic district. Applications for certificates of appropriateness shall be judged using adopted historic district standards and guidelines.

(2) Recommend and initiate the process of designation or expansion of a historic district.

(3) 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.

(4) Make recommendations to the Planning Commission regarding amendments to this Chapter and with respect to other legislation affecting the historic districts when such recommendations are deemed appropriate and prudent.

(5) Work for the continuing education of those within the historic district and the residents of the City with respect to this Zoning Ordinance and each district's historic heritage and architectural significance. In addition, the HPC shall publish informational literature and hold periodic public meetings to disseminate information on preservation and rehabilitation techniques and resources.

(6) Develop standards and guidelines for preserving the historic and architectural significance of the historic districts, on a district-by-district basis, which shall be based on the Secretary of the Interior's Standards for Rehabilitation. The standards and guidelines shall promote redevelopment of historic structures and assure that new development within each district is compatible with existing development.

1103.06. City Council.

(a) The Council may override a written recommendation of the Planning Commission or a decision by HPC, provided that such legislation is passed by a vote of not less than five (5) members of Council.

(b) Powers and Duties. Pertaining to the Zoning Ordinance, the City Council shall have the following powers and duties:

(1) Hold public hearings and vote upon proposed amendments to this Zoning Ordinance.

(2) Investigate and propose on its own initiative such amendments to the Zoning Ordinance as it may deem consistent with the purposes of this Zoning Ordinance and which further the public health, safety, and general welfare of the City of Delaware.

(3) Act upon suggested amendments to this Ordinance text or the Official City Zoning Map.

(4) Confirm or reject the recommendation of the Planning Commission for planned unit developments and development plans according to the procedures, standards, and criteria set forth in this Zoning Ordinance.

(5) Confirm or reject the decision of the Historic Preservation Commission regarding an appeal of a certificate of appropriateness issued for a project located within the Historic District Overlay according to the procedures, standards, and criteria set forth in this Zoning Ordinance.

(6) Approve the appointments of members to the Planning Commission, Historic Preservation Commission,

and Board of Zoning Appeals.

(7) Establish by ordinance a schedule of fees for review of and action on applications for certificates of building and zoning compliance, development plan review, conditional use permits, appeals, variances, amendments, subdivision plats, and other procedures and services pertaining to the administration and enforcement of this Zoning Ordinance.

A. Council shall consider the recommendation of the Director of Planning and Community Development with respect to actual administrative costs, both direct and indirect.

B. The schedule of fees shall be available at City Hall and may be altered or amended only by Council. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

(8) Nothing in this Chapter shall be construed to prevent City Council from reviewing, discussing, or acting on any matter before any Board or Commission subject to the provisions of this Chapter where the Board or Commission is incapable of taking action for any reason.

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CHAPTER 1104. COMPREHENSIVE PLAN AND THOROUGHFARE PLAN

1104.01. Comprehensive Plan adopted.

The Delaware Together Comprehensive Plan as prepared by the City of Delaware, a copy of which is on file in the Planning and Community Development Department, is hereby adopted as the official comprehensive plan for the City of Delaware, Ohio.

1104.02. Certification and file copy.

The City Clerk is authorized and directed to certify Council's approval on a copy of the comprehensive plan and such plan, as certified, shall be on file in the office of the City Manager.

1104.03. Amending the Comprehensive Plan.

(a) Amendment Procedures. Amendments to the comprehensive plan may be initiated in one of the following ways:

(1) Applications to amend the character map and focus area ~~map~~ plans may be filed by the record property owner or their designee for the property located within the area of the proposed amendment; or by any government official, unit, or bureau affected by such amendment.

(2) Applications to amend the text of the comprehensive plan may be filed by any individual or organization; or by any government official, unit, or bureau affected by such amendment.

(3) By the adoption of a motion by the Planning Commission.

(4) By the adoption of a resolution by the City Council.

(b) Amendments to the Comprehensive Plan Initiated by Property Owner(s) or Designee. An amendment initiated under Section 1104.03 (a) shall be submitted and reviewed according to the following:

(1) Submission Requirements. Applications for amendments shall contain all items set forth in the application checklist on file with the Planning and Community Development Department, unless items are determined by the Director of Planning and Community Development to be inapplicable or unnecessary and are waived.

(2) Application Submission. Applications shall be submitted in accordance with the published deadline calendar. The Director of Planning and Community Development shall have the authority to amend the calendar from time to time.

(3) Review for Completeness. The Director of Planning and Community Development shall review the submitted application for completeness and compliance with the applicable submission requirements within ten (10) business days of receipt of such application. If the application is deemed insufficient or incomplete, the Director of Planning and Community Development shall notify the applicant in writing of the deficiencies and shall place the application on hold until complete. When the application is determined to be sufficient and complete and the application fee has been paid, the Director of Planning and Community Development shall officially accept the application for consideration.

(4) Transmittal to Planning Commission. After the filing of a completed application, the Director of Planning and Community Development shall transmit the application to the Planning Commission to begin the process set forth in this Section.

(c) Amendments Initiated by Planning Commission or City Council. After the passage of a motion by Planning Commission or the adoption of a resolution by Council, the motion or resolution shall be reviewed and considered first by Planning Commission who shall make a recommendation to City Council. Second, City Council shall review and consider the application after Planning Commission. The process for review shall be as set forth in this chapter.

(d) Planning Commission Process for Public Hearing and Review. Upon the receipt of an application or resolution, the Planning Commission shall set a date for a public hearing thereon. Notice of the public hearing shall comply with the following:

(1) Notice of the proposed amendment shall be published at least ten (10) days prior to the date of the required hearing, on the City's website.

A. In addition, the Director of Planning and Community Development shall send a notice to the tax mailing addresses of all property owners whose property is located within 200 feet of the parcel(s) proposed to be amended.

(2) Notices shall include the time and place of the public hearing, a summary of the proposed amendment, and a statement that the opportunity to be heard will be afforded to any person interested. Failure of delivery of such notice shall not invalidate any such amendment.

(3) A sign notifying the public of an application under review shall be posted on each public road frontage of the property/properties in the area proposed to be amended in a location visible from an adjacent public street, or if necessary, in an alternative location approved by the Planning and Community Development Department.

A. Sign size and contents shall be specified by the Planning and Community Development Department.

B. The sign shall be posted at least ten (10) days in advance of the public hearing and shall remain in place for the duration of the approval process through the public hearing at Council.

(4) The Planning Commission may continue or defer its consideration and no further written notice shall be required.

(e) Recommendation by the Planning Commission.

(1) Within sixty (60) days from receipt of the proposed amendment, and after the conclusion of the public hearing, the Planning Commission shall recommend one of the following to Council:

A. That the amendment be granted as requested;

B. That the amendment be granted as modified by the Planning Commission; or

C. That the amendment be denied.

(2) If the Planning Commission does not make a recommendation on the proposed amendment within the sixty (60) days, or an extended period as may be agreed upon by the applicant or City Council, it shall be deemed that the recommendation of the Planning Commission is that the amendment be denied.

(3) The Planning Commission shall file with the Clerk of Council a report of the Planning Commission's action.

(f) City Council Process for Public Hearing and Review. Upon receipt of the recommendation from the Planning Commission, Council shall schedule a public hearing. The hearing shall be not more than thirty (30) days from receipt of the recommendation. Notice of the public hearing shall be given by Council according to the following:

(1) Notice of the proposed amendment shall be published at least ten (10) days prior to the date of the required hearing, on the City's website.

(2) Notice shall include the time and place of the public hearing, a summary of the proposed amendment and a statement that the opportunity to be heard will be afforded to any person interested.

(3) During the time between the recommendation of Planning Commission and prior to the public hearing, the text of the proposed amendment, maps, or plans, if applicable, and the maps, plans and reports that constitute the recommendation of the Planning Commission, shall be on file for public examination in the Department of Planning and Community Development.

(g) Final Action by Council. Following such hearing and after reviewing the recommendations of the Planning Commission thereon, Council shall consider such recommendations and vote on the passage of the proposed amendment to the comprehensive plan. Approval of such amendment shall take effect within thirty (30) days.

1104.04. Thoroughfare plan accepted.

The 2020—2040 Thoroughfare Plan as prepared by the City of Delaware, a copy of which is on file with the City Engineer's Office, is hereby adopted as the official thoroughfare plan for major streets and thoroughfares for the City of Delaware, Ohio and its long-range planning area.

1104.05. Certification and file copy.

The City Clerk is authorized and directed to certify Council's approval on a copy of the Thoroughfare Plan and such plan, as certified, shall be on file in the office of the City Manager.

1104.06. Certification to County Recorder, Engineer, and Regional Planning Commission.

The City Clerk is authorized and directed to certify Council's approval and certification of the Thoroughfare Plan to the County Recorder, County Engineer, and Director of the Regional Planning Commission.

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CHAPTER 1105. PROCEDURES

1105.01. Purpose.

In order to accomplish the purposes for which this Ordinance is adopted, it is essential that its regulations be soundly and consistently applied and administered. This Chapter stipulates the procedures to be followed for:

(a) 1105.02. Certificates of building and zoning compliance

(b) 1105.03. Zoning amendments

(c) 1105.10. Development plan review

(d) 1105.19. Conditional use approval

(e) 1105.22. Plan approval extensions

(f) 1105.23. Appeals to the Board of Zoning Appeals

(g) 1105.24. Variances

1105.02. Certificate of building and zoning compliance.

(a) Applicability. Certificates of building and zoning compliance shall be required for all construction within the City as well as for all businesses prior to occupying any building or space within a building.

(b) Applications. Certificates of building and zoning compliance shall be issued only in conformity with the provisions of this Zoning Ordinance. Applications for certificates of building and zoning compliance are available in the Department of Planning and Community Development. A completed application form accompanied by all other applicable submission requirements shall be submitted to the Director of Planning and Community Development.

(c) Expiration of Certificate. Each application shall clearly state that the certificate of building and zoning compliance will expire and may be revoked if work has not begun within one (1) year of date of issue or has not been substantially completed within two and one-half (2½) years. If such work has not been completed within such time frames and an extension has not been granted by the Planning and Community Development Director, a new application and certificate shall be required. Construction is deemed to have begun when all necessary excavation and piers or footings of the structure included in the application have been completed.

1105.03. Zoning amendment procedures.

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

(a) By the filing of an application by an owner or designee within the area of the proposed change or affected by such amendment; or by any government official, unit, or bureau affected by such amendment filing an application with the Planning and Community Development Department.

(b) By the adoption of a motion by the Planning Commission.

(c) By the adoption of a resolution by City Council.

1105.04. Zoning amendments initiated by property owner(s).

An amendment initiated by an owner or designee of property, or individual with an option or interest in such property within the area proposed to be changed or affected by said amendment, shall be submitted and reviewed according to the following:

(a) Submission Requirements. Applications for amendments to either the text and map adopted as part of this Ordinance shall contain all items set forth in the application checklist on file with the Planning and Community Development Department unless items are determined by the Director of Planning and Community Development to be inapplicable and are waived.

(b) Review for Completeness. The Director of Planning and Community Development shall review the submitted application for completeness and compliance with the applicable submission requirements within ten (10) business days of receipt of such application. If the application is deemed insufficient or incomplete, the Director of Planning and Community Development shall notify the applicant in writing of the deficiencies and place the application on hold until complete. When the application is determined to be sufficient and complete and the application fee has been paid, the Director of Planning and Community Development shall officially accept the application for consideration.

(c) Transmittal to Planning Commission. After the filing of a completed application by an owner or designee of property, or individual with an option or interest in such property, the Director of Planning and Community Development shall transmit the application to the Planning Commission to begin the adoption process set forth in 1105.06 through 1105.09 of this Chapter.

1105.05. Zoning amendments initiated by Planning Commission or Council.

After the passage of a motion by the Planning Commission or the adoption of a resolution by Council, the motion or resolution shall be reviewed and considered by the Planning Commission and Council according to the process set forth in Sections 1105.06 through 1105.09 of this Chapter.

1105.06. Public hearing and notice by Planning Commission for zoning amendments.

Upon receipt of an application or motion, the Planning Commission shall set a date for a public hearing thereon. Notice of the public hearing shall comply with the following:

(a) Notice of the proposed amendment shall be published at least ten (10) days prior to the date of the required hearing on the City's website.

(1) In addition, for map amendments,

(b) Notices shall include the time and place of the public hearing, a summary of the proposed amendment, and a statement that the opportunity to be heard will be afforded to any person interested. Failure to deliver or publish such notice shall not invalidate any such amendment.

(c) A sign notifying the public of a zoning application under review shall be posted on each public road frontage of the property(s) in the area proposed to be rezoned, in a location visible from an adjacent public street, or if necessary, in an alternative location approved by the Planning and Community Development Department.

(1) Sign size and contents shall be specified by the Planning and Community Development Department.

(2) The sign shall be posted at least ten (10) days in advance of the public hearing and shall remain in place for the duration of the amendment process through City Council.

(d) The Planning Commission may continue or defer its consideration and no further written notice shall be required.

~~(d)~~

1105.07. Recommendation by the Planning Commission.

(a) Within ninety (90) days from receipt of the proposed amendment (unless the applicant requests more than the 90 days), and after the conclusion of the public hearing required in Section 1105.06 of this Chapter, the Planning Commission shall recommend one of the following to Council:

(1) That the amendment be granted as requested;

(2) That the amendment be granted as modified by the Planning Commission; or

(3) That the amendment be denied.

(b) If the Planning Commission does not make a recommendation on the proposed amendment within sixty (60) days, or an extended period as may be agreed upon by the applicant or Planning Commission, it shall be deemed that the recommendation of the Planning Commission is that the amendment be denied.

1105.08. Public hearing and notice by Council.

Upon receipt of the recommendation from the Planning Commission, Council shall schedule a public hearing. The hearing shall be not more than thirty (30) days from the receipt of the recommendation, unless the applicant requests more than the thirty (30) days. Notice of the public hearing shall be given by Council according to the following:

(a) Notice of the public hearing shall be published on the City's website. The notice shall be published at least ten (10) days before the date of the hearing.

(b) Notices shall include the time and place of the public hearing, a summary of the proposed amendment, and a statement that the opportunity to be heard will be afforded to any person interested. Failure of delivery of such notice shall not invalidate any such amendment.

(c) During the time between the recommendation of Planning Commission and prior to the public hearing, the text of the proposed amendment, maps, or plans, if applicable, and the maps, plans and reports that constitute the recommendation of the Planning Commission, shall be on file for public examination in the Planning and Community Development Department.

1105.09. Final action by Council.

Following such hearing and after reviewing the recommendations of the Planning Commission thereon, Council shall consider such recommendations and vote on the passage of the proposed amendment to the text of the Zoning Ordinance or the Zoning Map in accordance with Charter Article XXI, Sections 104 and 106.

Upon a final decision by Council, the sign installed per 1105.06(c) of this Chapter shall be removed within five (5) business days.

1105.10. Development plan.

(a) Applicability. The development plan review and approval procedures shall be required for all development and redevelopment within the City.

(1) Development in a planned overlay district that contains previously approved development text shall adhere to the approval procedures of this Chapter.

(2) Development in the Historic District Overlay must also adhere to all requirements of Chapter 1115 of this code.

(b) If the redevelopment of an existing site does not involve significant alterations to the building or site and a previous development plan has not been approved, the Director of Planning and Community Development shall determine whether improvements are exempt from development plan approval.

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1105.11. Development plan requirements.

Approval of a development plan shall be in accordance with the following requirements:

(a) Conformity with Zoning. The development plan shall conform to the approved zoning requirements for the property on which the proposed development is located.

(b) Submission Requirements. An application for development plan review shall be required for each subarea of development. The application shall include the maps, plans, designs, and supplementary documents set forth within the application checklist on file with the Planning and Community Development Department unless items are determined by the Director of Planning and Community Development to be inapplicable and are waived. Multiple phases may be included in one set of plans.

(c) Review for Completeness. The Director of Planning and Community Development shall review each submitted application to determine compliance with the submission requirements. If the application is deemed insufficient or incomplete, the Director of Planning and Community Development shall notify the applicant, in writing, within ten (10) business days of receiving such application of necessary changes or additional information needed. When the application is deemed sufficient and complete and the application fee has been paid, the Director of Planning and Community Development shall officially accept the application for consideration of the action(s) requested on the date such determination is made.

1105.12. Development plan review procedures.

Development plans shall be reviewed according to the following procedures:

(a) Review by Director of Planning and Community Development. The Director of Planning and Community Development shall review the submitted application for completeness pursuant to Section 1105.11 of this chapter.

(b) Review by Administrative Staff. After the application of a development plan has been determined to be complete, the Director of Planning and Community Development shall forward the application to appropriate City Departments. The application may also be transmitted to other appropriate professional consultants for review and comment.

(c) Administrative Development Plan Review and Approval by Staff. Development not located within a PUD or planned overlay district that meets all zoning requirements for the district in which development is proposed requires staff approval only.

(1) The applicant shall submit all required documents set forth in 1105.11 of this chapter.

(2) Once the development plan is reviewed by Staff and determined to be in compliance with all requirements set forth in this Zoning Ordinance, the applicant shall apply for a certificate of building and zoning compliance prior to the start of construction.

(d) Review by Planning Commission. For development within PUDs and existing planned overlay districts, the Director of Planning and Community Development shall forward the application and any City department reports, comments, and recommendations, and/or expert opinions to the Planning Commission prior to the time of the Commission's review. During its review, the Planning Commission may distribute the application to additional appropriate administrative departments for review and comment. The Commission may require additional information as the Commission deems necessary and may request the carrying out of special studies and the provisions of expert advice. Such additional administrative and/or expert review should be completed, and any reports or comments submitted to the Planning Commission prior to the time of the Commission's decision.

~~(d)~~

1105.13. Public Hearing and Notice by Planning Commission.

The Planning Commission shall hold a public hearing on the development plan application.

(a) Notice of such public hearing shall be given on the City's website at least ten (10) days prior to said public hearing. Notices shall include the time and place of the public hearing, a summary of the proposal, and a statement that the opportunity to be heard will be afforded to any person interested. Failure to delivery such notice shall not invalidate any such application.

(b) A sign notifying the public of a zoning application under review shall be posted on each public road frontage of the property(ies) proposed for the development plan in a location visible from an adjacent public street, or if necessary, in an alternative location approved by the Planning and Community Development Department.

(1) Sign size and content shall be specified by the Planning and Community Development Department.

(2) The sign shall be posted at least ten (10) days in advance of the public hearing and shall remain in place for the duration of the development plan process except the sign shall be removed within five business days of a final decision by Planning Commission.

1105.14. Recommendation by Planning Commission.

The Planning Commission shall review the development plan according to the review criteria of Section 1105.16. Following its review, the Planning Commission shall either:

(a) Recommend approval of the development plan as submitted; or

(b) Recommend approval of the plan subject to specific conditions not included in the plan as submitted, such as, but not limited to, improvements in the yard layout, open space arrangement, on-site control of access to streets, or such features as fences, walls, and plantings to further protect and improve the proposed and surrounding developments; or

(c) Recommend denial of the development plan. If the Commission finds that a proposed plan does not meet the purposes of these regulations, it shall deny the plan and shall submit its findings in writing to the applicant upon the applicant's request.

(d) Failure of the Planning Commission to act within 120 days from the date the application was deemed complete, or an extended period as may be agreed upon, shall at the election of the applicant be deemed a denial of the application.

(e) The applicant's determination of denial pursuant to Subsection (d) in this Section does not give the applicant the right to seek Council's approval of the application unless the Director of Planning and Community Development receives from the applicant notification in writing within thirty (30) days of the end of that 120-day period that a denial due to inaction occurred and that placement on a Council agenda is requested. The application shall be placed on a Council agenda no later than thirty (30) days after receipt of that written request by the City, unless the applicant requests additional time.

1105.15. Action by City Council.

Within thirty (30) days of action by the Planning Commission, the development plan shall be submitted to Council, unless otherwise agreed to by the applicant.

(a) Public Hearing and Notice by City Council. The Council shall hold a public hearing on the development plan application. Notice of such public hearing shall be given on the City's website at least ten (10) days prior to said public hearing. Notices shall include the time and place of the public hearing, a summary of the proposal, and a statement that the opportunity to be heard will be afforded to any person interested. Failure to deliver such notice shall not invalidate any such application.

(b) Confirmation by City Council. Upon notification by the Planning Commission of their recommendation of approval or denial of development plans, Council shall by resolution accept or reject development plans or

major modifications to development plans.

(1) Council shall, by resolution, either confirm the approval made by the Planning Commission, reject the Planning Commission's approval, or override a denial of the Planning Commission as specified in the City Charter.

(2) If Council rejects the Planning Commission's approval, the reason(s) shall be stated in writing and the application shall be remanded back to the Planning Commission to allow for the correction of stated deficiencies.

(3) Failure of Council to act after forty-five (45) days from the date Council receives notice from the Planning Commission that a development plan has been approved, approved with conditions, or denied by the Commission shall be deemed a confirmation of the Planning Commission's approval and the approval of the Planning Commission shall stand.

(4) Upon a final decision by Council, the sign installed per 1105.13(b) shall be removed within five (5) business days.

1105.16. Review criteria.

(a) Development Plan Review Criteria. In reviewing a development plan, the appropriate Reviewing Body shall consider the location of buildings, parking areas, and other features with respect to the topography of the lot and existing natural features such as streams and large trees; the efficiency, adequacy, and safety of the proposed layout of internal streets and driveways; the location of the ~~green areas~~open space provided, considering the possible effects of irregularly shaped lots; the adequacy of the location, landscaping and screening of the parking lots; and such other matters as the Commission may find to have a material bearing upon the stated standards and objectives of the various district regulations. In reviewing the development plan, the Planning Commission, City Council, and City should consider the following criteria:

(1) The proposed development is consistent with any plan or policy statement, including the comprehensive plan and thoroughfare plan for the orderly development of the City;

(2) The proposed development complies with all zoning requirements of its respective zoning district;

(3) The proposed development promotes the health, safety, and general welfare of the present and future inhabitants of the City;

(4) The proposed development has no significant detrimental impact that outweighs the development's benefits to the community;

(5) The proposed streets and driveways on the site of the proposed development will be appropriate to serve the residents, occupants, or users of the proposed development, and the development plan, along with any necessary off-site vehicular circulation improvements, provides appropriate vehicular ingress and egress and will be accessible from current or planned public thoroughfares adequate to carry traffic which will be imposed upon them by the proposed development;

(6) The proposed development minimizes conflicts between vehicular, pedestrian, and bicycle circulation patterns and movement, and adheres to all City plans regarding bicycle and pedestrian improvements;

(7) The benefits of the proposed development mitigate any burden on public services and facilities, including fire and police protection;

(8) Existing and proposed utility services for residential population densities and nonresidential uses are adequate for the projected demand during all phases of development and at full completion of development;

(9) Each individual section or subarea of the development, as well as the total development, can exist as a functionally independent environment. In the alternative and at the discretion of the City, adequate

assurance has been provided by the applicant and to the satisfaction of the City that such objective will be achieved;

(10) The design and other amenities incorporated in the proposed development will provide increased benefits to the residents, occupants, users, and the community and such design and other amenities are in accord with the planned unit development provisions of this Zoning Code and other applicable ordinances of the City;

(11) The proposed development contains such covenants, easements, and other such forms of property rights and control as may reasonably be required for the maintenance and care of common, private facilities, and for public health, safety, and welfare. If governmental ownership of common open space, recreational facilities, or other common facilities is planned, a copy of its acceptance has been filed with the application;

(12) The proposed development complies with all standards established by the City Engineer as outlined in the City of Delaware Engineering Design Standards;

(13) The development plan indicates that the proposed development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;

(14) The proposed development, to the extent practical, will preserve and be sensitive to the natural characteristics of the site;

(15) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses, wetlands and their buffers, and drainage areas, and shall comply with any applicable regulation or design criteria established by the City; and

(16) Site lighting is designed to minimize direct light, glare, and excessive glow, which unreasonably interferes with the use and enjoyment of adjacent property. If it is determined that, once the project is completed, the lighting does have unreasonable adverse impact on adjacent property, the Planning Commission may order reasonable alterations to the site lighting (such as reduced illumination, shielding, landscaping, etc.) to mitigate such unreasonable impacts.

(b) Planned Unit Development Review Criteria. In reviewing development plans for planned unit developments, the Planning Commission, City Council, and the City ~~shall~~ should consider the review criteria for development plans set forth in this Section.

1105.17. Development plan modifications.

Requests to modify an approved development plan, when such requested modification does not involve a change of permitted uses for the site or property, may be approved by administrative action. Requests to modify shall be in writing and signed by the property owner(s). The Director of Planning and Community Development shall determine the type and amount of any additional information necessary for consideration of the modification. Modifications shall be considered either major, minor, or incidental, and shall be approved or disapproved by administrative action in accordance with divisions (a) through (f) of this section.

(a) Major Modifications. Major modifications to an approved development plan require resubmission of an application in accordance with section 1105.11 of this Chapter. At its discretion and in lieu of compliance with section 1105.11 of this Chapter, the Planning Commission may require the applicant to either submit a modified application or submit supplementary materials to accompany the original application materials. In all cases major modifications to the approved development plan shall be subject to review and approval procedures set forth in section 1105.12 through 1105.15 of this Chapter.

(1) Major modifications are defined as modifications which do not change the permitted uses for the proposed site and do not exceed any of the limitations and conditions of the development plan approval, and which result in one or more of the following:

A. An increase of greater than 5% in building coverage.

B. An increase of greater than 5% in dwelling unit density.

C. A significant redesign of roadways or drainage.

D. A major redesign of a building which significantly alters the central architectural design or theme of the building.

E. Other modifications not considered to be of minor or incidental character.

(b) Minor Modifications. Approval shall be based on a Planning Commission determination that the modifications are not in conflict with the intent and character of the approved development plan. Minor modifications do not require a public hearing and the Planning Commission's decision shall be final.

(1) Minor modifications are defined as modifications which do not change the permitted uses of the proposed site and do not exceed any of the limitations and conditions of the development plan approval, and which result in one or more of the following:

A. An increase of five percent (5%) or less in building coverage.

B. An increase of five percent (5%) or less in dwelling unit density.

C. Changes not exceeding twenty-five (25) feet in building location not affecting front yard setbacks from streets or setbacks from exterior property lines of the property or site.

D. An increase of more than five (5) feet in the height of a building or structure.

~~D.~~E. An increase of more than five percent (5%) in impervious surface (excluding buildings).

~~E.~~F. Minor redesign of a building such as significant alterations to exterior materials, provided the redesign does not significantly alter the central architectural design or theme of the building.

~~F.~~G. Changes not considered to be of major or incidental modification character. The Planning Commission shall, by resolution, approve or disapprove minor modifications to an approved development plan.

(c) Incidental Modifications. The Director of Planning and Community Development shall approve or disapprove incidental modifications to a development plan approval. Such approval shall be based on the Director of Planning and Community Development's determination that the modifications are not in conflict with the intent and character of the approved development plan. In the alternative and at the discretion of the Director of Planning and Community Development, the Director~~y~~ may request that incidental modifications be approved by the Planning Commission.

(1) Incidental modifications are defined as modifications which do not change the permitted uses of the proposed site and do not exceed any of the limitations and conditions of the development plan approval, and which result in one or more of the following:

A. Less building coverage due to decreasing the size or number of structures.

B. Minor redesign of street layout, such as adjustments in a turning radius.

C. Minor redesign, such as a realignment of pedestrian circulation facilities or parking or loading areas.

D. Changes in landscaping or screening materials that do not alter the intended function of the landscaping or screening.

E. An increase of five (5) feet or less in the height of a building or structure.

~~E.~~F. An increase of less than five percent (5%) in impervious surface (excluding buildings).

~~F.~~G. Minor revisions of building elevations such as realignment of major building entrances, or window placement, or alterations to exterior building materials or colors, provided the revisions do not alter

the central design or architectural theme of a building.

~~G.~~H. Changes not considered to be of minor or major modification character.

(d) Modifications to staff approved development plans shall be considered incidental modifications, regardless of the extent of the proposed modifications.

1105.18 Significance of development plan approval.

An approved development plan shall become a binding commitment of the specific elements approved for development.

(a) All construction and development under any permit shall be in accordance with the approved plan. The property owner and successor(s), have a continuing obligation to comply with the approved plan. Any departure from such plan without prior approval shall be cause for revocation of the certificate of building and zoning compliance, and the property owner or other responsible parties are subject to penalties as prescribed by this Planning and Zoning Ordinance and the Codified Ordinances of the City of Delaware.

(b) If, at the end of the twelve (12) month period from the date of plan approval, construction of the development has not begun and an extension has not been requested in accordance with section 1105.22 of this Chapter, then approval of such development plan shall expire and shall be of no effect unless resubmitted and reapproved in accordance with the procedures set forth in this Chapter. Construction is deemed to begin when all necessary excavation and piers or footings of one or more principal buildings included in the plan have been completed.

1105.19 Conditional use approval.

The characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community. A conditional use approval allows for a more detailed evaluation of each use listed as a conditional use in a specific zoning district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, requirements for public facilities, and traffic generation.

(a) Nothing in these regulations shall prohibit the Planning Commission from prescribing supplementary conditions and safeguards to ensure adherence to the general criteria set forth in 1105.21 of this Chapter.

(b) A conditional use shall conform to the regulations of the district in which it is located and to other substantive requirements of this Zoning Ordinance.

1105.20. Conditional use review procedures.

(a) The Director of Planning and Community Development shall review each submitted application to determine compliance with the submission requirements. If the application is deemed insufficient or incomplete, the Director of Planning and Community Development shall notify the applicant in writing within ten (10) business days of receiving such application of necessary changes or additional information needed. When the application is deemed sufficient and complete and the application fee has been paid, the Director of Planning and Community Development shall officially accept the application for consideration of the action(s) requested on the date such determination is made.

(b) Public Hearing and Notice by Planning Commission. The Planning Commission shall hold a public hearing on the conditional use application. Notice of such public hearing shall be given on the City's website at least ten (10) days prior to said public hearing. Notices shall include the time and place of the public hearing, a summary of the proposal, and a statement that the opportunity to be heard will be afforded to any person interested.

(c) A sign notifying the public of a zoning application under review shall be posted on each public road frontage of the property proposed for the conditional use in a location visible from an adjacent public street, or if necessary, in an alternative location approved by the Planning and Community Development Department.

(1) Sign size and content shall be specified by the Planning and Community Development Department.

(2) The sign shall be posted at least ten (10) days in advance of the public hearing and shall remain in place for the duration of the conditional use approval process. The sign shall be removed within five (5) business days of a final decision by Planning Commission.

(d) Action by Planning Commission. Planning Commission shall approve, approve with conditions, or deny the conditional use approval and such action shall be entered into in the Motion Summary of Planning Commission.

(e) Appeal. A decision by Planning Commission regarding a conditional use application may be appealed to the Delaware County Court of Commons Pleas within thirty (30) days of the Planning Commission decision.

(f) Re-Application Waiting Period: If a conditional use approval expires or is denied, an application for the same conditional use category may not be submitted for a period of at least six (6) months after the date of the expiration or denial.

(g) Automatic Expiration of Conditional Use Approval: If the approval conditions of a conditional use permit are not met or are violated, the conditional use approval shall expire automatically as of the moment that the approval conditions are not met or are violated.

(1) The Director of Planning and Community Development shall issue a notice to the receiver of the conditional use approval outlining the violation and rescinding the approval. The use shall no longer be permitted to operate from the previously approved location.

1105.21. General criteria for all conditional uses.

A conditional use shall be permitted in a district only when specified as a conditional use in such district, and only if such use conforms to the following general criteria.

(a) The Planning Commission shall review to determine whether the particular facts and circumstances of each proposed use meets ~~of~~ the following criteria and shall find adequate evidence that the use as proposed satisfies the following criteria:

(1) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area.

(2) Will not be detrimental to property values in the immediate vicinity.

(3) Will not restrict or adversely affect the existing use of the adjacent property.

(4) Will be designed and constructed so that all access drives, access points to public streets, driveways, parking, and service areas shall comply with the regulations set forth in Chapter 1123.

(5) Will be properly landscaped in accordance with Chapter 1121.

(6) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.

(7) That the establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(8) That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

(9) That adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public ~~streets~~ thoroughfares and to maximize public safety.

(10) That the establishment of the conditional use will not be detrimental to the economic welfare of the community by creating excessive additional requirements or public cost for public facilities such as police, fire, and schools.

(11) That there is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible.

1105.22. Plan approval extensions.

(a) Extension of Development Plan, Conditional Use Approval, or Modification Approval Period. Upon request by the owner, a one-time only, administrative extension of the one (1) year approval period for a development plan, conditional use, or modification approval may be granted by the Planning and Community Development Director. In the event such an extension is granted, the period of extension shall not exceed one (1) year.

(1) The owner shall submit a written request with any additional requested information to the Planning and Community Development Director.

(2) Within ten (10) days from receipt, the Director shall, in writing, either deny the request, approve the request as submitted, or approve the request for extension for a lesser period of time than requested by the owner.

(3) Any extension of the approval period shall become effective and begin on the date of approval of such extension.

(b) An additional one (1) year extension may be granted by the Planning Commission for a development plan, conditional use approval, modification, or an appeal to an extension denial.

(1) The owner or applicant shall submit a written request with any additional requested information to the Planning and Community Development Director.

(2) The extension request shall be presented at the next regularly scheduled Planning Commission meeting. The Planning Commission shall either deny the request for an extension, approve the request as submitted, or approve the request for a lesser period of time.

(3) Any extension of the approval period shall become effective and begin on the date of approval of such extension.

1105.23. Appeals to the Board of Zoning Appeals.

Appeals to the Board of Zoning Appeals may be brought by any person, or by any government officer, board, or department of the City, deeming themselves to be adversely affected by a final decision of the Director of Planning and Community Development, or by any administrative officer of the City deciding matters relating to this Zoning Ordinance.

(a) Initiation of Appeal. Applications for appeal shall be filed with the Director of Planning and Community Development upon the forms provided, within thirty (30) days after the date of any adverse final order, requirement, decision, or determination. Failure to file a notice of appeal within such thirty (30) days shall constitute a waiver of the right of appeal. The application for appeal shall include reference to the final decision and the provision of this Zoning Ordinance from which the appeal is sought, and reasons for the appeal as well as all requirements set forth in the application checklist on file in the Planning and Community Development Department, unless items are determined by the Director to be inapplicable and are waived. The Director of Planning and Community Development shall transmit to the Board the record upon which the action appealed was taken from.

(b) Public Hearing by the Board. When an application for appeal has been filed in proper form and the application fee has been paid, the Director of Planning and Community Development shall immediately place the request upon the calendar for public hearing before the Board of Zoning Appeals. The Board of Zoning Appeals shall hold such public hearing within forty-five (45) days after the receipt of an application for an appeal from the Director of Planning and Community Development or applicant. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person in interest may appear at the public hearing in person, by agent, or by attorney.

(c) Notice of Public Hearing. The property owner requesting the appeal shall submit the name(s) and address(es) of all record title holders within 200 feet of the property to which such appeal relates to the Clerk/Secretary of the Board of Zoning Appeals at the time the application for the appeal or variance is filed. "Record title holder" shall mean the title holder of such property as disclosed by the records of the County Auditor.

(1) Notice of the hearing shall be given by posting on the City's website for the ten-day period referenced in subsection (2).

(2) All notices shall be mailed at least ten (10) days before the date of said public hearing. All notices shall set forth the time, place and nature of the proposed appeal.

(3) Failure of delivery of such notices shall not invalidate action taken on such application.

(d) Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Planning and Community Development from whom the appeal is taken certifies to the Board, after the notice has been filed with him or her, that by reason of facts stated in the certificate of building and zoning compliance, a stay would in his or her opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by restraining order, which may be granted by the Board or by a competent court having lawful jurisdiction.

(e) Review by the Board. The Board of Zoning Appeals shall review the appeal. The Board may call upon the City Manager for assistance from City departments and professional consultants in performance of its duties. Such City departments or consultants shall render such assistance to the Board as may reasonably be required.

(f) Decision by the Board. Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part, the decision being appealed, and to that end shall have all the powers of the officers from whom the appeal is taken, and it may direct the issuance of a permit or certificate.

(1) Within forty-five (45) days after the public hearing, unless an extended period of time is mutually agreed upon by the applicant and the Board, the Board of Zoning Appeals shall either approve, approve with supplemental conditions, or disapprove the request for appeal. If the Board fails to act within such period of time, the appellant may determine the appeal has been denied.

(2) A certified copy of the Board's decision shall be transmitted to the applicant, or appellant, and a copy shall be filed with the Director of Planning and Community Development.

(3) Any person(s) aggrieved by the decision of the Board may appeal to the Court of Common Pleas of Delaware County within thirty (30) days after the filing of the Board's decision.

(4) Once the appellant has received the Board's decision, he/she may submit an application for a certificate of building and zoning compliance that complies with the Board's decision. A copy of the Board's decision shall be attached to the application.

1105.24. Variances.

The Board of Zoning Appeals may authorize in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where a literal enforcement of the provisions of this Ordinance would result in practical difficulty.

(a) Application. An application for a variance shall be filed with the Director of Planning and Community Development for review by the Board of Zoning Appeals upon the forms provided, and shall be accompanied by maps, plans, designs, and supplementary documents set forth within the application checklist on file with the Planning and Community Development Department, unless items are determined by the Director to be inapplicable and are waived.

(b) Review for Completeness. Upon receipt of a written request for a variance, the Director of Planning and Community Development shall make a preliminary determination whether such application provides the information necessary for review and evaluation. If it is determined that such application does not provide the information necessary for such review and evaluation, the Director of Planning and Community Development shall within ten (10) business days so advise the applicant in writing of the deficiencies and shall not further process the application until the deficiencies are corrected.

(c) Public Hearing by the Board. When an application for variance has been filed in proper form and the application fee has been paid, the Director of Planning and Community Development shall immediately place the request upon the calendar for public hearing before the Board of Zoning Appeals. The Board of Zoning Appeals shall hold such public hearing within forty-five (45) days after the receipt of an application for a variance from the Director of Planning and Community Development or applicant. The Board may recess such hearings from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person in interest may appear at the public hearing in person, by agent, or by attorney.

(1) Notice of Public Hearing. The property owner requesting the variance shall submit the name(s) and address(es) of all record title holders within 200 feet of the property to which such appeal relates to the Clerk/Secretary of the Board of Zoning Appeals at the time the application for the variance is filed. "~~Record title holder~~Title holder of record" shall mean the title holder of such property as disclosed by the records of the County Auditor.

(2) Notice of the hearing shall be given by posting on the City's website for the ten-day period referenced in subsection (c).

(3) All notices shall be mailed by the City at least ten (10) days before the date of said public hearing. All notices shall set forth the time, place and nature of the proposed variance.

(4) Failure of delivery of such notices shall not invalidate action taken on such application.

(d) Review by the Board. The Board shall review each application for a variance to determine if it complies with the purpose and intent of this Ordinance and evidence demonstrates that the literal enforcement of this Ordinance will result in practical difficulty. The existence of nonconforming uses, lands, structures, or buildings in other districts shall not be grounds for issuance of a variance.

(1) The following factors shall be considered and weighed by the Board to determine practical difficulty:

A. Whether the granting of the variance would be in accord with the general purpose and intent of the regulations imposed by this Ordinance and the district in which it is located and shall not be injurious to the area or otherwise detrimental to the public welfare.

B. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to non-conforming and inharmonious uses, structures, or conditions.

C. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Mere loss in value or financial disadvantage to the property owner does not constitute conclusive proof of practical difficulty, there shall be deprivation of beneficial use of land.

D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance.

E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup.

F. Whether the property owner purchased the property with knowledge of the zoning restrictions. Purchase without knowledge of restrictions in itself is not sufficient proof of practical difficulty.

G. Whether special conditions or circumstances exist as a result of actions of the owner.

H. Whether the property owner's predicament feasibly can be obviated through some method other than a variance.

I. Whether the granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted is the minimum variance that will accomplish that purpose.

J. Whether the proposed variance would impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values of the adjacent area.

K. Whether the granting of the variance requested would confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

(e) Requests for Additional Information. The Board of Zoning Appeals may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance, prior to the next regularly scheduled Board of Zoning Appeals meeting or a later date specified by the Board. Should the applicant fail to provide the requested additional information in the specified time frame, the case shall be denied.

(f) Supplemental Conditions and Safeguards. The Board may further prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulations or 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 of this Ordinance.

(g) Decision by the Board. Within forty-five (45) days after the public hearing, unless an extended period of time is mutually agreed upon by the applicant and the Board, the Board of Zoning Appeals shall either approve, approve with supplemental conditions, or disapprove the request for variance. If the Board fails to act within such period of time, the appellant may determine the variance has been denied.

(1) A certified copy of the Board's decision shall be transmitted to the applicant and a copy shall be filed with the Director of Planning and Community Development.

(2) Any person(s) aggrieved by the decision of the Board may appeal to the Court of Common Pleas of Delaware County within thirty (30) days after the filing of the Board's decision.

(3) Once the applicant has received the Board's decision, he/she may submit an application for a certificate of building and zoning compliance that complies with the Board's decision. A copy of the Board's decision shall be attached to the application.

~~(h)~~ Term and Extension of Variance. Variances shall be non-assignable and shall expire one (1) year from the date of their enactment, unless prior thereto, the applicant commences actual construction in accordance with the granted variance or an extension of time has been granted by the Board of Zoning Appeals prior to the expiration date. Failure to file a request for extension in writing within thirty (30) days prior to the expiration shall constitute a waiver of the right to a time extension. There shall be no modification of variances except by further consideration of the Board. Once the time limit pursuant to this Section has expired, a request for a variance shall be considered a new application for a variance and shall meet all requirements for application and review pursuant to this Section.

(h)

1105.25. Subdivisions.

If a proposed development includes the subdivision of land, the development shall be subject to the requirements of the plat approval process in accordance with Chapter 1106 of this code.

1105.26. Determination of similar uses.

Where a specific use is proposed that is not listed or provided for in a district, the Planning Commission may make a determination that the proposed use is of the same general character as the uses permitted in the district in which the use is proposed, or is similar to a particular use permitted in the district in which the use is proposed; and is determined to be consistent with the purpose statement for the district in which such use is proposed. Such additional uses shall not include uses which, in the judgment of the Commission, would likely be objectionable in the district in which such use is proposed.

(a) The initial determination of a similar use shall be approved in accordance with the conditional use procedures set forth in Section 1105.20, including the requirement for a public hearing.

(b) Following such a determination, the similar use shall be considered to be added to the permitted use list for the district, either as a permitted principal use or as a conditional use, as determined by the Planning Commission.

1105.27. Records.

A record of all applications and certificates issued shall be kept on file, in accordance with the City's record retention policy, in the Department of Planning and Community Development and shall be made available to the public.

1105.28. Fees.

The schedule of fees for review of and action on applications for certificates of building and zoning compliance, development plan review, conditional use permits, appeals, variances, amendments, subdivision plats, and other procedures and services pertaining to the administration and enforcement of this Zoning Ordinance shall be available at City Hall. Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

1105.29. Mitigation of Environmental Impacts.

It shall be the responsibility of the applicant/developer to assess and identify all environmental impacts, determine permitting requirements, and provide any required mitigation in accordance with federal, state, and local laws and regulations. Environmental resources that may require permitting and mitigation include but are not limited to stream corridors and their buffers, ~~floodways and~~ floodplains, wetlands, species and their habitat, archaeological resources, and historic property resources. Agencies that may have jurisdiction over environmental impacts include but are not limited to the Federal Emergency Management Agency, Ohio Environmental Protection Agency, United States Army Corps of Engineers, Ohio Historic Preservation Office, Ohio Department of Natural Resources, United States Department of Agriculture, United States Fish and Wildlife Service, and Delaware County Historical Society.

(a) To demonstrate compliance with applicable environmental laws and regulations, the developer shall provide to the Planning and Community Development Department and City Engineer the following information:

(1) a summary of all environmental impacts caused by the development;

(2) a list of all environmental permits required by the project;

(3) copies of all permit application and permit approvals for the project;

(4) copies of all executed environmental covenants or easements;

(5) where an impact requires mitigation, information about how mitigation is being achieved or a copy of the mitigation agreement;

(6) an exhibit showing all environmental impacts as defined by federal, state, and local laws and regulations. The exhibit shall show the existing conditions, proposed development, identified environmental resources, impacts requiring mitigation, mitigation areas provided on the site, and any other applicable information.

(b) If a development has not identified an environmental permitting need for one or more types of impacts to environmental resources, the Director of Planning and Community Development and/or the City Engineer may require the developer to provide additional background showing that an environmental assessment was performed and evidence indicating that permitting and mitigation is not required. If no such determination was made, the developer shall be required to comply with the requirements of this section prior to construction.

(c) All required environmental permits shall be in place prior to commencing construction activities on the development site. If a project is phased, environmental permits for impacts in a future phase need not be obtained until the future phase.

(d) At the time of the development plan submission and approval, environmental permits are not required to be issued. However, any known information about environmental resources and impacts shall be included with the development plan submission.

1105.30. Acceptance of public improvements.

Acceptance of public improvements (including but not limited to streets, sidewalks, streetlights, bike paths, street trees, etc.) shall be required of all public streets, whether a part of a subdivision or not as determined by the City Engineer and set forth in Chapter 1106 of this code.

1105.31. Development agreements.

(a) Purpose. These provisions establish uniform procedures and standards for the preparation, review, and adoption of Development Agreements to accomplish the following public purposes:

(1) To provide more certainty to the City of Delaware that public amenities and improvements are provided concurrent with development and according to an agreed-upon schedule and at a level of quality sufficient to justify the grant of vested rights via a development agreement. Public benefits arising from a development agreement may include, but are not limited to, the provision of public facilities such as ~~streets~~thoroughfares, sewerage, stormwater, parks and open space, transportation, schools, and utility facilities.

(2) To provide more certainty to a landowner and/or developer through the grant of vested property rights for an agreed-upon term of years. The establishment of vested rights through the use of a development agreement can ensure reasonable certainty, ensure stability and fairness in the land development approval process, secure the reasonable investment-backed expectations of landowners, provide for a more efficient use of resources, and foster cooperation between the public and private sectors in the area of land use planning and development.

(b) Applicability. A Development Agreement may be submitted by any person having a legal or equitable interest in real property for the development of that property (the Applicant) to the City Manager for approval prior to all Development Plans or Preliminary Subdivision Plats, and Final Plats. In addition, a Development Agreement may be submitted to the City with a petition to annex land to the corporate boundaries, provided the Agreement meets the requirements of this section as applicable. Nothing in these agreements shall

conflict with the requirements of the City's Codified Ordinances.

(c) Submission Requirements. The Development Agreement shall be submitted in document and electronic form and shall contain the following information, unless specific items are waived by the City Manager. If a separate Pre-Annexation Agreement was approved for the subject property(s) and is applicable to the proposed development, the Development Agreement shall be consistent with the Pre-Annexation Agreement unless otherwise agreed to in writing by all parties. Such consistency shall be noted in a statement in the Development Agreement. It shall also reference the Pre-Annexation Agreement by title and date of execution.

(1) Parties. The Agreement shall name all parties to the Agreement including their capacities to enter into the Agreement. In the case of developers/owners, their equitable or legal interests in the property shall be stated. Names, addresses, telephone numbers, fax numbers and emails, and acreage by tract of the Owners and their representatives, and representatives of the City of Delaware shall be so stated.

(2) Relationship of the Parties. The relationship between the parties to the agreement should be stated clearly. The statement should specify that the relationship is contractual and that the owner/developer is an independent contractor, and not an agent of the City.

(3) Property. The property to be subject to the Agreement shall be clearly and thoroughly identified, including property ownership and tax identification numbers. A~~n attachment, preferably with a~~ map~~,~~ specifically describing the property shall be provided and incorporated into the Agreement by reference.

(4) Authorization. The chapter and section of the Zoning Ordinance under which the parties are enabled and authorized to enter into the Agreement shall be cited. The ordinance by which the Agreement has been approved by the City Council shall be cited.

(5) Intent of the Parties. The intent of the parties to be bound by the terms of the Agreement shall be clearly stated.

(6) Recitation of Benefits and Burdens. The parties shall recite the benefits each expects to gain from entering into the Agreement, as well as the burdens each agrees to bear. Because the Agreement will be treated as a contract, the consideration each party is to receive from the other shall be stated clearly.

(7) Notice and Hearings. The date upon which the statutorily required public hearing was held should be noted, as well as all relevant findings resulting from such hearing. All other pertinent notice and hearing requirements should be recited.

(8) Consistency with Plans. The findings of the City Council that the Agreement is consistent with the City's plans (if applicable) must be stated. This includes the Comprehensive Plan.

(9) Administrative Act. The Agreement shall state that it is deemed to be an administrative act of the City made party to the agreement. The relevant section of the enabling statute shall be cited.

(10) Permitted Uses and Conditions of Approval Under the Agreement. The Agreement shall reference any related zoning amendment approval, which includes the permitted uses for the development and shall stipulate that all conditions of approval of any applicable zoning approval and development plan shall be adhered to.

A. In the case of annexations, the Agreement shall stipulate only general terms regarding potential use of the property and shall not specify zoning districts. A general concept of the proposed development of the site may be attached to the Agreement.

(11) Status of Applicable Land Use Regulations and Plans. The Agreement shall contain a statement based on a determination: whether or not applicable land use regulations or plans are currently under review or reconsideration, and whether or not there are legal challenges to the validity of such regulations or plans pending.

(12) Approval and Permit Requirements. As far as possible at the time the Agreement is written, the parties

shall specify all discretionary approvals and permits which will have to be obtained before the development can proceed beyond its various stages (i.e. traffic impact study, acceptance of public improvements prior to start of construction, subdivision plats, payments in lieu, timing of off-site improvements, etc.). Permits and approvals obtained prior to execution of the Agreement shall be specified. Any and all conditions precedent to the obtaining of permits and approvals shall be listed.

(13) Project Phasing. The Agreement shall stipulate the general phasing of the development according to a schedule, indicating the commitment on the part of the owner to develop specific portions of the development (by acreage and number of lots) by phase within general timeframes.

(14) Dedications and Reservations. The Agreement should provide, where appropriate, a statement of all reservations or dedications of land for public purposes as are required pursuant to laws, ordinances, resolutions, rules or policies in effect at the time of entering into the Agreement. The Agreement should also state all reservations or dedications which are permitted under existing laws at the time the Agreement is entered, and to which the parties have agreed.

(15) Infrastructure and Public Services. The Agreement shall stipulate all infrastructure to be provided, including but not limited to roads, sidewalks, bike paths, water, wastewater, stormwater, parks, recreation facilities, schools, and other public buildings or facilities. The proposed timing and phasing of the construction of all infrastructure shall be indicated.

A. The Agreement shall stipulate the provision of transportation improvements, including commitments for right-of-way, road, intersection, sidewalk, and bike path improvements, financial contributions, and commitments to undertake traffic study(s) per City requirements, and/or the recommendations of a completed traffic study.

B. The Agreement shall stipulate the provision of parkland dedications, including fee in-lieu of parkland dedication, and open space commitments.

C. The Agreement shall stipulate the provision of all water, sewer, and stormwater service, either to be provided by the developer or by the City and should be described in detail.

D. The Agreement shall stipulate the provision of other public services to include police, fire, emergency medical, parks and recreation, solid waste, snow removal, etc.

E. The Agreement shall stipulate the schedules of construction completion (if not existing) for all infrastructure, cost allocation (between or among developers and City and later developers) or other financing mechanisms, and hookup or connection schedules.

(16) Environmental Considerations. The Agreement shall stipulate provisions to protect environmentally sensitive land on or adjacent to the property, and other measures to mitigate anticipated impacts from the development (such as noise, light pollution, ~~etc~~and other external effects~~.~~) on the general public.

(17) Incentives. The Agreement may stipulate any and all related economic incentives provided by the City, including amounts, duration of incentives, payback schedules, and other related details. Incentives may also be addressed in a separate agreement if necessary.

(18) Duration of the Agreement. The Agreement should state a termination date. It should also specify project commencement and completion dates, either for the project on the whole, or for its various phases. The Agreement should specify that the termination date can be extended by mutual agreement, and that commencement and completion dates may also be extended.

(19) Amendments, Cancellation or Termination. The Agreement shall recite the statutory conditions under which the Agreement can be amended, canceled, or otherwise terminated.

(20) Periodic Review. The Agreement may provide for periodic reviews of the project in order to determine compliance with the terms of the agreement, as required by statute and ordinance, if appropriate. The City representative responsible for performing such reviews should be identified and specific times for

such reviews should be stated.

(21) Progress Reports. The Agreement shall specify that progress reports will be furnished to the City by the developer at specified intervals, or upon completion of specified phases of the project, or at whatever time periods the parties choose.

(22) Remedies. Remedies for breach on the part of either party shall be provided. Specific remedies for specific breaches should be stated, if possible. The Agreement should include a statement clarifying whether the remedies stated in the Agreement are to be exclusive, or whether other statutory or common law remedies will also be available.

(23) Enforcement. The Agreement shall specify that the Agreement shall be enforceable, unless lawfully terminated or canceled, by any party to the Agreement or any party's successor in interest, notwithstanding any subsequent changes in any applicable law adopted by the City that alters or amends the laws, ordinances, resolutions, rules, or policies frozen by the Agreement.

(24) Hold Harmless Clause. The Agreement shall contain a clause whereby the developer/property owner holds the City and its agents harmless from liability for damages, injury or death which may arise from the direct or indirect operations of the owner, developer, contractors, and subcontractors, which relate to the project.

(25) Insurance and Bonds. Any insurance coverage required and/or secured by either party to the Agreement, and affecting any aspect of the development project, should be specified. Existing performance bonds should be listed in detail, as well as bonds not yet obtained but required as conditions precedent for final approval of the development project. Applicable ordinances relating to bond requirements should be cited.

(26) Severability Clause. The Agreement shall include a clause specifying that the provisions of the Agreement are severable if the parties so agree. Any limitations upon the severability of any particular clause or clauses should be clearly stated.

(27) Merger Clause. A merger clause or other statement should be provided specifying that the terms of the Agreement as stated in the written document are both a final and complete expression of the parties' intentions.

(28) Statements of Incorporation by Reference. All documents related to the Agreement or otherwise attached or appended thereto shall be expressly stated to be incorporated into the Agreement by reference. These might include lists of conditions, schedules of completion for public facilities, imposition of dedications, impact fees, and development plans and specifications.

(29) Cooperation. The Agreement may include a statement of the extent to which the City will cooperate with the owner in its efforts to secure required permits from nonparty government agencies.

(30) Subsidiary or Collateral Agreements. If the owner has obtained additional agreements relating to the development project from any nonparty agencies or persons, such agreements and the parties thereto should be specified.

(31) Conflict of Laws. Procedures should be specified for dealing with situations in which changes in laws promulgated by nonparty government bodies (state or federal) might preempt or otherwise affect City laws frozen by the agreement.

(32) Signatures. Signature lines shall be provided for Owners and/or their legal representatives, and for the City Manager and City Attorney.

(d) Vested Rights. Unless otherwise provided by the Development Agreement, the ordinances, rules, regulations, and official policies applicable to development of the subject property and governing permitted uses, density, and design, improvement, and construction standards and specifications shall be those in force at the time of the execution of the agreement.

Ordinances, rules, regulations, and official policies applicable to development of the subject property and governing permitted uses, density, and design, improvement, and construction standards and specifications that are enacted subsequent to execution of the development agreement shall not be enforced against the subject property.

However, an Agreement shall not prevent the City, in subsequent actions, from applying any of the following to the subject property:

(1) New ordinances, rules, regulations, and official policies that do not conflict with those applicable to the subject property as set forth in the development agreement;

(2) New ordinances, rules, regulations, and official policies that are specifically anticipated and provided for in the development agreement;

(3) New ordinances, rules, regulations, and official policies that are necessary to address a significant and immediate threat to the public health, safety, and general welfare; or

(4) New ordinances, rules, regulations, and official policies when the City finds that the development agreement is based on substantially inaccurate or incomplete information supplied by the Applicant.

(e) Process. The following steps shall apply:

(1) The Applicant shall meet with the City to discuss the proposed parameters of the Development Agreement prior to its submittal to the City.

(2) The Development Agreement and Application and Fee shall be submitted by the Applicant to the City Manager's Office for review by the City Manager and all relevant departments. Revisions shall be forwarded to the Applicant for consideration and submittal of a revised agreement.

(3) Once the City Manager has approved the Development Agreement, the Agreement will be forwarded to City Council prior to or concurrent with development plan review. Council shall consider approval of a Development Agreement by ordinance, which shall require a public hearing at the second reading. The Council shall also consider an ordinance directing the City Manager to sign the Agreement.

(4) The Development Agreement cannot be approved and executed without the corresponding development approval or annexation acceptance occurring. If associated with a development approval, an Agreement must be completely consistent with such development approval including conditions of approval, otherwise the Agreement is hereby null and void.

(f) Modification and Termination. A Development Agreement may be canceled or modified by the mutual consent of the Applicant and the City Council with a recommendation by the Planning Commission. The City Council may terminate or modify a Development Agreement based upon evidence that the Applicant, or successor in interest thereto, has not complied with the terms or conditions of the agreement.

(1) In the event that state or federal laws or regulations are enacted after execution of the Development Agreement and prevent or preclude compliance with one or more provisions of the agreement, such provisions shall be modified or suspended to the extent necessary to comply with such state or federal laws or regulations.

CHAPTER 1106. SUBDIVISION REGULATIONS

1106.01. Purpose.

The subdivision regulations outlined in this Chapter serve the following purposes:

(a) To ensure that all parcels within the City of Delaware are platted, all required right-of-way is dedicated, and all easements are conveyed.

(b) Facilitation of the orderly and efficient layout of the land.

(c) The proper arrangement of public ways in relation to existing and/or planned public ways and to the Thoroughfare Plan.

(d) The proper arrangement of utilities in relation to existing and/or planned utilities.

(e) Adequate and convenient spaces for vehicular and pedestrian traffic, utilities, access of emergency apparatus, recreation, light, and air.

(f) The accurate surveying of land, preparing and recording of plats, and the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdividers.

(g) The assurance that public facilities and services are available concurrent with development and will have sufficient capacity to serve the proposed development and that the community will be required to bear no more than the cost of providing the facilities and services through the requiring of the developer to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.

1106.02. Submission, form, and content of preliminary plat.

(a) The owner of land who desires to subdivide shall submit the required information set forth in the application checklist on file in the Planning and Community Development Department.

(1) The Director of Planning and Community Development shall review each submitted application to determine compliance with the submission requirements. If the application is deemed insufficient or incomplete, the Director of Planning and Community Development shall notify the applicant in writing within ten (10) business days of receiving such application of necessary changes or additional information needed. When the application is deemed sufficient and complete and the application fee has been paid, the Director of Planning and Community Development shall officially accept the application for consideration of the action(s) requested on the date such determination is made.

(b) Preliminary plats will be required in all instances of subdivision except for the following:

(1) A proposed plat that only consists of one section. Only a final plat shall be required.

(2) A proposed plat for a project that has received or is in the process of receiving development plan approval from City Council in accordance with section 1105.15. The final development plan shall serve as the preliminary plat.

(c) Such Plat shall contain:

(1) The proposed name of the subdivision

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(2) Locational map and a legal description

(3) Names and addresses of the owners and developers

(4) Date

(5) North point and graphic scale

(6) Signature block to indicate the approval of the Planning Commission

(d) The scale of the Plat shall be one (1) inch equals 100 feet, unless the Director of Planning and Community Development approves otherwise.

(e) The preliminary plat shall show the following existing conditions:

(1) Boundary lines and total acreage included

(2) Locations, widths, and names of all existing or prior platted streets or alleys, easements, railroad and utility rights-of-way, parks and public open spaces, permanent buildings and structures, and section and corporation lines

(3) Existing sewers, water mains, culverts, or other underground facilities on or within 500 feet of the tract, unless the Director determines that such information is not needed, indicating pipe sizes, grades, and exact locations

(4) Boundary lines of adjacent tracts and ownership of unsubdivided and subdivided land

(f) Elevations shall be based on an indicated sea level datum. Drainage channels, major trees, wooded areas, watercourses, and other significant physical features shall be shown.

(g) The preliminary plat shall also show the following concerning proposed conditions:

(1) Layout and widths of street pavements and rights-of-way

(2) Layout of lots and blocks

(3) Parcels of land intended to be dedicated or temporarily reserved for public use, or reserved by deed covenant and the conditions proposed for such covenants and for the dedication

(4) Notes detailing all special agreements for parks, park development, bike paths, sidewalks in reserves, traffic controls, and similar items that will be installed or developed

(5) Expanded building setbacks in side yards adjacent to sidewalks or asphalt paths

(6) Notes indicating all anticipated agreements, improvements, and final plat details

(7) Lot width and lot frontage lines plus the distance between them, shown graphically with dimensions

(h) A preliminary plat may be submitted concurrently with the final plat. The preliminary plat shall be submitted in digital format approved by the Director of Planning and Community Development not larger than twenty-four inches by thirty-six inches and no smaller than eleven inches by seventeen inches, unless otherwise authorized. No preliminary plat shall be drawn in sections, unless otherwise authorized. If the preliminary plat is to be drawn in sections, each section shall be accompanied by a key map, showing the location of the several sections.

(i) The preliminary plat shall show the plat divided into phases that indicate the approximate sequence in which the subdivision is to be built. Any changes from the preliminary plat sequencing may be considered by the Planning Commission and approved, if deemed appropriate.

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(j) For developments with fifty (50) or more lots, additional submission requirements may include a Traffic Impact Study adhering to the requirements of the City Engineer.

1106.03. Approval of preliminary plat.

All preliminary plats must be reviewed for approval or denial by the Planning Commission.

(a) Failure of the Planning Commission to act within 120 days from the date the application was deemed complete, or an extended period as may be agreed upon, shall, at the election of the applicant, be deemed a denial of the application.

(b) Preliminary approval of the subdivision plat shall be indicated in the official Motion Summary. The approval of a preliminary plat by the Planning Commission shall be effective for a maximum period of twelve (12) months, during which time any conditions of approval must be met. If more than twelve (12) months has elapsed since preliminary approval was granted, and no final plat has been submitted, the preliminary subdivision plat shall be resubmitted to the Planning Commission for consideration of reapproval. No extension shall be permitted once a preliminary plat expires.

(c) If the Commission disapproves a preliminary plat, it shall enter into the Motion Summary the reason for the disapproval.

1106.04 Final plat submission requirements (Pre-construction).

The owner of land who desires to subdivide shall submit the required information set forth in the application checklist on file in the Planning and Community Development Department.

(a) A complete final plat (pre-construction) application shall be submitted to the Director of Planning and Community Development and shall be processed in accordance with this section.

(b) The Director of Planning and Community Development shall review each submitted application to determine compliance with the submission requirements. If the application is deemed insufficient or incomplete, the Director of Planning and Community Development shall notify the applicant in writing within ten (10) business days of receiving such application of necessary changes or additional information needed. When the application is deemed sufficient and complete and the application fee has been paid, the Director of Planning and Community Development shall officially accept the application for consideration of the action(s) requested on the date such determination is made.

(c) Surveying practices, plats and legal descriptions shall meet the requirements of the Ohio Revised Code and these regulations. All research, investigation, monumentation, measurement specifications, plat of survey, descriptions, and subdivision plats shall conform to the standards for boundary surveys in the State of Ohio in accordance with Ohio Administrative Code Rule 4733-37. The final plat shall contain all the information required for the preliminary plat, adhere to all conditions imposed by the City Engineer, meet all requirements imposed by the Planning Commission and include the following:

(1) The name of the surveyor who made the plat

(2) Layout, numbers, and dimensions of lots and blocks

(3) Lot width and lot frontage lines plus the distance between them shown graphically with dimensions

(4) Boundary of plat, based on an accurate traverse, -with angular and lineal dimensions, and the datum used

(5) True angles and distances to the nearest established street lines or official monuments, not less than three, accurately described on the plat

(6) Municipal, township, county or section lines accurately tied to the lines of the subdivision by distances and angles

(7) Radii, internal angles, points of curvature, tangent bearings, and lengths of all chord dimensions

(8) All lot numbers and lines with accurate dimensions in feet and hundredths

(9) Boundary monuments shall be in accordance with Ohio Administrative Code Rule 4733-37-03. One such monument shall be placed at each corner and at each change of direction of the boundary. Monumentation shall be placed in the centerlines of all new roads at intersections and at other locations where required by the City Engineer. Boundary monuments installed in roadway pavement, areas of future roadway pavement, or at any other location required by the City Engineer, shall be installed in a cast iron monument box in accordance with the Engineering Standards, current at time of submission. The datum shall be stated.

(10) Exact location, width, and name of all streets and other public ways. Lines of adjoining public and private streets and alleys, with their widths and names and including radii, arcs, points of tangency, and central angles for all curvilinear streets and alleys plus radii for all rounded corners.

(11) Location, dimensions, acreage, and legal descriptions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for the common use of all property owners.

(12) A statement by a surveyor registered in the State that the plat represents a survey made by them and that all dimensional and geodetic details are correct

(13) Notarized certification by the owner of the adoption of the plat and the dedication by him to public use of the streets and other public areas shown on the plat

(14) The proper form for the approval of the Planning Commission, with space for signatures, plus providing case number and date, plus Planning Commission case number and date

(15) Space for acceptance by signature of the City Manager of the public improvements required

(16) Coordinates of property corners, and major intersections within subdivisions shall be shown in the State Plane Coordinate System.

A. Referenced to the Delaware County Monumentation System. The plat must specify which monuments were used to establish the coordinates. A map of the available monuments and their coordinates is available from the City of Delaware Engineer's Office or the Delaware County Map Office.

(17) Notes concerning the establishment of a homeowners' association or other controlling party

(18) Proposed and existing easements (especially including electric and streetlight easements), and/or preservation zones as well as their purpose and width

(19) Within Planned Unit Developments, a table summarizing building setbacks

(20) Other information necessary for the evaluation of the final plat, as deemed necessary by the Director of Planning and Community Development or the Planning Commission

(21) At the discretion of the Director of Planning and Community Development, the applicant can be required to show any off-site easements within 100 feet of the subject property.

(d) The final plat (pre-construction) shall be drawn on standard size paper twenty-four inches by thirty-six inches in size, unless otherwise authorized. If the final plat (pre-construction) is to be drawn in sections, each section shall be accompanied by a key map, showing the location of the several sections.

(e) The Planning Commission shall approve, approve with conditions, or disapprove the final plat (pre-construction). Failure of the Planning Commission to act within 120 days from the date the application was deemed complete, or an extended period as may be agreed upon, shall, at the election of the applicant, be deemed a ~~dissaproval~~disapproval of the application.

(f) The Planning Commission approves the final plat (pre-construction) only if satisfied that the plat complies in all respects with this Chapter:

(1) That the owner shall make no conveyance of any lot smaller in width or area than indicated on the plat;

(2) That all construction work and materials used in connection with public improvements in the area platted shall conform to the requirements and standards of the City and be installed under the City's supervision; and

(3) A preconstruction meeting shall be held prior to beginning construction on all projects.

(g) The approval of the final plat (pre-construction) shall be effective for a maximum period of thirty-six (36) months. During this time, construction of public improvements must be started within twelve (12) months of approval of a final plat (pre-construction) as evidenced by approval of the City via documented inspections. Within twenty-four (24) months of the public improvements being started, they must be installed or bonded to be installed per Section 1106.15, and approved by the City, or the final subdivision plat (pre-construction) shall be resubmitted to the Planning Commission for consideration of reapproval.

(h) Upon request by the owner, a one-time only, administrative extension of the approval period may be granted by the Director of Planning and Community Development. In the event such an extension is granted, the period of extension shall not exceed one (1) year.

(1) The owner shall submit a written request with any additional requested information to the Planning and Community Development Director.

(2) Within ten (10) days from receipt, the Director of Planning and Community Development shall either, in writing, deny the request, approve the request as submitted, or approve the request for extension for a lesser period of time than requested by the owner.

(3) Any extension of the approval period shall become effective and begin on the date of approval of such extension.

(4) After approval of the final plat (pre-construction) by the Planning Commission and acceptance of the public improvements by the City according to the provisions of Section 1106.15, the final plat (post construction) shall be submitted for review and signature by the City followed by recording with the County Recorder. The owner shall file and record the final plat (post construction) with the County Recorder within sixty (60) days of City acceptance of the public improvements. If not recorded within this time, such plat (pre and post construction) shall become null and void, unless the delay is excused by the City for good reason, in its sole discretion. The owner shall provide the City a copy (or copies) of the recorded final plat (post construction) in a format(s) acceptable to and as required by the City.

1106.05. Physical considerations.

(a) Natural Land Use. Subdivisions should be planned to take advantage of the topography of the land to economize in the construction of drainage facilities, to reduce the amount of grading, and to minimize destruction of trees and topsoil and aquatic resources and their buffers.

(b) Land Suitability. If the Planning Commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, inadequate drainage, soil, and rock formations with severe

limitations for development, susceptibility to mud slides or earth slides, severe erosion potential, unfavorable topography, inadequate water supply, or sewage disposal capabilities or any other feature harmful to the health, safety or welfare of the future residents of the proposed subdivision or community, and if from investigations conducted by the public agencies concerned, it is determined that in the best interests of the public, the land should not be developed for the purpose proposed, the Commission shall not approve the land for subdivision unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.

1106.06. Minimum requirements for layout of subdivisions.

(a) Street and Block Layout.

(1) The street layout of the subdivision shall be in general conformity with a plan for the most advantageous development of adjoining areas and the entire neighborhood. The use of a grid plan is encouraged.

A. Where appropriate to the design, proposed streets shall be continuous and aligned with existing, planned, or platted streets with which they are to connect. Where a publicly maintained street intersects with a privately maintained street, the continuous through traffic shall be along the public street unless approved otherwise by the City Engineer.

B. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions or unless in the opinion of the Planning Commission, such extension is not necessary or desirable for the layout or the most advantageous future development of adjacent tracts. Permanent dead-end streets shall not be permitted unless necessitated by topography. Temporary dead-end streets shall be permitted only as a part of a continuing street plan.

C. Proposed streets shall intersect one another as nearly at right angles as topography and other limiting factors of good design permit.

D. Wherever there exists adjacent to the tract to be subdivided a dedicated or platted and recorded half width street, the other half width of such street shall be platted.

E. Lands abutting highways or principal thoroughfares should be platted to make the lots, if for residential use, desirable for such use by cushioning the impact of heavy traffic on such trafficways, and to minimize interference with traffic on such trafficways as well as the accident hazard.

F. No street names shall be used which will duplicate or be confused with the names of existing streets within Delaware County.

G. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the City under conditions approved by the Commission.

(2) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth.

A. The length of blocks shall not exceed 1200 feet unless deemed necessary by the Commission.

B. The number of intersecting streets along highways and thoroughfares shall be held to a minimum and shall conform to the access management guidelines of the Engineering Standards

(b) Minimum right-of-way widths of streets, alleys, and easements shall be shown as described in the City of Delaware Engineering Standards, current at time of submission.

(c) Minimum pavement widths and other public improvements shall be shown as described in the City of Delaware Engineering Standards, current at time of submission.

(1) Curbs and gutters shall be installed on all new streets.

(2) Sidewalks and/or multi-use paths shall be required on both sides of the street. The edge of the sidewalk furthest from the roadway shall be at the right-of-way line.

(3) Sidewalks and/or bike paths shall be required in all open spaces in all subdivisions (unless the Planning Commission grants an exception), in locations selected by the Planning Commission. In addition, bike paths shall be provided as shown in the Comprehensive Plan, the Bike Path/Pedestrian Master Plan, or other City plan or policy to provide local and collector connections to those bike paths shown in said plans. Bike paths shall meet minimum City requirements and standards for such. All bike paths not located in the public right-of-way shall be within a public access easement.

(4) Tree lawns shall be required to allow for pedestrian safety and proper driveway approaches. Proposed trees must be certified to be the native species approved by the Shade Tree Commission; and installed per the Delaware Shade Tree Commission and City requirements and guidelines. Trees will be free of disease and pests and come from a state-inspected nursery. Proof of nursery inspection is required prior to planting. Trees improperly installed, or that are non-native or invasive, are subject to immediate removal and replacement by the developer.

(5) All utilities shall be installed underground. All electric, telephone, cable TV, and other wired utilities shall be installed in the rear yard, within ten (10) feet of the rear lot line, unless approved otherwise. Ground-mounted private utility boxes which cannot be located in the rear yard shall be placed in the side yard at a minimum of ten (10) feet behind the front elevation of the home. Such utility boxes shall be screened on all sides with evergreen shrubs planted at a minimum height of 24 inches and placed staggered two feet on center, no closer than two feet to or further than four feet from the utility box. If multiple boxes are required, they shall be placed in a cluster and screened to the same standard as noted above. The exterior of all utility boxes shall be dark green in color.

(d) Lots.

(1) The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated. Lots shall meet the requirements of the Zoning Ordinance.

(2) Every lot shall abut a public or private street.

(3) Excessive depth in relation to width shall be avoided. A proportion of two to one (2:1) of depth to frontage shall be normal for lots having a width of sixty (60) feet or more, except as otherwise noted.

(4) Side lot lines shall be approximately at right angles or radial to the street on which the lot faces.

(5) Double-frontage and reversed-frontage lots shall be avoided where possible, as determined by the Planning and Community Development Director.

(6) Corner lots should be oversized (in lot area) from minimum lot dimensions of the underlying zoning district by at least 33% to accommodate a similarly proportioned building envelope and rear yard area as other lots within a subdivision.

(7) Residential lots fronting or abutting on highways, thoroughfares, and other important trafficways should have extra depth to permit deep setbacks for the buildings from such trafficways.

(e) Street and Access Drive Requirements. A street shall be required to be publicly dedicated when such street:

(1) Provides access to detached single-family dwellings on a subdivided lot.

(2) Is a major street that connects two existing public streets, is intended to provide a future continuing street system beyond the project boundaries, or is expected to accommodate pass-through traffic going to and from adjacent developments.

(f) Streets that are not so publicly dedicated may be approved as private streets when the City determines that:

(1) The private street is not planned or expected to be extended to serve property outside the development.

(2) Adequate utility easements are provided to the satisfaction of the City and the utility providers.

(3) The design and layout of the private street provides adequate and safe access to the intended units, as determined by the City of Delaware Police and Fire Departments.

(g) Access drives shall be permitted in compliance with the following:

(1) An access drive shall serve no more than four (4) units.

(2) An access drive shall extend from a public or private street and shall not connect to any other existing or planned public or private street.

(3) The design and layout of the access drive shall provide adequate and safe access to the intended units, as determined by the City of Delaware Police and Fire Departments.

(h) Private Street and Access Drive Construction. All elements of a private street that are to be provided shall be constructed in accordance with the construction standards set forth by the City of Delaware Engineering Design Standards, current at time of submission.

1106.07. Construction plans.

Construction plans (also known as engineering site improvement plans) shall be prepared by a registered professional engineer and be in accordance with the City's Engineering Standards and as required by the Codified Ordinances. Construction plans shall be submitted with the final plat map (pre-construction). Such construction plans must receive approval of the City prior to installation and before approval of the final plat map (post construction).

1106.08. Street construction.

Streets shall be graded to the full width of the right-of-way and fully constructed with all-weather pavements, concrete curbs and gutters plus sidewalks, and proper storm drains and inlets. Streets and sidewalks shall be constructed to the City's standard construction specifications and regulations.

All sidewalks or other public improvements (except street trees) shall be installed or constructed within eighteen (18) months after the City accepts the street public improvements.

1106.09. Water supply.

Where a public water supply main is reasonably accessible, in the judgment of the Director of Public Utilities, the subdivider shall provide at their expense, a complete water distribution system adequate to serve the area being platted, including a connection for each lot and fire hydrants. Lack of public water supply can be adequate cause for the City to disapprove a proposed subdivision within the City limits. Water lines shall be constructed to the City's standard construction specifications and regulations.

1106.10. Storm drainage.

Every subdivision shall ~~be~~ provide, at the subdividers expense, ~~d with~~ a storm sewer or drainage system adequate to serve the tributary drainage area and constructed to the City's standard construction specifications and regulations.

1106.11. Sanitary sewage.

Where a public sanitary sewer main is within one (1) mile of a proposed subdivision, the subdivider shall, at their expense, ~~-~~provide a complete sanitary sewer system connected to the public system, including a lateral connection for each lot. Lack of a public sanitary sewer can be adequate cause for the City to disapprove a proposed subdivision within City limits. If temporary measures for providing sanitary sewer facilities are approved by the City, such temporary measures including but not limited to lift stations, temporary sewer lines, or force mains which direct flow to sewers not planned to receive such flow, lands within such subdivision shall be subject to future assessments for relieving the temporary sanitary sewer measures. Proper notation of the City's assessment privileges shall be noted on the subdivision plans and plats and in the conveyance of such lands indicating the possible future assessments. Sanitary sewer lines shall be constructed to the City's standard construction specifications and regulations.

1106.12. Street signs and traffic signals.

The subdivider, at their expense, shall install street identification and traffic control signs in accordance with City specifications and standard drawings. Should traffic signals be required because of a proposed development, the subdivider shall either reimburse the appropriate authority for the cost of such signals, pay a proportionate share when they are installed, or complete installation at their sole expense as determined and authorized by the City through the processes contained within the codified ordinances of the City.

1106.13. Inspection.

Prior to the acceptance of public or private improvements, all work shall be inspected per City requirements.

1106.14. Cost of inspection.

For a subdivision within the City, the subdivider shall pay the cost as required by the City for review and approval of the plans and specifications, inspections (including street trees) and the cost of the legal services and administrative expenses incident to such improvements.

1106.15. Acceptance of public improvements by City.

(a) Prior to acceptance of the public improvements by the City, the following conditions shall be met:

(1) That upon final inspection by the City, the public improvements are found to be built according to City specifications and are in good repair and that all bonds or cash equivalents required by (d) and (e) of this section have been received by the City.

(2) Unless bonded per the requirements of this section, a letter of monument certification from a licensed Ohio registered surveyor shall be submitted. It shall certify that all required monuments have been placed

in accordance with the construction plans. The letter shall include coordinates and elevation of all monument markers.

(3) That a two (2) year maintenance bond as required in (e) of this section is submitted to the City

(4) That inspection fees have been paid in full.

(5) That a listing of final quantities and sizes of water and/or sewer lines with the cost of each such line be provided.

(b) The City shall verify that all public improvements have been completed, accepted, or bonded and shall issue a letter accepting the public improvements for the subject subdivision if verified. The acceptance may be done administratively by Staff.

(c) Acceptance of public improvements shall be required of all public streets, whether a part of a subdivision or not.

(d) Performance Bond. The majority of infrastructure improvements shall be completed and approved by the City before a performance bond or cash equivalent will be accepted by the City in its sole discretion. The following construction and/or site improvements are the only item(s) that the City will allow to be bonded for completion at its sole discretion, unless otherwise agreed to by the City Engineer for circumstances beyond the applicant's control:

(1) ADA ramps;

(2) Final grading & seeding;

(3) Final wearing course of asphalt;

(4) Bike path/walk in common areas;

(5) Pavement markings and rejuvenate;

(6) Landscaping;

(7) Lighting;

(8) Sidewalks and street trees;

(9) Monument assemblies.

(e) Maintenance Bond. For a period of two (2) years from the date that a public improvement is accepted by the City, the subdivider shall make such repairs or replacements as may be required by the City or for reasons of defective workmanship or material. The subdivider shall furnish the City with a maintenance bond or cash equivalent in the amount of ten percent (10%) of the actual construction cost (as determined in final amount by the City) for such public improvements, including but not limited to, streets, curbs and gutters, water and sewer, stormwater facilities, sidewalks, and streetlights. Where a portion of the public improvements are installed after the date the public improvements are accepted, the maintenance period shall extend to two years after the actual date of installation. Furthermore, the City, at its discretion, may require the maintenance bond to be extended to a period of two (2) years from the actual date of installation or correction of public improvements installed after the date of acceptance.

(f) "As built" construction plans shall be submitted to the City in a format per the Engineering Standards within thirty (30) days of the completion of the infrastructure element and prior to construction of buildings or as otherwise determined by the City should some of the improvements be bonded per the requirements of this code in which case piece by piece or a series of updated as built drawings may be required by the City.

1106.16. Construction of buildings.

Construction of buildings shall not be permitted until all public improvements (except sidewalks, streetlights, and street trees) leading to that lot are completed and approved by the City and/or that all bonds or cash equivalents required by Sections 1106.15(d) Performance Bond and (e) Maintenance Bond have been received by the City to ensure completion of said improvements.

1106.17. Dedication of right-of-way.

When subdividing a property, right-of-way shall be dedicated for any abutting public roadway as specified by the City Engineer or the City of Delaware Thoroughfare Plan. Such dedication shall convert any existing highway easement to fee simple public right-of-way. Furthermore, the width of right-of-way dedication shall at a minimum meet the width required by City Engineering standards for the classification of roadway, current at the time of dedication, unless required otherwise by the City Engineer.

1106.18. Dedication of land for public purposes.

(a) The amount of land, a percentage of each residential development or planned unit development containing residential uses, inclusive of streets, which shall be required to be dedicated to either the City or a homeowners' association (HOA) or property owners' association (POA) as parkland shall meet the following standards as applied to the projected dwelling units (D.U.) per acre in residential areas.

(1) The minimum standard for open space and neighborhood parks accepted by the Parks and Recreation Advisory Board and the Parks and Recreation Department is ten (10) acres per 1,000 people.

(b) Provision for Park and Recreational Facilities. Every developer who files with the City an application for residential development of land shall either:

(1) dedicate a portion of such land to the City,

(2) set aside a portion of such land for parks and/or open space to be controlled by the HOA or POA,

(3) pay a fee-in-lieu of land dedication, as set forth in this section, for the purpose of providing park and recreation facilities to serve primarily future residents of the proposed subdivision, or

(4) a combination of any or all the above.

(c) Consistency with City Plans, Policies, and Programs. All land dedications, set asides, and/or fees-in-lieu of dedication required by this section shall substantially conform to the Parks and Recreation Master Plan and other applicable City plans, policies, and programs; where discrepancies exist, the determination of the Parks and Recreation Director shall govern.

(d) Choice of Land Dedication to the City, Land Dedication to the HOA or POA, or Fee-in-Lieu.

(1) Planning Commission determination. Upon the advice of the Parks and Recreation Advisory Board and Parks and Recreation Director, the Planning Commission shall determine whether the developer shall dedicate land, set aside land, pay a fee-in-lieu of dedication, or provide a combination of dedication, set aside, and fee payment.

(2) Procedure. In making the determination referred to in subsection one above, the following procedure shall apply.

A. At the time of official submission of the initial development plan for the property, the developer shall submit the plan to the Parks and Recreation Department for preliminary feedback.

B. At the time of filing the initial development plan for the property (development plan, or preliminary or final subdivision plan, whichever is earlier), the developer shall, as a part of such filing, indicate whether the requirements of this section will be met by land dedication, fees in-lieu-of dedication, or a combination thereof. If the developer intends to dedicate land, such land shall be indicated on the development plan.

C. Planning Commission determination regarding land dedication, fees, or a combination thereof, shall be made during the review of the initial development plan for the property. Insofar as practicable, the determination of the Planning Commission shall be compatible with the Parks and Recreation Master Plan.

(e) Dedication of Land.

(1) Intent. The primary intent of this subsection is to provide land to serve local or neighborhood recreational needs, including but not limited to facilities such as tot lots, play lots, playgrounds, neighborhood parks, playfields, community parks, and other specialized recreational facilities which may serve citizens of all ages.

(2) Amount of Land to be Dedicated. The amount of land to be dedicated by a developer pursuant to this section shall be determined by the following formula:

A. The maximum number of dwelling units permitted by the zoning approval; multiplied by:

i. The average number of residents per relevant dwelling unit type (single-family or multi-family,) within the City as determined by the most recent available American Community Survey published by the US Census Bureau; multiplied by,

ii. One-one hundredth of an acre (.01 acre) per person

(3) Consideration of Demographic Study. In the event such figures are disputed, a developer or subdivider may submit a demographic study, conducted at their expense, showing the estimated population to be generated from the subdivision for consideration by the Planning Commission, which may choose to reduce estimated population at their discretion.

(f) Development of a Park/Playground. Parks or playgrounds shall be constructed by the developer per specifications approved by the Parks and Recreation Director. Appropriate deed restrictions are necessary for maintenance of the parkland and to ensure that the land will always be used for recreational use. These areas shall be maintained by the Homeowners Association (HOA) or the Property Owners Association (POA).

(1) The open space shall be located to:

A. Conserve significant natural features to the extent practicable

B. Be easily accessible to residents of the subdivision

C. Be interconnected with open space areas on abutting parcels wherever possible, by open space or wildlife corridors, trails, or paths

D. If the open space is meant to be athletic fields, the grading shall be sufficient to allow drainage and topsoil of good quality to support healthy turf.

(2) The following open space area shall not be included as meeting the open space requirements:

A. Public street rights-of-way, private roads, and parking areas

B. Required setbacks between buildings, parking areas, and project boundaries and between building and public or private streets unless the required setback is contiguous to and part of a larger open space

C. Private yards within subdivided lots

D. The land area within 15 feet of all dwelling units

E. Easements for above ground and below ground infrastructure with access restrictions

~~F. Stormwater facilities that service the development, unless otherwise approved~~

~~G. Wetlands, except for existing ponds and forested wetlands, and steep slopes of 12% or greater~~

(g) Legal instruments setting forth the ownership and perpetual maintenance of the required common open space by the developer, HOA/POA or similar entity shall be submitted to the City Attorney for review and approval.

(1) Should a HOA or POA dissolve, the common areas remain the responsibility of the residents governed by the former HOA/POA.

(h) Fee-in-Lieu of Dedication. In the event a developer is required to pay a fee-in-lieu of land dedication, as outlined in subsection (d) above, the following provisions shall apply:

(1) Amount of Fee. The amount of the fee shall equal the amount of park land required to be dedicated under subsection (e) multiplied by the Fair Market Value.

(2) Determination of Fair Market Value. Fair Market Value shall equal the average value per acre of all land in the development in its raw, undeveloped state during the current year. The Fair Market Value shall be based upon an appraisal of the land value of the entire gross acreage of the development. Such appraisal shall be prepared by a certified appraiser selected and paid for by the developer and who is acceptable in advance of said appraisal to the Planning and Development Director.

1106.19 Water, sewer, and stormwater easements.

Water, sewer, and stormwater easements and notations shall be provided on the subdivision plat as directed by the City Engineer and Director of Public Utilities. Off-site easements may be required by the City Engineer or Director of Public Utilities.

1106.20. Areas of governmental purchase rights.

When a proposed development or subdivision contains an area described in the Comprehensive Plan, or as designated by a public agency, as a proposed public building site, park or school, such area shall be dedicated on the plat to a public agency or reserved for acquisition by such an agency within a period of five years by purchase or other means.

1106.21. Variances by Planning Commission.

The Planning Commission shall have the power to authorize such variances from the terms, provisions, or requirements of this Chapter as will not be contrary to the public interest, but only in such cases where, owing to special conditions pertaining to a specific piece of property, a literal enforcement of the provisions or requirements of this Chapter will result in practical difficulty or undue hardship. The spirit of this Chapter shall be observed, public safety and welfare secured, and substantial justice done. A variance to a subdivision plat is adopted by adoption of the plat.

1106.22. Lot splits and lot combinations.

The Director of Planning and Community Development may approve lot splits and lot combinations that meet all zoning requirements, through delegated authority from the Planning Commission, in specific cases as set forth in (a) and (b) below.

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(a) Lot split. The Director of Planning and Community Development may approve a lot split if the proposed division meets the following conditions:

(1) The split is transferred to and consolidated with an adjacent property.

(2) The split does not create an additional buildable lot.

(b) Lot Combination. The Director of Planning and Community Development may approve the combination of land and consolidation of lots.

(c) Submittal Requirements.

(1) If a lot split or combination is located within a platted subdivision, the applicant shall submit the application and final plat to include all requirements set forth in Section 1106.04.

(2) If a lot split or lot combination is not located within a platted subdivision, the applicant shall submit an application and plat of survey prepared by a registered surveyor showing the original parcel being divided, the parcel to be divided and conveyed, and contiguous parcels as well as any additional information deemed necessary by the City. If the Planning Commission, acting through delegated authority to the Director of Planning and Community Development, is satisfied that such proposed subdivision is not contrary to applicable platting, subdivision or zoning regulation, or the Comprehensive Plan, it may approve such subdivision by stamping the conveyance "Approved by Planning Commission, City of Delaware, Ohio; no plat required" and affixing the signature of the Director of Planning and Community Development or their designated representative.

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TITLE TWO USE DISTRICT REGULATIONS

CHAPTER 1110. DISTRICTS ESTABLISHED; MAP AND BOUNDARIES

1110.01. Districts established.

For the purpose of this Zoning Ordinance, the City is hereby divided into zoning districts. Such districts are designated as follows:

(a) Residential Districts.

A-1 Agricultural District

R-SF Single-Family Residential District

R-NT Neighborhood Transition Residential District

R-NX Neighborhood Mixed Residential District

R-MF Multi-Family Residential District

(b) Commercial Districts.

C/I Civic/Institutional District

C-NX Neighborhood Mixed Commercial District

C-DC Downtown Commercial District

C-CC Community Commercial District

C-GC General Commercial District

(c) Industrial Districts.

I-1 Light Industrial District

I-2 General Industrial District

(d) Planned Unit Developments.

R-PUD Residential Planned Unit Development

C-PUD Commercial Planned Unit Development

MX-PUD Mixed-Use Planned Unit Development

I-PUD Industrial Planned Unit Development

(e) Special Districts.

Downtown Historic District

1110.02. Zoning map.

(a) Those districts established in Section 1110.01 are bounded and defined as shown on the map entitled "Official Zoning District Map" of the City, which map, together with all notations, references, data, district boundaries and other information shown thereon, is hereby made a part of this Zoning Ordinance.

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(b) If, in accordance with the provisions of this Zoning Ordinance and the Ohio Revised Code, changes are made in district boundaries or other matters portrayed on the Map, such changes shall be made on the Map within thirty (30) days of such changes.

(c) The Official Zoning District Map shall be and remain on file in the office of the Planning and Community Development Department. Regardless of the existence of other purported copies of the map, which may be made or published from time to time, this copy of the Map shall be the final authority as to the current zoning status of lands, buildings, and other structures in the City.

1110.03. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

(a) Where Boundaries Approximately Follow Streets, Alleys, Highways or Lot Lines. Except where referenced on the Zoning Map to a street or alley line or other designated line by dimensions shown on such Map, the district boundary lines follow lot lines or the centerlines of streets or alleys as they existed at the time of the adoption of this Zoning Ordinance.

(b) Where Boundaries Parallel Street Lines, Alley Lines, or Highway Right-of-Way Lines. Where district boundaries are so indicated that they are approximately parallel to the center line or street line of streets, the center line or alley line of alleys, or the center line 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 Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Map.

(c) Extension of District Where Lot Divided. Where a district boundary line established in this Zoning Ordinance or as shown on the Zoning Map divides a lot which was in single ownership at the time of enactment of this Ordinance, the use authorized thereon and the other district requirements applying to the most restricted portion of such lot under this Ordinance shall be considered as extending to the entire lot.

(d) Vacation of Public Ways. Whenever any street, alley, or other public way is vacated by official action as provided by law, the zoning district adjoining each side of such public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended.

(e) Resolving Disputes. All uncertainties and disputes concerning the exact location of zoning district boundaries shall be resolved by the Board of Zoning Appeals according to the rules and regulations which it may adopt.

1110.04. Property not included; annexation.

In every case where property has not been specifically included within a district, the same is hereby declared to be in the A-1 District. Territory annexed to or consolidated with the City subsequent to the effective date of this Zoning Ordinance shall, upon the effective date of such annexation or consolidation, become a part of the A-1 District. Such districting may be temporary, and the Planning Commission may recommend to Council within a period of time, not to exceed six (6) months from such date of annexation or consolidation, a final Zoning Map designation for the annexed territory.

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CHAPTER 1111. RESIDENTIAL DISTRICTS

1111.01. Purpose.

Residential districts (A-1, R-SF, R-NT, R-NX, R-MF) and their regulations are established to achieve, among others the following purposes:

(a) To provide residential areas for neighborhoods consistent with the land use designations of the City of Delaware Comprehensive Plan.

(b) To meet the goals and objectives of the City of Delaware Comprehensive Plan.

(c) To provide a range of housing types and densities that serve all economic segments of the community and emphasize high quality developments.

(d) To provide for the proper location of certain neighborhood businesses, institutions, and other community facilities that complement residential development to increase general convenience, safety, and amenities.

1111.02. Relevant chapters for cross-reference.

Title	Chapter
Definitions	1102
Procedures (for approval)	1105
Conditional use	1105
Subdivision regulations	1106
Landscaping and screening	1121
Off-street pParking and loading	1123
Accessory dwelling units	1131
Home occupations	1132

1111.03. Residential districts.

(a) The Agricultural District (A-1) is established to provide for agricultural activities, open recreational uses, and other open land uses, and is primarily located near the periphery of the urban area to protect agricultural areas from encroachment of urban-type uses until such time as the area is ready for more intense development.

(b) The Residential Single Family (R-SF) district is established to provide land for one-family residential development that is located throughout the urban area to provide traditional suburban housing options.

(c) The Residential Neighborhood Transition (R- NT) district is established primarily to provide land for one and two-family uses on smaller lots, enabling residential development similar in character to the walkable historic neighborhoods of the City, with a variety of housing types permitted in proximity to each other.

(d) The Residential Neighborhood Mixed (R-NX) district is established to provide land for a variety of residential uses complemented by incidental, limited commercial uses like corner stores, counter service restaurants, or similar low impact uses.

(e) The Residential Multi-Family (R-MF) district is established to provide land for multi-family residential uses which are generally consistent in scale and character with the surrounding uses and development patterns.

1111.04 Permitted uses.

(a) Uses Permitted by Right. A use listed in Schedule 1111.04 shall be permitted by right as a principal use in a district when denoted by the letter "P", provided that all requirements of other City ordinances and this Zoning Ordinance have been met.

(b) Conditional Uses. A use listed in Schedule 1111.04 shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning Commission first makes the determination that the Conditional Use requirements have been met according to the procedures set forth in section 1105.201 of this code.

(c) Use Not Listed in Schedule. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted:

(1) Upon amendment of this Ordinance and/or the Zoning Map as provided in Section 1105.03; or

(2) Upon finding that a use is substantially similar as provided in Section 1105.26 of this code.

Schedule 1111.04: PERMITTED USES

	A-1	R-SF	R-NT	R-NX	R-MF
(a) Residential Uses					
(1) One-family dwelling	P	P	P	P	
(2) Two-family dwelling			P	P	P
(3) Three-family dwelling			C	P	P
(4) Four-family or more dwelling				C	P
(5) Cluster single family dwelling					C
(6) Mobile and mfd. home parks					C
(7) Multi-family complex					P
(8) Accessory dwelling unit	P	P	P	P	
(9) Home occupations	P	P	P	P	P
(b) Institutional/Public Uses					
(1) Cemetery	C				
(2) Cultural institution or art gallery			C	C	C
(3) Library			C	C	C
(4) Place of religious assembly	C	C	C	C	C
(5) Public service & safety facilities	P	P	P	P	P
(6) Public or private recreational facility				C	
(7) Public or private school	C	C	C	C	C
(8) Residential Care Facility				C	P
(9) Wireless telecommunication facility	C	C	C	C	C
(c) Commercial Uses					
(1) Boutique hotel			C	C	
(2) Daycare, adult or child				C	
(3) Funeral home				C	
(4) Golf course or country club	P				
(5) Massage establishment				C	
(6) Neighborhood commercial establishment[1]				C	
(7) Nursing home				C	P
(8) Office / Clerical or medical				C	
(9) Veterinary, no kennel				C	
(10) Veterinary, with kennel	P				

	A-1	R-SF	R-NT	R-NX	R-MF
(d) Agricultural Uses					
(1) Farm activity, including sales of goods grown or raised on premises	P				
(2) Event venue – capacity of 50 or fewer	P				
(3) Event venue – capacity greater than 50	C				
(4) Kennel or cattery	P				
(5) Brewery or winery, micro	C				
(6) Nursery with retail structure	C				
(7) Nursery without retail structure	P				
(8) Outdoor entertainment	C				
1. See 1111.05 for additional requirements					

1111.05 Additional requirements for neighborhood commercial establishments.

(a) Neighborhood commercial establishments are conditionally permitted within the Residential Neighborhood Mixed (R-NX) district and shall be those uses as defined in Chapter 1102.

(b) The Planning Commission shall determine if the proposed use is consistent with the definition set forth in Chapter 1102 in conjunction with the evaluation of all requirements of Conditional Use approval set forth in Chapter 1105 of this code.

1111.06 Yard and lot requirements.

(a) All new lots in residential districts shall comply with the minimum requirements set forth in Schedule 1111.06.

Every primary structure within the residential districts shall be located on a lot in compliance with the building setback and spacing requirements set forth in Schedule 1111.06.

Schedule 1111.06: YARD AND LOT REQUIREMENTS

	A-1	R-SF	R-NT	R-NX	R-MF[4]
(a) Yard and Lot Requirements					
(1) Minimum area[5]	5 acres	8,000 sf	6,000 sf	6,000 sf	10,400 sf
(2) Lot width at front yard setback	300 ft.	65 ft.	55 ft.	50 ft.	80 ft.
(3) Lot width at right-of-way	100 ft.	35 ft.	30 ft.	30 ft.	50 ft.
(4) Setbacks[1]					
i. Front yard	60 ft.	30 ft.	25 ft.	25 ft.	25 ft.
ii. Side yard[2]	30 ft.	8 ft.	6 ft.	6 ft.	8 ft.
iii. Rear yard	70 ft.	40 ft.	35 ft.	30 ft.	35 ft.
(b) Primary Structure Requirements					
(1) Minimum footprint	1,000 sf	1,000 sf	1,000 sf	1,000 sf[6]	N/A[6]
(2) Maximum building height[3]	35 ft.	35 ft.	35 ft.	35 ft.	35 ft./45ft.
(3) Primary structures per lot	1	1	1	1	N/A
1. See Figure 1111.06. 2. Side yard setbacks for shared wall dwellings shall be zero. 3. See 1111.06 (d). 4. see 1111.07 for additional requirements 5. See 1106.06(d)(6) corner lot requirements 6. Minimum unit size shall be 400 square feet of living space					

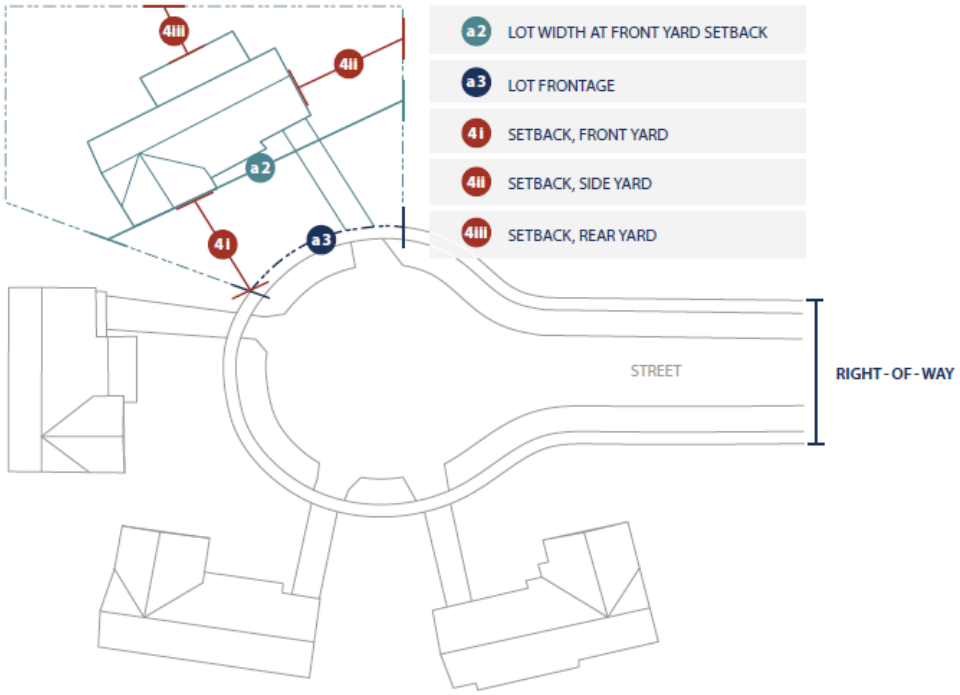


FIGURE 1111.06 YARD & LOT REQUIREMENTS

~~(c)~~(b) Projections into Required Yards. Architectural features may project into required yards as follows:

(1) Required Front and Required Rear Yards.

A. Cornices, canopies, eaves, or other architectural features may project a distance not to exceed three (3) feet.

B. Fire escapes may project a distance not to exceed four and one-half (4 ½) feet.

C. An uncovered stair and necessary landing may project a distance not to exceed six (6) feet provided that such stair and landing shall not extend above the entrance floor of the building, except for a railing not to exceed three (3) feet in height.

D. Bay windows, balconies, and chimneys may project a distance not to exceed three (3) feet, provided that such features do not occupy, in aggregate, more than one-third (1/3) of the length of the building wall on which they are located.

E. Additions to the principal structure that are not fully enclosed (i.e. decks, patio covers, pergolas, etc.) shall be permitted to encroach up to twelve (12) feet into a required rear yard.

i. Patio covers may be permitted to encroach into a required front yard up to six (6) feet provided there is a minimum of twelve (12) feet between the front of the primary structure and the front property line.

(2) Required Side Yards. All features outlined in section 1111.06 (c)(1) may project into a required side yard but may not encroach more than three (3) feet in any case.

(3) A permitted addition that encroaches into the required yard setback per this section shall not be converted into a completely enclosed addition at any time.

~~(d)~~(c) Exceptions to Height Limitations.

(1) Non-Occupied Appurtenances. The height limitations contained in schedule 1111.06 do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other appurtenances, excluding wireless telecommunication and wind energy conversion systems (WECS) facilities, except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport. Exceptions to height limitations shall not exceed ninety (90) feet, unless approved by the Board of Zoning Appeals, or as further provided elsewhere in this code.

(2) Amateur Radio Towers. Towers located on parcels less than five (5) acres in total area shall not exceed sixty-five (65) feet in height, whether ground mounted or mounted to a residential structure. On parcels five (5) acres or larger in total area, said amateur radio towers shall not exceed ninety (90) feet in height, whether ground mounted or mounted to a residential or accessory structure.

A. Any guy wire anchor supporting the tower must be located on the same property as the tower. The anchor must be set back a minimum of three (3) feet from any property line and shall not be located in the front yard.

B. The horizontal antenna, typically on the top of the tower, must be set back a minimum of three (3) feet from any property line.

1111.07 Additional Residential Multi-Family (R-MF) requirements.

(a) Building Arrangement. Cluster single-family, two or more-family, and multiple-family buildings may be arranged in a group and need not directly front onto a street.

(b) Building height shall not exceed thirty-five (35) feet within 100 feet of an abutting residential district. Then, the maximum permitted height shall be forty-five (45) feet.

(c) Site Development Requirements.

Schedule 1111.07: SITE DEVELOPMENT REQUIREMENTS

REQUIREMENTS	R-MF
(1) Setback from street right-of-way	
A. Building	25 ft.
B. Parking	20 ft.
(2) Setback from private interior streets	5 ft.
(3) Minimum setback from side and rear property lines	20 ft.
(4) Maximum impervious surface	60%
(5) Minimum required open space	20%

1111.08. Mobile and manufactured home parks.

(a) Mobile and manufactured home parks require conditional use approval in the Residential Multi-Family District (R-MF) and shall meet the following minimum development requirements. Additional development requirements may be established at the time the mobile home park application is reviewed.

(1) Park Size. A mobile or manufactured home park shall contain a minimum of five (5) acres.

(2) Width and Depth. The minimum width of a mobile or manufactured home park shall not be less than 250 feet. The ratio of width to depth shall not exceed one to five.

(3) Minimum Setbacks. All mobile homes or accessory buildings shall be located no closer than fifty (50) feet from the front property lines, nor closer than twenty-five (25) feet from the side or rear property line.

(4) Access. All mobile home parks should have access to adequate collector streets with road frontage of less than sixty (60) feet in width.

(5) Streets. The design and construction of the interior street system shall conform to City street specifications. No street shall be located closer than ten (10) feet to any property line of a mobile or manufactured home park.

(6) Sidewalks. All mobile or manufactured home parks shall have paved sidewalks at least three (3) feet in width on one side of parallel interior streets. A private sidewalk, with a minimum width of two (2) feet providing a sidewalk from a mobile home to a roadway or the common sidewalk system, shall be required ~~by the Commission~~ and may vary relative to locations, intensity of use and location of recreational areas and service buildings.

(7) Recreation and Open Space. A safe, usable recreation area of at least 1,000 square feet per mobile or manufactured home or ten percent (10%) of the gross land area of the mobile or manufactured home park, whichever is greater, shall be reserved for recreational and open space uses. At least one-half of the required recreation and open space area shall be developed as one recreation area. This figure is in addition to any other open areas required by minimum yard requirements or other sections of the chapter.

(8) Screening Buffer. The outer boundaries of a mobile or manufactured home park shall contain a buffer zone planted and maintained by the park operator. This buffer zone shall be composed of a green strip, not less than ten (10) feet in width, planted and maintained with an evergreen hedge of dense planting of evergreen trees or shrubs not less than four (4) feet in height, located along all park boundaries.

(b) Mobile and Manufactured Home Lots. Individual mobile or manufactured home lots within mobile or manufactured home parks shall conform to the following development requirements:

(1) Lot Size. Each mobile or manufactured home lot shall contain a minimum area of 4,000 square feet.

(2) Lot Width. The minimum width of each mobile or manufactured home lot shall be forty (40) feet. The minimum width of corner lots, however, shall be fifty (50) feet.

(3) Clearance. There shall be a minimum clearance of twenty (20) feet between individual mobile or manufactured homes.

(4) Mobile or Manufactured Homes. The minimum length of a mobile or manufactured home shall not be less than forty (40) feet, excluding the hitch and other transporting appurtenances with a total floor area of not less than 400 square feet. Mobile or manufactured homes shall meet or exceed federal and state mobile or manufactured home codes.

(5) Parking. Automobile parking spaces shall be provided for each mobile or manufactured home lot as follows:

A. One (1) space shall be provided for each mobile or manufactured home lot for the exclusive use of the occupants thereof.

B. The size of the parking area shall not be less than 400 square feet. It shall be located not more than 100 feet from the mobile or manufactured home site it is intended to serve.

(6) Mobile or Manufactured Home Foundation. Each mobile or manufactured home lot shall be provided with a stable base upon which to place the mobile or manufactured home. This base shall consist of two paved runways each at least five inches deep with re-rods, two feet wide and sixty feet long. Other

acceptable mobile home foundations may be permitted, if approved by the Planning Commission. Each mobile home lot shall be provided with anchors and tiedowns for securing the stability of the mobile or manufactured home and shall be attached and used at all times when the lot is occupied.

(7) Patio. Each mobile or manufactured home lot shall be provided with a paved patio area at least 200 square feet in area.

(8) Storage. Suitable facilities, constructed of weather-resistant materials with a minimum of ninety (90) cubic feet of space per lot, shall be provided on each lot, or in compounds within 100 feet from each lot. When fuel oil storage is desirable, a tank shall be required for each user.

(9) Corner Markers. The four corners of each mobile or manufactured home lot shall be visibly marked.

(10) Skirting. Each mobile or manufactured home shall be securely skirted, entirely enclosing the bottom section at the time of occupancy. The skirting shall be of a visually impervious material, and consistent with the characteristics of the mobile home.

(11) Landscaping. On half of the mobile or manufactured home lots proposed, at least one deciduous hardwood tree, a minimum of one and three-quarters caliper inches, shall be planted.

(12) Floor Area. Each mobile or manufactured home placed within the mobile or manufactured home park shall have a minimum area of 400 square feet.

(13) Height. The maximum height of mobile homes and accessory buildings shall not exceed twenty (20) feet.

(c) Park Facilities and Services. Mobile or manufactured home park utilities, facilities and other services shall conform to the following requirements:

(1) Storm Drainage. Within each mobile or manufactured home park, storm drainage shall be provided in accordance with all City and State regulations.

(2) Water. Within each mobile or manufactured home park, the source of water supply shall be from the municipally owned water system. The installation of water lines and the connection of individual mobile homes to the mobile or manufactured home park water system shall be made in accordance with the standards of the City.

(3) Sewage Disposal. Within each mobile or manufactured home park, sanitary waste disposal shall be by means of the municipally owned and operated sewerage system. The installation of sewer lines and the connection of individual mobile or manufactured homes to the mobile or manufactured home park sewerage system shall be made in accordance with the standards of the City.

(4) Electrical System. Within each mobile or manufactured home park, there shall be installed an electrical distribution system in conformance with the National Electric Code.

(5) Lighting. All interior streets shall be lighted in accordance with a plan approved by the City.

(6) Antennas. Individual antennas not anchored to the ground shall not exceed twenty (20) feet in height from ground level.

(7) Underground Utilities. Within each mobile or manufactured home park, all utility lines, including those for electricity and telephone service, shall be located underground.

(8) Garbage and Refuse Storage. The storage and collection of garbage and refuse within each mobile or manufactured home park shall be conducted as to create no health hazards, rodent harborage, insect breeding areas, fire hazards, or air pollution. All garbage shall be stored in fly-tight, rodent-proof containers.

(9) Fire Protection. Within each mobile or manufactured home park, adequate water mains, fire hydrants, gaited connections and other fire prevention and fire safety facilities shall be installed. Standard fire

hydrants shall be located in accordance with the City Fire Hydrant Specifications. Portable fire extinguishers and smoke detectors shall be required in each mobile home by the park management.

(10) Service Buildings. Suitable facilities may be required by the City for repair, storage, and laundry services.

(d) Inspection Procedures. Inspection of public improvements shall be required as per Chapter 1106. A final inspection shall be required for each unit prior to occupancy.

1111.09. Landscaping and screening requirements.

Landscaping, visual screening, and landscape buffers shall be provided for all properties in accordance with the provisions set forth in Chapters 1121 and 1122.

1111.10. Development plan review.

Development in residential districts shall be permitted only after development plans or certificates of building and zoning compliance have been reviewed and approved by the City according to the procedures and review criteria set forth in Chapter 1105.

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CHAPTER 1112. COMMERCIAL DISTRICTS

1112.01. Purpose.

Commercial districts (C/I, C-DC, C-CC, C-GC, and C-NX) and their regulations are established in order to achieve, among others, the following purposes:

(a) To provide in appropriate and convenient locations, sufficient areas for business activities, and the exchange of goods and services.

(b) To protect residential neighborhoods adjacent to business uses by restricting the types of establishments, particularly at the common boundaries, that would create congestion, noise, or other objectionable influences.

(c) To provide for the proper location of supplementary residential uses which complement commercial development.

(d) To meet the goals of the City of Delaware Comprehensive Plan.

(e) To carry out the following specific purposes:

(1) The Civic/Institutional District (C/I) is established to provide land for civic and institutional uses with careful consideration of their unique needs and demands for mixed-use arrangements, parking, and accessibility.

(2) The Downtown Commercial District (C-DC) is established to maintain and encourage the preservation of the City's historic core as a pedestrian-oriented mixed-use commercial area.

(3) The Commercial Neighborhood Mixed District (C-NX) is established to provide land for a variety of commercial uses complemented by incidental, limited residential uses to create a walkable neighborhood environment similar to that of the historic downtown core.

(4) The Community Commercial District (C-CC) is established to provide land for a wide range of commercial uses in a manner that does not intrude upon residential areas.

(5) The General Commercial District (C-GC) is established to provide land for more intense commercial uses in specific locations on major thoroughfares and at outlying locations in the community.

1112.02. Relevant chapters for cross-reference.

Title	Chapter
Definitions	1102
Procedures (for approval)	1105
Conditional uses	1105
Subdivision regulations	1106
Landscaping and screening	1121
Off-street Parking and loading	1123
Lighting	1124

1112.03. Permitted uses.

(a) Uses Permitted by Right. A use listed in Schedule 1112.03 shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other City ordinances and this Zoning Ordinance have been met.

(b) Conditional Uses. A use listed in Schedule 1112.03 shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning Commission first makes the determination that the Conditional Use requirements have been met according to the procedures set forth in section 1105.201 of this code.

(c) Use Not Listed in Schedule. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted:

(1) Upon amendment of this Ordinance and/or the Zoning Map as provided in Chapter 1105; or

(2) Upon a finding that a use is substantially similar as provided in Section 1105.26 of this code.

Schedule 1112.03 PERMITTED USE TABLE

	C/I	C-DC	C-NX	C-CC	C-GC
(a) **Residential Use**					
(1) Two, three, or four family dwelling		C	C		
(2) Dwelling unit(s) on upper floors of a commercial or office building		P	P	C	
(b) **Institutional/Public Uses**					
(1) Cemetery	C				
(2) Cultural institution or art gallery	P	P	C	P	P
(3) Hospital	C			C	C
(4) Library	P	C	C	P	P
(5) Place of religious assembly – capacity of 50 or fewer	P	P	P	P	P
(6) Place of religious assembly – capacity greater than 50	C	C	C	C	C
(7) Public or private recreational facility	P		C	P	P
(8) Public service and safety facility	P	P	P	P	P
(9) School - public or private	P~~C~~		C	C	C
(10) School - trade, business, or cultural arts	C	P	C	P	P
(11) Wireless telecommunication facility	C	C	C	C	C
(c) **Commercial Uses**					
(1) Day care, child or adult	C	C	P	C	C
(2) Drive-in theater					C
(3) Drive-thru facility (stand-alone)				C	C
(4) Entertainment, indoor		P	C	P	P
(5) Entertainment, outdoor				C	C
(6) Event venue – capacity of 50 or fewer			C	P	P
(7) Event venue – capacity of greater than 50				C	P
(8) Financial institution, bank		P	P	P	P
(9) Funeral home		C		P	P
(10) Golf course or country club	C				C
(11) Health club		P	C	P	P
(12) Hotel		C	C	C	C
(13) Massage establishments		P	P	P	P
(14) Nursing home	C	C	C	C	C
(15) Offices					
i. Clerical/professional	P	P	P	P	P
ii. Medical/dental		P	P	P	P
iii. Veterinary, no boarding kennel		P	P	P	P

	C/I	C-DC	C-NX	C-CC	C-GC
(16) Retail development with a minimum gross floor area of 80,000 square feet or greater				C	C
(17) Retail development with a minimum gross floor area under 80,000 square feet		P	P	P	P
(18) Residential Care Facility	C	C	C	C	C
(19) Restaurant		P	P	P	P
(d) Automotive and Transportation Uses					
(1) Automotive sales and rental				C	P
(2) Car wash				C	C
(3) Drive-thru facility associated with any (P) or (C) use				C	C
(4) Gasoline station				C	C
(5) ~~Light~~ Minor automotive repair garage				C	P
(6) Parking lots and garages	P	C		C	C
(7) Terminal—Bus, cab, train	C			C	C

1112.04. Lot, setback, and height requirements.

(a) All lots created or buildings constructed in a commercial district on or after the effective date of this code shall comply with the requirements set forth in Schedule 1112.04.

Schedule 1112.04: LOT, SETBACK, AND HEIGHT TABLE

	C/I	C-DC	C-NX	C-CC	C-GC
(a) **Lot Requirements**					
(1) Minimum lot area	None, except that lot size shall be adequate to meet all setbacks, parking, circulation, open space, and landscaping requirements.				
(2) Minimum lot width	None, except that all lots must have adequate width to meet all setbacks, parking, circulation, open space, and landscaping requirements.				
(3) Maximum lot coverage	65%	No Limit	65%	70%	70%
(b) **Site Development Setbacks**					
(1) Front Yard (parking and building)	20 ft.	0[2,3]	20 ft.	20 ft.	30 ft.
(2) Side or Rear Yard (parking)[1]	5 ft.	0[2]	5 ft.	5 ft.	5 ft.
(3) Side or Rear Yard (building)[1]	5 ft.	0[2]	10 ft.	10 ft.	10 ft.
(c) **Height Requirements**					
(1) Maximum Building Height	60 ft.	60 ft.[4]	45 ft.	45 ft.	60 ft.

[1] Lots abutting residential zoning districts shall comply with buffering requirements outlined in Chapter 1121

[2] Each lot shall have a minimum of seventy percent (70%) of the linear length of the lot frontage devoted to a building, or a building and wall in combination.

[3] The maximum front yard setback for structures in the C-DC zoning district shall be the average of the front yard setbacks of the adjacent structures or 10-feet, whichever is less.

[4] New structures shall have a minimum height of two (2) stories when the proposed structure will be adjacent to existing multi-story buildings. The reviewing body may require a minimum height greater than two (2) stories when adjacent buildings for a consistent block(s) are composed of more than two (2) stories.

(b) Projections into Required Yards. Architectural features may project into required yards as follows:

(1) Required Front and Required Rear Yards.

A. Cornices, canopies, eaves, or other architectural features may project a distance not to exceed three (3) feet.

B. Fire escapes may project a distance not to exceed four and one-half (4 ½) feet.

C. An uncovered stair and necessary landing may project a distance not to exceed six (6) feet provided that such stair and landing shall not extend above the entrance floor of the building, except for a railing not to exceed three (3) feet in height.

D. Bay windows, balconies, and chimneys may project a distance not to exceed three (3) feet, provided that such features do not occupy, in aggregate, more than one-third of the length of the building wall on which they are located.

E. Additions to the principal structure that are not fully enclosed (i.e. decks, patio covers, pergolas, etc.) shall be permitted to encroach up to twelve (12) feet into a required rear yard.

F. Patio covers may be permitted to encroach into a required front yard up to six (6) feet provided there is a minimum of twelve (12) feet between the front of the primary structure and the front property line.

(2) Required Side Yards. All features outlined in section 1112.04 (b)(1) may project into a required side yard but may not encroach more than three (3) feet in any case.

(3) A permitted addition that encroaches into the required yard setback per this section shall not be converted into a fully enclosed addition at any time.

(c) Exceptions to Height Limitations for Non-Occupied Appurtenances. The height limitations contained in schedule 1112.03 do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other appurtenances, excluding wireless telecommunication and WECS facilities, except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport. Exceptions to height limitations shall not exceed ninety (90) feet, unless approved by the Board of Zoning Appeals, or as further provided elsewhere in this code.

1112.05. Supplemental regulations for all uses.

(a) Certificate of Building and Zoning Compliance. All persons wishing to operate a business out of an existing structure or portion thereof shall apply for a certificate of building and zoning compliance from the Director of Planning and Community Development prior to occupying any space or building.

(1) Applications shall be made in accordance with the checklist on file in the Planning and Community Development Department.

(2) Any application for a certificate of building and zoning compliance shall be reviewed pursuant to the following requirements:

A. That the proposed use is permitted in the subject zoning district per Schedule 1112.03.

B. That the business shall complete the required income tax registration forms.

C. That the business will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area in accordance with Chapter 1120.

D. That all required permits and inspections are approved and completed.

E. That the establishment, maintenance, or operation of the business will not be detrimental to or endanger the public health, safety, or general welfare.

(3) Holders of a certificate of building and zoning compliance issued in this manner are subject to inspection by the City at any time.

(b) Outdoor Storage and Display.

(1) Outdoor storage is prohibited on all properties where the primary use is commercial, except outdoor storage may be permitted within a fenced-in area which is fully screened in accordance with Chapter 1121 and approved with a certificate of building and zoning compliance.

(2) Outdoor display is permitted on all properties where the primary use is commercial in accordance with the regulations below:

A. Permitted Locations. Outdoor display shall be permitted only in designated locations approved by the appropriate reviewing body at the time of development plan or certificate of building and zoning compliance review

i. Outdoor display shall be permitted in side or rear yards within the setbacks established for primary structures according to Schedule 1112.03.

ii. All outdoor display areas must be contiguous to the principal building; however, such areas shall be spaced a sufficient distance from the building, as dictated by the City Fire Chief, to satisfy all fire safety requirements.

iii. No outdoor display area shall be permitted to occupy or interfere with traffic circulation, required parking areas, public sidewalks or pedestrian access.

B. Area. The area of the lot devoted to outdoor display shall not exceed twenty-five percent (25%) of the ground floor area of the principal building.

C. Design. Outdoor display areas must be defined by or contained within an appropriate architectural or decorative demarcation as approved by the appropriate reviewing body during the Development Plan or Certificate of Building and Zoning Compliance process. This may include the use of landscaping elements, fencing, walls, or other appropriate materials. If building materials are utilized, these materials shall be consistent with the architectural design of the principal structure.

(3) Temporary display. Any temporary display of goods shall adhere to the requirements set forth in Chapter 1138. Temporary Uses.

(4) Areas devoted to outdoor display shall be paved with asphalt or concrete and free of dust.

(5) Height. Outdoor display areas shall not exceed six (6) feet in height.

1112.06. Supplemental regulations for specific uses.

(a) Drive-Thru Facilities.

(1) Stand-alone drive-thru facilities shall comply with all regulations of this Ordinance including Chapter 1121 and Chapter 1123 of this code.

(2) Drive-thru facilities associated with a primary use shall be designed in a way which minimizes their visibility from the ordinary public view.

(b) Fuel Stations.

(1) Fuel stations shall be designed in a way which minimizes the visibility of individual fuel pumps from the ordinary public view.

(2) When located on a corner lot, a station shall have at least 150-feet of frontage on each of the two intersecting streets.

(c) ~~Light~~ Minor Automotive Repair Garage.

(1) ~~Light~~ Minor automotive repair activities shall only be permitted to take place indoors.

(2) Junk materials, vehicle parts, or junk vehicles may not be kept or stored outside of a fully enclosed building.

(d) Massage Establishments. Massage establishments not licensed by the State of Ohio shall be reviewed pursuant to the following requirements in addition to those outlined in 1112.05(a):

(1) That the owner and all individuals providing massage treatments shall be subject to and submit background checks.

(e) Multiple-Family Dwellings in Commercial Districts. Two, three, and four family dwellings shall be designed in accordance with the regulations outlined in Section 1111.07.

1112.07. Landscaping and screening requirements.

Landscaping, visual screening, and landscape buffers shall be provided for commercial buildings and developments in accordance with the provisions set forth in Chapters 1121 and 1122 of this code.

1112.08. Development plan review.

Development in commercial districts shall be permitted only after development plans or certificates of building and zoning compliance have been reviewed and approved by the City according to the procedures and review criteria set forth in Chapter 1105 of this code.

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CHAPTER 1113. INDUSTRIAL DISTRICTS

1113.01. Purpose.

The Industrial Districts (I-1, I-2) and their regulations are established to achieve, among others, the following purposes:

(a) To provide convenient and sufficient zoning districts for industrial activities and for the production, distribution, and exchange of goods and services to serve and promote the economic development of the community.

(b) To protect residential neighborhoods adjacent to industrial districts by restricting the types of establishments, particularly at the common boundaries, which would create congestion, noise, or other objectionable influences beyond the district boundaries, and by separating and insulating residential districts from the most intense industrial activities.

(c) To establish performance standards, parking specifications, and yard regulations to ensure that industrial development is compatible with adjacent uses.

(d) To carry out the following specific purposes:

(1) To provide Light Industrial Districts (I-1) which accommodate those limited industrial uses conducted entirely within enclosed buildings that operate with a minimum of noise, glare, odor, dust, vibration, air and water pollution, fire and safety hazard, or any potential nuisance characteristic. An I-1 District is designed to accommodate light industrial uses and activities, the operational and physical characteristics of which do not detrimentally affect surrounding zoning districts. All activities, operations, and storage for permitted uses in an I-1 District shall be carried out in wholly enclosed buildings, except for accessory outdoor uses such as storage of materials and fleet vehicles.

(2) To provide General Industrial Districts (I-2) which accommodate a broader range of industrial activities than those permitted in the I-1 District. Such intensive industrial establishments may utilize products, materials, or processes that can create dust, smoke, fumes, glare, odors, or other objectionable characteristics, but do not create any danger to the health, safety, and general welfare of the surrounding neighborhoods due to the application of standards set forth in Chapter 1126 of this code. Uses in the I-2 Districts typically generate outdoor activities and outdoor storage in association with permitted principal uses.

1113.02. Relevant chapters for cross-reference.

Title	Chapter
Definitions	1102
Procedures (for approval)	1105
Conditional uses	1105
Subdivision regulations	1106
~~Design criteria~~Site and building design	1120
Landscaping and screening	1121
Off-street parking and loading	1123
Lighting	1124
External effects	1126

1113.03. Permitted uses.

(a) Uses Permitted by Right. A use listed in Schedule 1113.03 shall be permitted by right as a principal use in a district when denoted by the letter "P", provided that all requirements of other City ordinances and this Zoning Ordinance have been met.

(b) Conditional Uses. A use listed in Schedule 1113.03 shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning Commission first makes the determination that the Conditional Use requirements have been met according to the procedures set forth in section 1105.201 of this code.

(c) Accessory Uses. A use listed in Schedule 1113.03 shall be permitted as an accessory use in a district when denoted by the letter "A". Such use shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same lot as the principal building or use. Accessory uses are further regulated in subsequent sections of this Ordinance.

(d) Use not Listed in Schedule. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted:

(1) Upon amendment of this Ordinance and/or the Zoning Map as provided in Chapter 1105; or

(2) Upon a finding that a use is substantially similar as provided in Section 1105.26.

Schedule 1113.03. PERMITTED USES

	I-1 Light Industrial	I-2 General Industrial
(a) Office		
(1) Research and development facility	P	P
(2) Office / Clerical	P	A
(3) Office / Veterinary, with kennel	P	P
(4) Training facility	P	P
(b) Storage and Distribution		
(1) Distribution facility	C	P
(2) Warehouse or indoor storage facility	P	P
(3) Self-storage facility	C	C
(4) Storage (aboveground) of flammable or toxic liquids or gas		
i. 500 gallons or less (of combined tanks)	P	P
ii. Over 500 gallons (of combined tanks)		C
(5) Micro fulfillment center	P	P
(c) Outdoor Storage		
(1) Storage (general) of materials	A	P
(2) Storage of fleet vehicles for operation of principal use	A	P
(3) Storage of equipment for sale or rent		P
(d) Manufacturing and Processing		
(1) Assembly and production facility utilizing products from previously and elsewhere prepared materials	P	P
(2) Meat packing	C	P
(3) Manufacture of products from raw materials		C
(4) Chemical manufacture	C	C
(5) Pharmaceuticals	P	P
(6) Food and beverage	P	P
(7) Textiles, fabrics, and garments	P	P

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(e) **Transportation**		
(1) Airport and airport related uses		P
(2) Heliport		P
(3) Parking garage	P	P
(4) Terminal – bus, cab, train		P
(5) Train/railroad yard		P
(6) Truck terminal	C	C
(f) **Other**		
(1) Automotive repair, major and minor	P	P
(2) Adult entertainment		C
(3) Colleges, universities, educational research establishment, laboratory	C	
(4) Contractor sales and/or service	C	P
(5) Crematorium	P	P
(6) Data center	C	C
(7) Junk yard / scrap yard		C
(8) Indoor cultivation	P	P
(9) Brewery or winery, macro	P	P
(10) Public safety facility	P	P
(11) Public service/maintenance facility	P	P
(12) Public utility substation or distribution facility	P	P
(13) Recreational facility, gym, or health club. (indoor/outdoor)	C	C
(14) Recycling facility		C
(15) Semiconductor and computer/IT production	C	P
(16) Solar ~~field (~~field (see Chapter 1134)	C	C
(17) Schools; trade, business, and arts	C	
(18) Wireless telecommunication facility (see Chapter 1135)	C	C
(19) Wind energy system	C	C

1113.04. Lot, setback, and height requirements.

(a) All lots created or buildings constructed in an Industrial District shall comply with the minimum requirements set forth in Schedule 1113.04.

Schedule 1113.04. LOT AND SETBACK REQUIREMENTS

	I-1 Light Industrial	I-2 General Industrial
(a) **Lot requirements**		
(1) Minimum lot area[3]	2 acres	2 acres
(2) Minimum lot frontage and width	150 ft.	150 ft.
(3) Maximum lot coverage by buildings	40% of lot area	40% of lot area
(4) Maximum lot coverage by buildings and pavement	70% of lot area	80% of lot area
(b) **Setback requirements**		
(1) Setback from street right-of-way or highway easement		
i. When opposite or adjacent to a non-residential district	50 ft.	50 ft.
ii. When opposite or adjacent to a residential use[1]	75 ft.	100 ft.
(2) Setback from side or rear lot line		
i. Adjacent to industrial district	20 ft.	20 ft.
ii. Adjacent to other non-residential district	30 ft.	50 ft.
iii. Adjacent to residential use[1]	50 ft.	100 ft.

(c) **Height requirements**		
(1) Maximum height for principal and accessory buildings[2]	75 ft.	75 ft.

[1] Buildings shall not have operable doors or windows, other than required fire exits, within 125 feet of any residential dwelling.
[2] Any use proposed within 20,000 feet of the boundary of the Delaware Municipal Airport shall comply with the State of Ohio and FAA notification regulations for construction in the vicinity of an airport as described in the Ohio Administrative Code, Section 5501:1-10.
[3] See 1106.06(d)(6) for corner lot requirements

(b) Projections into Required Yards.

(1) Required Front and Required Rear Yards.

A. Cornices, canopies, eaves, or other architectural features may project a distance not to exceed three (3) feet.

B. Fire escapes may project a distance not to exceed four and one-half (4 ½) feet.

C. An uncovered stair and necessary landing may project a distance not to exceed six (6) feet provided that such stair and landing shall not extend above the entrance floor of the building, except for a railing not to exceed three (3) feet in height.

(2) Required Side Yards. All features outlined in section 1113.04 (b)(1) may project into a required side yard but may not encroach more than three (3) feet in any case.

(c) Exceptions to Height Limitations for Non-Occupied Appurtenances. The height limitations contained in Schedule 1113,04 do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other appurtenances, excluding wireless telecommunication and wind energy systems, except where the height of such structures will constitute a hazard to the safe landing and take-off of aircraft at an established airport.

(1) Exceptions to height limitations shall not exceed ninety (90) feet, unless approved by the Board of Zoning Appeals, or as further provided elsewhere in this code.

1113.05. Off-street parking and loading regulations.

Off-street parking and loading areas shall conform to the screening regulations set forth in Chapter 1121 and to the parking requirements set forth in Schedule 1113.05 below.

(a) Minimum Setbacks.

(1) Off-street parking shall be located in compliance with the minimum setbacks, measured from the street right-of-way, or property line, as specified in Schedule 1113.05, unless otherwise noted.

Schedule 1113.05. MINIMUM PARKING SETBACK REQUIREMENTS

	I-1 Light Industrial	I-2 General Industrial
Setback from street right-of-way		
(1) When opposite or adjacent to a non-residential district	20 ft.	20 ft.
(2) When opposite or adjacent to a residential use	30 ft.	30 ft.
Setback from side or rear lot line		
(1) Adjacent to a non-residential district	5 ft.	5 ft.
(2) Adjacent to a residential use	50 ft.	50 ft.

(2) The area within the required parking setback shall be landscaped in accordance with Chapter 1121.

(b) Parking Spaces and Access Drives. Off-street parking spaces and access drives shall be provided in compliance with Chapter 1123 of this code.

(c) Loading and Service Areas.

(1) Off-street loading and service areas shall be provided in accordance with the provisions set forth in Chapter 1123 of this code.

(2) Loading and service areas in any I-1 or I-2 district shall be located in a side or rear yard. The preferred location for such uses shall be the rear yard, unless the Planning Commission determines that placement in a side yard would lessen the impact on adjacent residential uses. Loading and service areas shall comply with the parking setback requirements set forth in Schedule 1113.05 and shall be screened in accordance with the provisions set forth in Chapter 1121 of this code.

1113.06. Outdoor storage regulations.

(a) I-1 District Requirements. In an I-1 district, all accessory outdoor storage shall comply with the general requirements of this section, in addition to the requirements below. In no case shall any combination of accessory outdoor storage areas in an I-1 District exceed a total of thirty percent (30%) of the footprint area of the principal building.

(1) General Outdoor Storage of Materials. This type of outdoor storage shall include the storage of goods, materials or products associated with the principal use.

A. The storage of radioactive, toxic, or otherwise hazardous materials shall be permitted as set forth in Schedule 1113.03.

B. The bulk storage of sand, gravel, salt, and other similar materials is permitted only when such material is effectively prevented from spreading and effectively screened according to the requirements set forth in Chapter 1121 of this code.

C. Areas devoted to general outdoor storage of materials shall be located in a side or rear yard only, behind the principal building and in compliance with all building setbacks as set forth in Section 113.05.

(2) Special Regulations for Landscape Materials. Outdoor storage and display areas may be located in front of the principal building, provided:

A. The area is landscaped or covered with porous materials; and

B. The area is devoted to the storage of living landscape materials such as trees, shrubs, and flowers.

(3) Outdoor Storage of Fleet Vehicles. This type of outdoor storage shall include the storage of trucks, vans, or other vehicles which are used as part of the operation of a principal use, but not including privately owned customer or employee vehicles.

A. The outdoor storage of fleet vehicles shall be permitted as an accessory use only when associated with the operation of a permitted or conditionally permitted principal use.

B. The accessory outdoor storage of fleet vehicles shall be located in a side or rear yard only, in compliance with the parking setbacks set forth in Section 1113.08.

(b) I-2 District Requirements.

(1) General Storage of Materials. This type of outdoor storage shall include the storage of goods, materials, or products associated with the principal use.

A. The storage of radioactive, toxic, or otherwise hazardous materials shall be permitted as set forth in Schedule 1113.03.

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B. The bulk storage of sand, gravel, salt, and other similar materials is permitted only when such material is effectively prevented from spreading and effectively screened according to the requirements of Chapter 1121 of this code.

(2) Storage of Fleet Vehicles. This type of outdoor storage shall include the storage of trucks, vans, or other vehicles which are used as part of the operation of a principal use but not including privately owned customer or employee vehicles.

(3) Storage of Equipment for Sale or Rental. This type of outdoor storage shall include the storage of equipment, motorized and non-motorized, for sale and/or rental, such as tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, but not including fleet vehicles or vehicles associated with automotive sales and rental.

(4) Location. Areas devoted to outdoor storage of any type shall be:

A. Located in a side or rear yard only in compliance with the building setbacks as set forth in Section 1113.05.

B. Accessible to firefighting equipment at all times.

C. Depicted on the development plan and shall not occupy or interfere with traffic circulation, required parking areas, required open space, public sidewalks, or pedestrian access.

(5) Surfacing. Areas devoted to outdoor activities shall be paved with asphalt, concrete, or similar material and maintained to be free of dust.

(6) Screening.

A. All outdoor storage of materials, goods, equipment, and overnight storage of vehicles shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all operations and materials therein from the view of any observer standing at the grade level at an abutting residential district line or a public street.

B. All outdoor storage areas shall be effectively screened from adjacent residential districts, public parking areas, and public streets according to the screening requirements set forth in Chapter 1121 of this code. The Planning Commission may increase the minimum height of required screening when it is determined that additional height is needed to effectively conceal all materials from ordinary public view.

(c) Outdoor Storage of Flammable Liquids and Gasses (aboveground). Above ground storage tanks require conditional use approval and must comply with the following:

(1) In the I-1 District, above ground storage tanks for flammable or toxic liquids or gases shall not exceed 500 gallons in combined capacity.

(2) In the I-2 District, above ground storage for flammable or toxic liquids or gases shall not exceed 2,000 gallons of combined capacity.

(3) All above ground storage tanks shall comply with all state and national fire code regulations.

(4) All above ground storage tanks shall be set back a minimum of 100 feet from all abutting non-residential property lines and 300 feet from abutting residential property lines.

(d) Signs. No signs shall be permitted in conjunction with outdoor activities except those otherwise in compliance with the sign regulations set forth in Chapter 1125.

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1113.07. Airport vicinity.

(a) Development within proximity to the airport, as outlined in the Airport Operations Map in the Airport Master Plan as approved by City Council, shall adhere to the following requirements:

(1) Height restrictions shall apply to all buildings, structures, and objects whether permanent or temporary, as required by Title 14 Code of Federal Regulations (CFR) Part 77 (otherwise known as FAR Part 77) and as described in the City's engineering standards.

(2) Notice. If any object of proposed construction located within 20,000 feet of the Delaware Airport runway surface will penetrate and exceed the slope of 100:1 horizontal (100 feet horizontally for each one foot vertically) from the nearest point of the runway, the applicant must show proof of filing an FAA Form 7460-1, Notice of Proposed Construction or Alteration. Furthermore, the applicant must show proof of obtaining a permit from the Ohio Department of Transportation, Office of Aviation in accordance with Ohio Administrative Code Section 5501:1.

(3) Determination Report. A copy of a FAA determination report resulting from filing the FAA Form 7460-1, Notice of Proposed Construction or Alteration and Ohio Department of Transportation, Office of Aviation permit shall be submitted with a Development Plan.

(4) The design of stormwater facilities in the vicinity of the airport shall be made to discourage nuisance waterfowl in accordance with the City's Engineering Design Standards.

(b) Avigation Easements. Avigation easements shall be conveyed to the City of Delaware by all new land uses and/or buildings or structures permitting the right of flight in the airspace above all properties located within the Airport Operations Map. Such easements shall be supplied in a form prescribed by the City Manager and shall be recorded on the title of the subject property.

1113.08. Landscaping and screening requirements.

Visual screening and landscape buffers shall be provided for all lots in Industrial Districts in accordance with the provisions set forth in Chapter 1121.

1113.09. Development plan review.

Development in industrial districts shall be permitted only after development plans and certificates of building and zoning compliance have been reviewed and approved by the City according to the procedures and review criteria set forth in Chapter 1105.

DRAFT

CHAPTER 1114. PLANNED UNIT DEVELOPMENT (PUD) DISTRICTS

1114.01. Purpose.

Planned Unit Development (PUD) zoning provides flexibility for landowners, engineers, site planners, and developers and encourages ingenuity and creativity in land use design. It promotes the efficient use of land and provides amenities that benefit the community while conserving the character and resources of the area. The use of this zoning district furthers the vision and goals of the City of Delaware Comprehensive Plan, and all development reviewed through this process should, at a minimum conform with said plan.

1114.02. Relevant chapters for cross-reference.

Title	Chapter
Definitions	1102
Procedures (for approval)	1105
Conditional uses	1105
~~Design criteria~~ Site and building design	1120
Landscaping and screening	1121
Off-street parking and loading	1123
Lighting	1124

1114.03. Mandatory applicability.

Proposals shall be developed under PUD district provisions when the Director ~~of Planning~~of Planning and Community Development determines the development proposal exhibits one or more of the following characteristics or a characteristic of similar magnitude or nature:

(a) The total gross area of the area to be rezoned is ten (10) acres or more in size except;

(1) Residential subdivisions submitted under standard zoning district requirements;

(2) Development proposed for A-1 zoned property, when all uses proposed for the development are permitted by A-1 zoning; or

(b) The proposed development involves uses permitted by standard zoning districts in accordance with this Title, and such uses are permitted by one or more PUD districts, and without PUD zoning classification, the development would normally require the approval of more than one standard zoning district.

1114.04. Voluntary applicability.

Applicants of proposals for development in which the development is determined, per section 1114.03, to not meet the conditions of mandatory PUD applicability may voluntarily request to be considered for PUD zoning classification and development under PUD district provisions. Approval for consideration shall not be construed or interpreted as approval of the requested PUD zoning. The City retains ultimate discretion to approve or deny any PUD application.

1114.05. Planned Unit Development (PUD) districts.

Each PUD shall be governed by the requirements specified for each respective PUD district and the general provisions governing Planned Unit Developments. PUDs are classified as follows:

(a) R-PUD (Residential Planned Unit Development)

(b) C-PUD (Commercial Planned Unit Development)

(c) MX-PUD (Mixed Use Planned Unit Development)

(d) I-PUD (Industrial Planned Unit Development)

1114.06. General provisions.

(a) Project Control and Ownership. Planned unit development district designation is intended to apply to development sites that are under single ownership or unified control to promote comprehensive design and development of the site. The project land may be owned, leased, or controlled by either one or more persons, partnerships, corporations, or other appropriate business associations capable of satisfying the objectives and requirements of the planned unit development district.

(b) Development Agreement. Upon approval of a development plan, the City, at its sole discretion, may require the developer of the PUD to enter into a development agreement with the City, and to furnish a performance bond for the purposes of assuring satisfactory completion of all requirements for site improvements such as landscaping, stormwater facilities, and any conditions and safeguards as may be set by City Council and the adopted ordinance approving the specific PUD. At its discretion the City may accept a letter of credit or other form of performance guarantee and security in lieu of a performance bond. In all cases the sufficiency and adequacy of such bond, letter of credit, or other form of guarantee or security shall be at the sole determination of the City.

(c) Utility Requirements**.** All initial and future expanded utility systems within the limits of all PUDs are required to be placed underground. Utility systems subject to this requirement shall be those that primarily service the development within the PUD district and shall include, but not be limited to telephone, internet, cable, and electrical systems. Appurtenances of these systems that can effectively be screened may be excluded from this requirement if the City Council determines that such appurtenances are essential for utility service to other areas of the community and that such exclusion will not violate the intent or character of the proposed PUD or any conditions, restrictions, or other requirements imposed upon the development.

(d) Application Process and Sequencing. The PUD approval process involves either a two-stage review or a concurrent review. The applicant may request a concurrent review process, but the Director of Planning and Community Development shall make the final determination, based on the complexity of the development. Unless the applicant informs the Director of Planning and Community Development at the time of submission of the PUD zoning classification application of the request for the concurrent review process, the process shall default to the two-stage review process.

(1) Two-Stage Review Process.

A. Stage One. The first stage of the process consists of submission of an application for PUD zoning classification in accordance with zoning amendment procedures set forth in Chapter 1105 of this code. The Planning Commission reviews and makes a recommendation on the PUD zoning classification application in accordance with Section 1105.07. The City Council then, in accordance with Section 1105.09, reviews the PUD zoning classification application and decides to either approve as submitted, approve with supplementary conditions, or disapprove the application. Approval of a PUD zoning classification only constitutes approval of PUD district zoning for the subject property.

B. Stage Two. The second stage of the two-stage review process consists of a development plan application for the subject property in accordance with Chapter 1105. A review and recommendation upon the development plan application is then conducted by the Planning Commission in accordance with 1105.14. The City Council then, in accordance with 1105.15, reviews the development plan application and makes an administrative decision to either approve the application as submitted, approve with supplementary conditions, or disapprove. Only upon approval of PUD zoning can the second stage commence.

(2) Concurrent Review Process. At the request of the applicant and determination of the Planning and Community Development Director, the first and second stages of the review process may be combined for a concurrent review. If the applicant elects such option, a PUD zoning classification application per 1105.04 and related development plan application per 1105.11 shall be simultaneously submitted by the applicant and both applications shall together proceed through the concurrent review process. In such case, the Planning Commission shall concurrently review both applications but shall first make a recommendation upon the PUD zoning classification prior to making a recommendation upon the development plan application. The City Council shall then concurrently review both applications but shall first act upon the PUD zoning classification prior to taking administrative action upon the development plan application.

(e) Application Completeness and Officially Filed Status. PUD and development plan applications shall not be considered officially filed until the applicant has submitted all applicable filing fees, and submitted all information as may be required by the Planning and Community Development Department. Completeness of an application and submission of all necessary information is the responsibility of the applicant. Only after an application is determined by the Director of Planning and Community Development to be complete and officially filed, will application review procedures begin.

(f) Concept Plan Layout Requirements. As part of the PUD rezoning application a concept plan may also be required. The sub-area and general building layout, circulation, open space and buffers, and other elements of the proposed PUD should be arranged, planned, and designed on the site to produce:

(1) Favorable relationships with existing natural topography, bodies of water or water courses, existing desirable vegetation, exposure to significant views and exposure to sunlight and wind;

(2) Safety, convenience, and ease of pedestrian and vehicular movement on, about, and throughout the site and between the site and community;

(3) An overall positive visual quality throughout, into and from the development site;

(4) An efficient, functionally organized, and cohesive development;

(g) Zoning Map Identification. Areas approved as a planned unit development district will be clearly marked and identified on the zoning map by indicating the specific PUD district upon which approval was granted, either R-PUD, C-PUD, MX-PUD, or I-PUD; followed by the appropriate case number (i.e. “C-PUD 25-1”).

(h) Transition of PUD Provisions and Regulations.

(1) Previous Overlay Approvals. Sites with existing overlay, planned development, text limitations, or other designations no longer outlined in this Title shall continue to be enforced per their original approvals and development text, except for their procedures, which shall adhere to Chapter 1105 of this code. Should at any point, one of these designations be amended or modified, the applicant shall proceed through the PUD process, adopting the existing condition of the site as the approved site plan. The new PUD shall be governed by the provisions and regulations of this Chapter.

~~(i)~~ Appeal of Director of Planning and Community Development Determination. To assure that Planning Commission and City Council have all information pertinent to the decision-making process contained within this section, the Director of Planning and Community Development has been given the responsibility of requiring additional information as necessary for Planning Commission and City Council to make informed

decisions. Any applicant who objects to the provision of additional information may request a determination by Planning Commission at its next regularly scheduled meeting. No further action shall take place regarding the application and submission until the Planning Commission has rendered its decision regarding the request for additional information, which shall be final.

(i)

1114.07. Approval procedures for PUD zoning classification.

(a) Notice to Applicants. Notice is hereby provided to all applicants that:

(1) Approval of PUD zoning classification shall not be deemed approval of a development plan or approval of a certificate of building and zoning compliance.

(2) The issuance of a certificate of building and zoning compliance for all or any portion of a PUD project requires City Council approval of a development plan.;

(b) Pre-Application Meeting. Prior to filing an application for Planned Unit Development zoning, the applicant or their agent is required to meet with the Planning and Community Development Department. The purpose of the pre-application meeting is to generally discuss the proposed development with all pertinent departments and the PUD process and its requirements. The applicant shall note that no statement or representation of the Planning and Community Development Department or any other City department during this pre-application meeting or any subsequent pre-application meetings shall be binding upon the Planning Commission, City Council, or the City.

(c) Approval procedures for a PUD zoning classification (zoning amendment) are set forth in Chapter 1105, Sections 1105.03 through 1105.09.

(d) Standards and Criteria for Planned Unit Development Zoning Approval. When reviewing an application for Planned Unit Development zoning classification, the Planning Commission, City Council, or the City should consider the following criteria:

(1) The Planned Unit Development complies with the purpose and intent of this Zoning Code;

(2) Promotes the health, safety, and general welfare of the present and future inhabitants of the City;

(3) The proposed zoning and the conditions and requirements incorporated within the ordinance approving the PUD zoning district provide for minimizing impacts on the surrounding properties;

(4) The site will be accessible from current or planned public thoroughfares and shall be sufficiently designed to carry traffic which will be imposed upon them by the proposed development;

(5) Potential impacts on public services and facilities can be mitigated by site and building design and the benefits which will accrue to the City and the public;

(6) Existing and proposed utility services for the proposed residential population densities and non-residential uses which are or will be available to the project;

(7) Complies with applicable requirements and conditions of Section 1114.06;

(8) Carries out the purposes and intent of the City's Comprehensive Plan;

(9) Each individual section or subarea of the development, as well as the total development, can exist as a functionally independent environment. In the alternative and at the discretion of the City, adequate assurance has been provided by the applicant and to the satisfaction of the City that such objective will be achieved; and

Any permitted, conditional, or accessory uses excluded from the specific proposed PUD are based upon findings in accordance with 1114.13(b), 1114.14(b), 1114.15(b), and 1114.16(b).

(10)

1114.08. Development plan approval.

(a) Notice to Applicants. Notice is hereby provided to all applicants that approval of a PUD zoning classification shall not be deemed approval of a development plan or a certificate of building and zoning compliance.

(b) Required Development Plan Application. Prior to the issuance of a certificate of building and zoning compliance for any PUD project, a development plan application shall be officially filed in accordance with Chapter 1105 Procedures, Sections 1105.10 through 1105.15.

(c) Previously Approved Development Plans. A development plan approved by City Council shall be deemed null and void upon approval of a subsequent development plan for all or part of the same property, unless otherwise conditioned by City Council.

(d) Development Plan Conformance with Approved PUD.

(1) An officially filed development plan shall conform to the PUD zoning plans, concepts, schedules, and development information as approved by City Council. If the Director of Planning and Community Development or the Planning Commission determines that the officially filed development plan does not conform, the applicant may either modify the plan to the extent necessary for conformance and resubmit for review or start afresh and submit a development plan for review or apply for an amendment to the PUD zoning classification ordinance. A submitted development plan shall not be considered officially filed if the Director of Planning and Community Development determines prior to Planning Commission review that the submitted plan does not substantially conform to the approved PUD.

(2) At the discretion of the Planning Commission, a submitted development plan that contains modifications to the plans, concepts, schedules, and development information as approved by City Council, may be determined to substantially conform. In no event shall a development plan be determined to substantially conform if the development plan involves changes in permitted uses as per 1114.10, or changes which result in exceeding any limitation or any maximum amount imposed by an ordinance originally granting or amending the PUD zoning classification for the subject property.

(e) Standards and Criteria for Development Plan Approval. A development plan shall only be approved when the standards and criteria set forth in Section 1105.16 of this code are satisfied.

1114.09. PUD binding and enforceable conditions and obligations.

If any portion of property included in a planned unit development is sold or leased, the PUD zoning classification and development plan obligations shall continue to be binding upon all subsequent owners or lessees, regardless of the acreage involved in the sale or lease. As a matter of procedure, all terms and conditions of any planned unit development zoning classification and development plan that were approved by the City Council in the past or may be approved in the future shall remain binding upon and enforceable against the subject tract of land, except to the extent modified in accordance with Section 1105.17 of this code.

1114.10. Modifications to PUD permitted uses.

The permitted and conditional uses for an approved PUD include all uses identified as permitted, conditional, and accessory for the type of PUD district under which the PUD was approved, except those uses expressly excluded uses in the ordinance granting PUD zoning approval for the subject property. Upon PUD zoning

approval, an applicant is not required to develop all uses permitted for the applicant's specific PUD, however, an applicant shall only develop those uses permitted for the specific PUD. Any request to modify or change the permitted uses of a specific PUD, as such uses are identified in 1114.13(b), 1114.14(b), 1114.15(b) or 1114.16(b), and as may be conditioned by the original ordinance granting PUD zoning classification for the subject property, requires an amendment to such ordinance. Upon a request to modify or change the permitted uses for a specific PUD, the City, at its discretion, shall require the applicant to either submit a new, full application in accordance with 1105.04 or submit a modified PUD zoning application, or submit supplementary materials to accompany the original PUD zoning application materials. In all cases, proposed amendments to the original zoning ordinance shall be subject to review and approval procedures in accordance with Chapter 1105 of this code.

1114.11. Similarity of uses and conditional uses.

(a) Similarity of Uses. The Planning Commission shall have the power and duty to determine if uses not specifically mentioned in this Zoning Code are similar to uses permitted in PUD districts. In no event shall a determination of similarity of use by the Planning Commission overrule a City Council determination of exclusion of uses from a specific PUD, and the ordinance originally granting or amending PUD zoning classification shall govern. If a PUD zoning classification application includes a list of intended uses which requires a determination of similarity, the Planning Commission shall make such determination before its review and recommendation on the PUD zoning application or concurrently to its review and recommendation on the PUD zoning application.

(b) Conditional Uses within PUDs. The Planning Commission shall have the power and duty to hear and decide upon applications for conditional uses within a PUD. The Planning Commission shall approve, deny, or approve with conditions, PUD conditional use applications. A conditional use request may be combined with a development plan application and must adhere to all requirements set forth in Sections 1105.19 through 1105.21 of this code.

1114.12. Modifications to approved development plans.

Requests to modify an approved development plan, when such requested modification does not involve a change of permitted uses for the specific PUD, may be approved by administrative action and the procedures for such are set forth in section 1105.17 of this code.

1114.13. R-PUD Residential Planned Unit Development districts.

(a) Intent. To encourage and accommodate, in a unified project, creative and imaginative residential developments that utilize innovations in land development that are in the best interests of the City, and to preserve sensitive natural areas and open space that contribute to the character of the City of Delaware. The R-PUD designation provides for a variety of dwelling types, including single-family, clustered, and multi-family units.

(b) Permitted, Accessory, and Conditional Uses. The permitted, conditional, and accessory uses in R-PUD districts are those uses included as permitted and accessory uses in residential districts, excluding manufactured home developments. One or more of these permitted and accessory uses may be excluded from the specific R-PUD when the City Council determines that the specific permitted or accessory use normally allowed in the listed residential districts is inappropriate for the specific R-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(1) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Comprehensive Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(2) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(3) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development.

(c) Land Use Intensity. For R-PUDs, the coverage of the total gross area of the development shall not exceed sixty-five percent (65%) of the entire development. For the purposes of this section, coverage shall be interpreted to include the area covered by all buildings, all parking areas, all driveways, and all public and private streets and paved rights-of-way. Structures and other impervious surfaces included within, and developed as an integral part of an area of open space may, at the sole discretion of the Planning Commission and City Council, may be excluded from the coverage of the total gross area percentage. Developers of R-PUDs are encouraged to achieve an approximate equal distribution of coverage for each individual phase or subarea of the total PUD.

(1) Open space requirements. A minimum of ten (10) percent of the provided open space shall be common open space and shall be located and designed to:

A. Be sufficiently aggregated to create large areas of planned open space.

B. Conserve significant natural features to the extent practicable.

C. Be easily accessible to residents of the PUD.

D. Connect open space areas on abutting parcels whenever possible, by utilizing open space and wildlife corridors.

(d) Land Use Density. The overall density of a R-PUD shall be established during the rezoning stage and shall be consistent with the recommendations of the City's Comprehensive Plan.

(e) Lot Requirements:

(1) The minimum lot width, for single family homes within R-PUDs, shall be 40 feet.

(2) When designing site plans for proposed one-family R-PUDs which will abut existing residential developments, the lot size for the proposed lots which are directly adjacent to the existing residential lots shall be similar in size and width to existing adjacent residential development, unless those lots are greater than one acre. Then, lots shall be a minimum of 20,000 square feet with a minimum lot width of 100 feet.

(f) Building Design Criteria. All buildings within a R-PUD shall, at a minimum, incorporate building design as generally prescribed in Chapter 1120 of this code. A higher level of creativity in design and materials is encouraged and may be required at the discretion of the Director of Planning and Community Development, to meet the intent of the PUD zoning designation.

(g) Building Height Regulations. No building shall be erected more than 45 feet in height, except at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(h) Landscaping, Screening, and Tree Preservation. All landscaping, screening, and tree preservation shall adhere to the requirements set forth in Chapter 1121 and 1122 of this Code. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(i) Exterior Lighting. All exterior site lighting shall adhere to the requirements of Chapter 1124 of this code and the Engineering Standards. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the

community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(j) Parking. All off-street parking shall adhere to the requirements of Chapter 1123, Off-Street Parking and Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(k) Signs. In conjunction with and at the same time as submission of a development plan application, the applicant may submit a master sign plan specifically fashioned for the PUD.

(1) The applicant may submit a master sign plan specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Director of Planning and Community Development.

(l) Variances. Variances within R-PUD districts shall be applied for in accordance with Chapter 1105 Procedures. They shall be considered on a case-by-case basis for individual parcels. The granting of a variance for an individual parcel shall not be considered approval of a variance for any other parcel within the same or any other district.

1114.14. C-PUD Commercial Planned Unit Development districts.

(a) Intent. To allow flexibility that encourages the creative design and development of non-residential uses in a manner which enhances the community through the application of urban design and architectural principles, high quality construction techniques, and the provision of aesthetic amenities.

(b) Permitted, Accessory, and Conditional Uses. The permitted, conditional, and accessory uses in C-PUD zoning districts are those uses included as permitted, conditional, and accessory uses in commercial zoning districts. One or more of these permitted, conditional, and accessory uses may be excluded from the specific C-PUD when the City Council determines that the specific permitted, conditional, or accessory use is inappropriate for the specific C-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(1) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's Comprehensive Plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(2) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(3) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(c) Land Use Intensity. For C-PUDs, the maximum land use intensity and lot coverage by all buildings, and by buildings and all other impervious surfaces is as follows:

Maximum coverage of all buildings	Maximum coverage of all buildings & impervious surface
40%	70%

(d) Building Height Regulations. The maximum height of any building in a C-PUD District shall be 55 feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(e) Landscaping, Screening, and Tree Preservation. All landscaping, screening, and tree preservation shall adhere to the requirements set forth in Chapter 1121 and 1122 of this Code. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(1) Any commercial development proposed to be located within 1,000 feet of any existing or proposed residential district, use, or development shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development post-construction. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(f) Exterior Lighting. All exterior site lighting shall adhere to the requirements of Chapter 1124, Lighting. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(g) Parking. All off-street parking shall adhere to the requirements of Chapter 1123, Off-Street Parking and Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(h) Signs. In concurrence with the submission of a development plan application, the applicant may submit a master sign plan specifically fashioned for the PUD.

(1) The applicant may submit a master sign plan specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Director of Planning and Community Development.

1114.15. MX-PUD Mixed Use Planned Unit Development district.

(a) Intent. The Mixed Use Planned Unit Development district (MX-PUD) and its regulations are established to provide a flexible zoning management tool that responds to sites with unique physical, service, and functional constraints which also meets the needs of integrated developments that may mix residential, retail, office, institutional, civic, and open space uses in creative projects.

(b) Permitted, Accessory, and Conditional Uses. The permitted, conditional, and accessory uses in MX-PUD zoning districts are those uses included as permitted, conditional, and accessory uses in residential and commercial districts, excluding manufactured home developments. One or more of these permitted, conditional, and accessory uses may be excluded from the specific MX-PUD when the City Council determines that the specific permitted, conditional, or accessory use is inappropriate for the specific MX-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(1) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's comprehensive plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(2) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(3) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(c) MX-PUD Residential Uses. Residential uses in MX-PUD Districts are intended to be developed as separate, residential subareas of the MX-PUD. Residential uses shall only be developed in MX-PUD Districts when the following conditions are satisfied:

(1) The overall density of a MX-PUD shall be established during the rezoning stage and shall be consistent with the recommendations of the City's comprehensive plan.

(2) The minimum lot width in single-family portions of MX-PUDs shall be forty (40) feet.

(3) When designing site plans for proposed MX-PUDs which will abut existing residential developments, the lot size for the proposed residential lots which are directly adjacent to any existing residential lots shall be similar in size and width to those existing adjacent residential lots, unless those lots are greater than one acre. Then, lots shall be a minimum of 20,000 square feet with a minimum lot width of 100 feet.

(d) Land Use Intensity. For MX-PUDs, the maximum land use intensity and lot coverage by all buildings, and by buildings and all other impervious surfaces is as follows:

Maximum coverage of all buildings	Maximum coverage of all buildings & impervious surface
40%	70%

(e) Building Height Regulations. The maximum height of any building in a MX-PUD District shall be fifty-five (55) feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(f) Landscaping, Screening, and Tree Preservation. All landscaping, screening, and tree preservation shall adhere to the requirements set forth in Chapter 1121 and 1122 of this Code. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(1) Any commercial development proposed to be located within 1,000 feet of any existing or proposed residential district, use, or development shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development post-construction. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(g) Exterior Lighting. All exterior site lighting shall adhere to the requirements of Chapter 1124, Lighting and the Engineering Standards. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(h) Parking. All off-street parking shall adhere to the requirements of Chapter 1123, Off-Street Parking and Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(i) Signs. In concurrence with the submission of a development plan application, the applicant may submit a master sign plan specifically fashioned for the PUD.

(1) The applicant may submit a master sign plan specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Director of Planning and Community Development.

(j) Variances. Variances within residential portions of MX-PUD districts only shall be applied for in accordance with Chapter 1105, Procedures. They shall be considered on a case-by-case basis for individual parcels. The granting of a variance for an individual parcel shall not be considered approval of a variance for any other parcel within the same or any other district.

1114.16. I-PUD Industrial Planned Unit Development.

(a) Intent. To provide a flexible zoning management tool that meets the needs of manufacturing developments that have unique needs that cannot be adequately addressed through a standard industrial zoning district.

(b) Permitted, Accessory, and Conditional Uses. The permitted, conditional, and accessory uses in I-PUD zoning districts are those uses included as permitted, conditional, and accessory uses in Light Industrial and General Manufacturing districts. One or more of these permitted, conditional, and accessory uses may be excluded from the specific I-PUD when the City Council determines that the specific permitted, conditional, or accessory use is inappropriate for the specific I-PUD. Such exclusion(s) shall be based upon at least one of the following findings that the specific excluded use:

(1) Cannot be serviced by adequate public utilities; or presents the potential for significant environmental damage and a satisfactory plan of mitigation has not been provided by the applicant; or is inconsistent with the overall character and other uses of the proposed PUD; or is inappropriate for the topography of the site; or is incompatible with surrounding legal land uses or other approved land uses; or is inconsistent with the City's comprehensive plan or other approved plans of the city; or will create hazardous traffic conditions; or will impose an unmitigated burden on public services and facilities, such as fire and police protection; or

(2) Will not promote the purpose and objectives of the planned unit development provisions of this code; or

(3) Does not advance the general welfare of the community and the immediate vicinity and will adversely affect or impact adjoining or surrounding development without satisfactory mitigation measures.

(c) Land Use Intensity. For I-PUDs, the maximum land use intensity and lot coverage by all buildings, and by buildings and all other impervious surfaces is as follows:

Maximum coverage of all buildings	Maximum coverage of all buildings and impervious surface

40%	80%

(d) Building Height Regulations. The maximum height of any building in a I-PUD District shall be seventy (70) feet, except, at the discretion of the City Council, the maximum height may be increased when such increase is determined to improve site design and the overall aesthetic quality of the development, does not adversely affect surrounding neighborhoods and public facilities, does not obscure light and air sources to immediately surrounding structures, and satisfies applicable fire and safety regulations.

(e) Landscaping, Screening, and Tree Preservation. All landscaping, screening, and tree preservation shall adhere to the requirements set forth in Chapter 1121 and 1122 of this Code. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(1) Any industrial development proposed to be located within 1,000 feet of any existing or proposed residential district, use, or development shall present and implement plans for providing a barrier from noise generated by the activities of the commercial development post-construction. These activities include but are not limited to loading dock and delivery activities, truck movements, idling and parking, waste collection, compactor or shredding activities, roof mounted and ground mounted mechanical equipment, and parking lots and driveways. Methods which may be utilized include earthen mounding, solid masonry walls, permanent engineered sound barriers, or other methods or materials of equal affect as those listed above. The noise barrier shall be tall enough to exceed the height of any noise source such as truck engines and exhaust stacks.

(f) Exterior Lighting. All exterior site lighting shall adhere to the requirements of Chapter 1124, Lighting. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(g) Parking. All off-street parking shall adhere to the requirements of Chapter 1123, Off-Street Parking and Loading Regulations. Upon approval of the City Council, any of these requirements may be modified, provided that such modification will improve the design and functionality of the site, increase benefits to the community that are derived from the development, and will not adversely affect surrounding neighborhoods and public facilities.

(h) Signs. In concurrence with the submission of a development plan application, the applicant may submit a master sign plan specifically fashioned for the PUD.

(1) The applicant may submit a master sign plan specifically fashioned for the PUD for separate approval as a minor modification to be considered and decided upon by the Director of Planning and Community Development.

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CHAPTER 1115. HISTORIC DISTRICT OVERLAY

1115.01. Purpose.

Whereas the City declares as a matter of policy that the preservation, protection and use of areas, buildings, structures, and works of art in national and local registered historic districts is in the public interest and vital to maintaining the community's well-being, the purpose of this chapter is to:

(a) Promote appreciation for the history and the traditions of the City.

(b) Foster civic pride in the beauty and notable contributions of the past.

(c) Preserve and protect the unique identity of the City's special interest areas.

(d) Promote the use and preservation of the historic sites and structures for the economic, cultural, and aesthetic benefit of its residents.

(e) Safeguard the heritage of the City for the education and the general welfare of the City.

1115.02. Identification, review, and designation.

(a) Criteria. In considering the designation of any area, property or site in the City as a historic district or landmark, the Historic Preservation Commission (HPC) shall apply the following criteria:

(1) The character, interest or value of the area, property or site as part of the development, heritage, or cultural characteristics of the City, County, State, or the United States.

(2) The location as a site of a significant prehistoric or historic event.

(3) The identification with a person or persons who significantly contributed to the culture and development of the City.

(4) The exemplification by the area, property or site of the cultural, economic, social, or historic heritage of the City.

(5) The embodiment of distinguishing characteristics of an architectural type or specimen.

(6) Identification as the work of an architect or notable builder whose individual work has influenced the development of the City.

(7) The embodiment of elements of architectural design, detail, materials, or craftsmanship which represent architecture of significant character.

(b) Initiation. Proposals to designate or expand historic districts or designate historic landmarks may be initiated by the HPC, a property owner or by motion of Planning Commission, or Council. Proposals initiated by property owners, Planning Commission, or Council shall be referred to the HPC for recommendation and initiation of the formal designation process.

(1) At the time a proposal is submitted, the HPC shall have previously established development regulations guiding future environmental changes within a historic district or on a landmark property. Such regulations may include architectural standards, site development regulations and sign regulations, and shall take effect immediately upon designation of a historic district or landmark property.

(c) Proposal. Proposals to designate or expand a historic district shall be submitted with a rezoning application as well as the information listed below. Proposals to designate a historic landmark shall include, at a minimum, the following additional information

(1) Evidence of landmark property owner interest or property owner interest within the proposed historic district.

(2) A boundary description.

(3) An inventory of historic resources.

(4) A description of the architectural and historical significance of properties within the proposed boundaries.

(5) A map or description of existing zoning.

(d) Study and Determination of Applicability. When a proposal to establish or expand a preservation district or to designate an individual property or site as a landmark for protection is received by HPC, the owner or owners shall be notified by the Director of Planning and Community Development, and the owner(s)' written comments requested.

(1) For an individual structure or site, notice shall be given by mail to the owner of the real property on which the structure or site is located.

(2) For the purpose of designation or expansion of a group or district, notice shall be published once on the City website and shall be mailed or otherwise distributed to each owner of real property located within such group or district.

(3) The Historic Preservation Commission shall review the proposal in terms of the following critical provisions as well as the criteria set forth in Section 1116.02(a):

A. Structural proportion

B. Foundation and structures

C. Exterior walls

D. Building height

E. Building width

F. Roof type

G. Building material

H. Paving or walkways

I. Significant landscaping fixtures

J. Color or colors of the exterior as related to color or colors of surrounding buildings

(e) Public Hearing. Once the proposal to establish or expand a preservation district or to designate an individual property or structure as a historic landmark has been reviewed by the HPC, the Historic Preservation Commission shall schedule a public hearing. The public hearing shall not be more than thirty (30) days after such a proposal is submitted. Notice of the public hearing shall be given according to the following:

(1) The HPC shall give the owner(s) not less than fourteen (14) days' written notice of the date, time, and place of such hearing.

(2) Notice of the public hearing shall be published at least ten (10) days before the date of the hearing on the City's website.

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~~(2)~~ The Director of Planning and Community Development shall send a notice to all record title holders within 200 feet of the property to which such application relates at the time the application is filed. "Record title holder" shall mean the title holder of such property as disclosed by the records of the County Auditor as the “owner address”. Historic designations of greater than ten parcels shall not require mailed notification.

~~(3)~~

~~(3)~~(4) Notice shall include the time and place of the public hearing, a summary of the proposal and a statement that opportunity to be heard will be afforded to any person interested. Failure of delivery of such notice shall not invalidate any such amendment.

~~(4)~~(5) The original application, all comments and additional considerations presented at the public hearing, and the recommendation of the HPC shall be forwarded to the Planning Commission for its consideration.

(f) Recommendation by Planning Commission. Within thirty (30) days from receipt of the application from the HPC, and after the conclusion of the public hearing required in subsection (3) above, the Planning Commission shall recommend one of the following to Council:

(1) That the proposal be approved as requested;

(2) That the proposal be approved as modified by the Planning Commission; or

(3) That the proposal be denied.

(g) If the Planning Commission does not make a recommendation on the proposal within the thirty (30) days, or an extended period as may be agreed upon by the applicant or City Council, it shall be deemed that the recommendation of the Planning Commission is that the amendment be denied.

(h) The Secretary of the Planning Commission shall file with the Clerk of Council a report of the Planning Commission's action.

(i) Final Review and Action by Council. Council shall give due consideration to the findings and recommendations of the HPC and the Planning Commission and shall make a final determination. Within thirty (30) days from receipt of the Planning Commission's recommendation, City Council shall:

(1) Approve the proposal as requested and designate the structure, site, group or district as a historic property. Approval shall require at least five (5) members of Council ~~2/3 majority~~ to override a proposal previously denied by the Planning Commission.

(2) Deny the proposal.

(j) Designation. Immediately upon the designation of any structure, site, group, or district as a historic district or landmark, the Clerk of the Council shall promptly notify the Chief Building Official, the Historic Preservation Commission, the Director of Planning and Community Development, and other affected departments.

(1) The Director of Planning and Community Development shall give written notice of the designation to the owner(s).

(2) The Director of Planning and Community Development shall cause the historic district or historic landmark designation to be shown upon the official zoning maps as an overlay without changing the underlying zoning. Whenever there is conflict between regulation of the zoning district and the regulations of the historic district, the ~~more restrictive~~regulations of the Historic District shall apply.

1115.03. Applications for Certificate of Appropriateness.

Property owners and occupants are required to obtain a certificate of appropriateness (COA) before undertaking any environmental changes to any property within a historic district or to any individual historic landmark. A COA may be obtained through a Historic Preservation Commission (HPC) hearing or through an administrative COA review by the City of Delaware.

(a) Upon receipt of all pertinent documents, including the payment of any fees set forth by City Council, the Planning and Community Development Director shall inform the applicant of the review process (administrative COA review or HPC hearing) and application requirements, and shall have the authority to request additional pertinent information regarding the proposed environmental change.

(b) Level of COA Review. The table below lists the criteria used to determine if the COA requires an administrative review or a HPC hearing.

Applicability	Evaluation Criteria	Level of Review
Minor projects:	Approve minor changes when proposed work meets the Downtown Historic District architectural standards, including: • Painting using the existing or original color scheme or follows the color guidelines in the architectural standards, • Addition of landscape features that do not physically impact the historic building or adversely impact the district, • Routine maintenance and repairs using the same materials and design as the existing structures, or re-roofing using the same shape, type and color of materials, • Signage, provided that the installation of the sign does not damage historic building features, • Any other architectural standards requirements that allow for administrative COA approval, and • Temporary outdoor sales and displays in conformance with the requirements of the Planning and Zoning Code, and • Any other request determined by the Director of Planning & Community Development and the chairperson of HPC to have a minor impact or no potential detriment on the structure or Historic District.	Administrative or HPC hearing
Major projects:	• Major exterior improvements/alterations or proposed demolitions that have major impact or potential detriment as a result of the proposed action. • Any other request determined by the Director of Planning and Community Development and the chairperson of HPC to not have a minor impact or has potential detriment on the structure or Historic District.	HPC hearing

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(c) Administrative Review.

(1) A notice and public hearing at the HPC is not required for an administrative review.

(2) For each administrative review, the Director of Planning and Community Development will consult the HPC chairperson in making an approval determination.

A. Both the Director of Planning and Community Development and the chairperson shall agree as to either approve, approve with conditions, or deny the administrative review.

B. Should the Director of Planning and Community Development and the chairperson not be in agreement, or the administrative review is denied, the application shall be scheduled at the next available HPC meeting, for review and hearing as a major project.

C. In the event the chairperson is not available, the Director of Planning and Community Development shall consult the HPC vice-chairperson. If both the chairperson and vice-chairperson are not available for a period exceeding seven (7) business days from the date of application, the Director of Planning and Community Development shall make the determination as prescribed and notify the chairperson in writing of such decision.

(d) HPC Review.

(1) Procedure: In processing applications before the Commission, the following shall apply:

A. The HPC shall approve, conditionally approve, or deny an application within sixty (60) days from the meeting date on winch the application was first reviewed, unless an extended period of time is agreed to by the applicant.

i. If an applicant or their designated representative fails to appear before the Commission at a designated meeting for any reason, the sixty (60) day time period shall be automatically extended until the next regular meeting of the Commission and thereafter until such time as the applicant or designated representative appears.

ii. If within the prescribed time period or as automatically extended above, the HPC fails to table or take an action on an application at a meeting in which there was a quorum, the application shall, upon written request by the applicant to the Planning and Community Development Director, be considered denied by the HPC and may be appealed as regulated elsewhere in this Chapter.

iii. At the end of the sixty (60) day time period, or as extended automatically by this code or as agreed to by the applicant, failure of the HPC to take an action as described shall result in the application being considered denied by the HPC and may be appealed as regulated elsewhere in this code.

B. At the hearing, the HPC shall issue an oral decision followed by a written decision within seven (7) days after the date of the hearing. The written notice shall include specific findings and comments.

(2) In ruling upon a COA application, the HPC shall consider the following:

A. The adherence of the environmental change to the historic district's adopted standards and guidelines; and

B. The effect of the HPC 's decision upon the applicant. The following criteria shall be used for all applicants to determine the existence of a substantial economic hardship or unusual and compelling circumstances:

i. Substantial economic hardship:

a. Denial of a certificate shall result in a substantial reduction in the economic value of the property.

b. Denial of certificate shall result in a substantial economic burden on the applicant because the applicant cannot reasonably maintain the property in its current form.

c. No reasonable alternative exists consistent with the architectural standards and guidelines for the property.

ii. Unusual and compelling circumstances:

a. The property has little or no historical or architectural significance.

b. The property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.

c. No reasonable means of saving the property from deterioration, demolition or collapse other than applicant's proposal exists.

(e) Expiration of Certificate of Appropriateness. Unless the work described in the certificate is commenced within one year and continued progress is made and is completed within two years, the certificate shall expire. Upon written request, t~~T~~he HPC shall grant an extension of time for good cause.

1115.04. Demolition.

(a) In cases where an applicant applies for a certificate to demolish a structure within a designated historic district or to demolish a historic landmark, the Historic Preservation Commission shall grant demolition and issue a certificate when one or both of the following conditions prevail:

(1) The structure contains no features of architectural and historic significance.

(2) 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 alternatives to demolition, or that deterioration has progressed to the point where it is not economically feasible to restore the structure.

(b) The HPC may delay the determination of the application for demolition for a period of 180 days upon a finding that the structure is of such importance that alternatives to demolition may be feasible and should be actively pursued by both the applicant and the HPC. In the event that action on an application is delayed as provided herein, the HPC may take such steps as it deems necessary to preserve the structure concerned, including mothballing, in accordance with the purposes of this Zoning Ordinance. Such steps may include but shall not be limited to:

(1) Consultation with civic groups, public agencies, and interested residents.

(2) Recommendations for acquisition of property by public or private bodies or agencies.

(3) Exploration of the possibility of moving one or more structures or other features.

~~(4)~~ Under no circumstances can the HPC commit the use of public funds.

(4)

(c) No building or portion of any building within the Historic District shall be permitted to be demolished without prior approval from the HPC.

1115.05. Appeals.

(a) Administrative COA Review Decisions: Administrative COA review decisions may be appealed to the HPC. Notice of appeal shall be made within thirty (30) calendar days of the decision date. The appeal shall be heard

at the next available HPC meeting that occurs after receipt of a written request to appeal the administrative COA review decision. A simple majority vote of HPC shall be required to overturn a decision of an administrative review.

(b) Historic Preservation Commission Decisions. A decision made by the HPC to approve, conditionally approve, or deny an application may be appealed to the City Council by the applicant, property owner, or any adjoining property owner, including those property owners directly across any public right-of-way. Notice of appeal shall be made within thirty (30) calendar days of the decision to approve, conditionally approve, or deny an application. The appeal shall be heard at the next available Delaware City Council meeting. A simple majority vote of City Council shall be required to overturn a decision of the Commission.

(c) No building permit or other permit requested shall be issued while the appeal is pending.

1115.06. Exclusions.

(a) Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any architectural feature of any property that does not involve a change in design, material or other appearance thereof covered by the Historic Preservation Commission's standards and guidelines.

(b) Nothing in this chapter shall be construed to prevent the authorized municipal officers from abating public nuisances.

(1) Whenever the Chief Building Official receives a public nuisance complaint involving structures within an historic district, they shall notify the Director of Planning and Community Development who shall notify the chairperson of the Historic Preservation Commission within two (2) working days after receipt of such nuisance complaint.

1115.07. Correlation of City programs.

(a) The City shall consider its improvement programs, land purchased, and other plans in or proximate to an historic district, with respect to the purpose and the requirements of this Zoning Ordinance and shall, whenever feasible, support and conform thereto.

(b) The Director of Planning and Community Development shall notify the Historic Preservation Commission of any activity requiring Department review that is within a historic district boundary. Notification shall be given to the HPC at least ten (10) business days prior to the Department hearing. Said project shall also comply with the historic district standards and guidelines and a certificate of appropriateness secured from the Historic Preservation Commission as warranted prior to commencement.

(c) At the discretion of the Director of Planning and Community Development, the zoning review process engaged to secure a certificate of appropriateness from the Historic Preservation Commission may be utilized to fulfill the development review requirements of the Board of Zoning Appeals and/or the Planning Commission as warranted should said project be located within the Historic District Overlay.

1115.08. Conformance with existing laws.

(a) This section shall not be construed to repeal the provisions of any existing laws and ordinances establishing housing, building, and zoning requirements for the City generally or any other section of this chapter, except such as may directly conflict herewith.

(b) The Director of Planning and Community Development shall have the authority to enforce the provisions of Chapter 1199 where alterations, construction, demolition, rehabilitation, or any other exterior modifications

are being undertaken in a recognized historic district in the absence of an approved certificate of appropriateness.

1115.09. Historic district(s).

The Historic District Overlay, and the boundaries thereof, is hereby adopted and established as shown on the Historic District Overlay Map. Said Map, together with all notations, references, data, and adopted standards, district boundaries, historic landmark designations, and other information shown thereon, is hereby made part of this Zoning Ordinance. The official Historic District Overlay Map, properly attested, shall be and remain on file in the office of the City Clerk of Council.

1115.10. Administration, powers, and duties.

Chapter 1103 sets forth the powers and duties of the Director of Planning and Community Development, the Historic Preservation Commission, and City Council with respect to the provisions of this Zoning Ordinance.

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CHAPTER 1120. SITE AND BUILDING DESIGN

1120.01. Purpose.

Site and building design requirements are established to provide guidelines for consideration when evaluating the appropriateness of proposed development in the City. Specifically, these provisions are intended to achieve, among others, the following purposes:

(a) Establish site and design criteria to:

(1) Ensure that development reflects and is sensitive to the history, climate, topography, vegetation, natural features, and building traditions of the City of Delaware.

(2) Ensure that new development and redevelopment are integrated into the surrounding environment in an orderly manner and are compatible and harmonious with the existing overall character of the City.

(3) Ensure that the existing design features which contribute to the unique character of Delaware are retained and recreated in a manner that maintains and enhances the sense of community.

(4) Provide interest along the streetscape and a pedestrian friendly environment.

(5) Foster and encourage creative application of design principles.

1120.02. Relevant chapters for cross-reference.

Title	Chapter
Definitions	1102
Subdivision regulations	1106
Residential districts~~Subdivision regulations~~	1111~~1106~~
Commercial districts~~Parking~~	1112~~1123~~
Industrial districts~~Landscaping and screening~~	1113~~1121~~
Off-street parking and loading	1123
Standards for exterior l~~L~~ighting	1124
~~Residential~~	~~1111~~
~~Commercial~~	~~1112~~
~~Industrial~~	~~1113~~

1120.03. Site design criteria.

(a) In reviewing an application, the appropriate Reviewing Body shall consider the review criteria outlined in Section 1105.16 of this code.

(b) Open Space. Areas to be considered as open space shall include playgrounds and parkland, clubhouses, pools, linear parks with paths or trails, and other active open space as determined by the Parks and Recreation Director. Preserved wetlands, tree stands, or other natural features shall also be considered as open space. Public or private sidewalks and greenspace within building setbacks or on private residential or commercial lots shall not be counted as open space.

(1) All new developments shall adhere to the following minimum open space requirements:

A. Residential: 35% open space

B. Commercial: 30% open space

C. Industrial 20% open space

(2) Dedication of parkland as set forth in Chapter 1106 shall count towards the open space requirements in new developments.

1120.04. Street and driveway design criteria.

(a) Public Streets. A street shall be required to be publicly dedicated when such street:

(1) Provides access to detached single-family dwellings on a subdivided lot.

(2) Is a major street that connects two existing public streets, is intended to provide future continuing street system beyond the project boundaries or is expected to accommodate pass-through traffic going to and from adjacent developments.

(b) Private Streets. A private street serves more than four (4) dwelling units or commercial outlots. Streets that are not so publicly dedicated may be approved as private streets when the City Engineer and the appropriate Reviewing Body determine that:

(1) The private street is not planned or expected to be extended to serve property outside the development.

(2) Adequate utility easements are provided to the satisfaction of the City and the Utilities Department.

(3) The design and layout of the private street provides adequate and safe access to the intended units, as determined by the City of Delaware Police and Fire Departments.

(4) Sidewalks shall be provided on one side of all private residential streets and separated from the street pavement with a grass buffer that is a maximum of eight (8) feet wide. Integral sidewalks (curbed or uncurbed) are not permitted.

(c) Driveways. Driveways shall be permitted in compliance with the following:

(1) A driveway shall serve no more than four (4) dwelling units.

(2) A driveway shall extend from a public or private street and shall not connect to any other existing or planned public or private street.

(3) The design and layout of the driveway shall provide adequate and safe access to the intended units, as determined by the City of Delaware Police and Fire Departments.

(d) Private Street and Driveway Construction. All elements of a private street that are to be provided shall be constructed in accordance with the construction standards set forth in the Engineering Design Standards unless:

(1) The appropriate Reviewing Body determines that certain elements of a public street do not or should not specifically apply to a private street due to the circumstances of a particular project or portion of a project, the Reviewing Body may waive or permit a modification to the installation of any such element(s) to the extent deemed just and proper provided such relief may be granted without detriment to the public good.

A. This provision applies to waiving the requirement for curbs and storm sewers when the applicant demonstrates to the satisfaction of the City Engineer and Reviewing Body that, based on the topography of the site, open space, density and other environmental considerations, the proposed open natural drainage system will equally satisfy the City's stormwater requirements.

(2) Private streets may be constructed with narrower pavement widths than required for public streets, provided they comply with the Engineering Design Standards.

(e) Whenever a private street and/or driveway is included in a development, deed restrictions shall be required which shall specifically include the following language:

(1) "The undersigned grantee(s) hereby acknowledge(s) that they understand the premises described herein is located upon a non-dedicated private street or driveway. And further, the grantee(s) understand(s) that no government body is responsible for care and maintenance of said private street or driveway."

(f) Walkways shall be provided to connect to common open space areas and to provide convenient pedestrian access throughout the development and from the development to other areas of the community, including public sidewalk and path networks.

1120.05. Building design criteria for all structures.

In reviewing a development application, the appropriate Reviewing Body shall determine that the plan complies with the following building design criteria:

(a) The proposed architectural design shall be a quality design which compliments the prevailing architectural characteristics of the surrounding area. In areas that have predominant historic characteristics, such character shall be a significant consideration in determining compatibility between proposed and existing structures.

(b) Each building or unit of a multiple-building development shall have its own distinct identity and be compatible with adjacent units or buildings in terms of proportion, color, and materials.

(c) Building components, such as windows, doors, eaves, and parapets, shall be composed on a façade of a building with harmonious proportions in relationship to one another and surrounding buildings.

(d) A combination of materials, textures, colors, and finishes are utilized to create visual interest.

(e) Buildings of the same model or elevation are not placed directly across from, diagonal from, or next to each other.

(f) Elevations of the same building shall not be faced with a mix of siding types unless utilized as accent materials.

(g) Entryways shall enhance the ability of the public to find their way into and around buildings and open spaces.

(h) Building elevations visible from public roadways shall be designed with architectural features and accents which contribute to the aesthetic characteristics of the building.

(i) Large buildings including, but not limited to, multi-family and multi-tenant buildings, shall be designed to minimize the scale. This shall be accomplished with any combination of the below:

(1) The façade(s) visible from the public right-of-way or fronting private streets shall be articulated in different planes to reduce the apparent mass of the building.

(2) Exterior materials shall be used creatively to break up the façade of the building, by mixing materials and emphasizing various sections of the façade.

(3) A one-story porch or similar element can be provided to define the front door and entrance of the building and to break up the front elevation.

(4) Sloping roofs such as gable and hipped roofs are the preferred primary roof form.

(j) Any above-grade door that provides direct egress to the outside of a structure shall have, at a minimum, landing(s) and stair(s) to ground level constructed in accordance with any applicable building code. These above grade doorways shall not be obstructed or barricaded in any way. Temporary barricades may only be used during construction or as ordered by the City to preserve the health, safety, and welfare of occupants.

(k) Mechanical equipment which is located on the roof of a building shall either be located in a manner that such structure is not visible from the public right of way or otherwise screened or disguised in accordance with Section 1121.09 of this code.

(l) When existing buildings are to be renovated, the distinguishing qualities or elements of a property that contribute to the overall character should not be destroyed. Removal or alteration of distinctive architectural features should be avoided, except for those considered to be noncontributing.

1120.06. Building design criteria for residential structures.

Residential structures shall adhere to the requirements set forth in this section, regardless of the zoning district in which they are located.

(a) Architectural styles. There shall be a mix of architectural styles within residential developments to avoid a monotonous streetscape.

(b) Residential elevation standards. Schedule 1120.04 establishes minimum residential exterior standards by zoning district.

(c) Elevations shall be measured to include all openings, such as windows, doors, and garage doors, in applying exterior materials.

(1) "Natural Materials" shall include brick or brick veneer, stone or stone veneer, fiber cement (i.e. HardiePlank), wood, and glass.

A. Unless prohibited, materials not listed above may be submitted for consideration along with an application for a certificate of building and zoning compliance for approval by the Director of Planning and Community Development.

(2) Materials prohibited as exterior siding shall include wood fiber composites, plywood (except for soffits and porch ceilings), stucco or synthetic stucco, exterior insulation and finishing systems (EIFS), composition board, or hardboard that has not been approved by the Planning and Community Development Director.

Schedule 1120.064: RESIDENTIAL STRUCTURE MINIMUM EXTERIOR STANDARDS

	A-1	R-SF	R-NT	R-NX[1]	R-MF
(a) Front Elevations					
(1) natural material[2] coverage	50%	50%	50%	50%	100%
(b) Side & Rear Elevations					
(1) natural material coverage				50%	100%
(c) Building Material Minimum Requirements					
(1) siding	Vinyl – 0.42" thick	Vinyl – 0.42" thick	Vinyl – 0.42" thick	Vinyl – 0.42" thick	
(2) roof	Standard, Metal, Slate	Standard, Metal, Slate	Standard, Metal, Slate	Dimensional, Metal, Slate	Dimensional
(3) chimney	Vinyl	Vinyl	Vinyl	Vinyl	Stone/Stone Veneer, Masonry
(4) soffit/ overhang/return	8 in.	8 in.	8 in.	8 in.	
(5) window trim	4 in.	4 in.	4 in.	4 in.	4 in.

[1]multi-family dwelling units in the R-NT and R-NX zoning districts shall comply with the regulations of the R-MF zoning district for design.

[2]for the purposes of this Chapter, natural material coverage shall be measured to include all windows, and wood finished doors. Visible roofs shall not be counted towards natural material coverage.

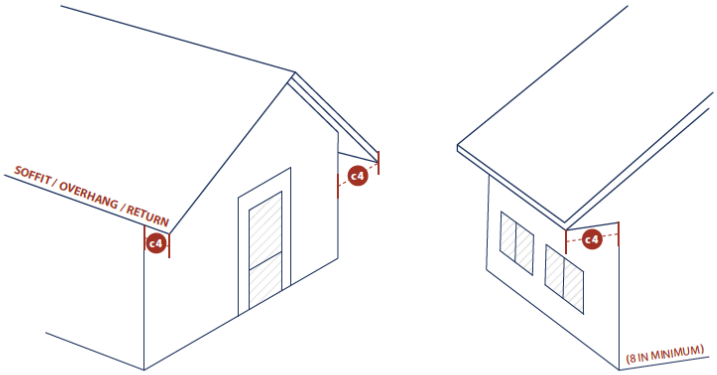


FIGURE 1120.06 (c)(4)

1120.078. Building design criteria for commercial structures.

Commercial structures, including conditional and institutional uses in residential districts, shall adhere to the requirements set forth in this section, regardless of the district in which they are located.

(a) Architectural Styles. There shall be a mix of architectural styles within commercial developments to avoid a monotonous streetscape.

(b) No masonry shall be painted or altered without prior approval from the Planning and Community Development Department.

(c) Required architectural features shall include transparent store and office fronts and other appropriate features to emphasize and reduce the building scale at the front.

(d) There shall be no apparent rear to any building that has public facing elevations and windows and other architectural features shall be utilized to break up expanses of blank walls.

(e) Roof and ground mounted equipment including HVAC systems, service ladders and the like shall be appropriately screened by physical barriers consistent with building design and/or landscaping.

(f) Commercial Elevation Standards. Schedule 1120.05 "Commercial Structure Exterior Standards" establishes minimum commercial exterior standards by zoning district.

Schedule 1120.075: Commercial Structure Minimum Exterior Standards

	C/I: Civic/ Institutional	C-NX: Neighborhood Mixed	C-CC: Community Commercial	C-GC: General Commercial	C-DC: Downtown Commercial
(a) Building Elevations					
(1) natural material[1] coverage	75%	50%	75%	75%	Per Architectural Standards
(2) display window coverage (ground floor)	40%	25%	40%	40%	Per Architectural Standards

[1] for the purposes of this Chapter, natural material coverage shall be measured to include all windows, doors, and other appurtenances. Visible roofs shall not be counted towards natural material coverage.

(g) Elevations shall be measured to include all openings, such as windows, doors, and garage doors, in applying exterior materials.

(1) "Natural Materials" shall include brick or brick veneer, stone or stone veneer, fiber cement (i.e. HardiePlank), wood, and glass.

A. Unless prohibited, materials not listed above may be submitted for consideration along with an application for a certificate of building and zoning compliance for approval by the Director of Planning and Community Development.

(2) Metal and EIFS are only permitted as exterior siding as architectural accents.

(3) Materials prohibited as exterior siding shall include exposed concrete or exposed concrete block (including split faced), Plywood (except for soffits and porch ceilings), or stucco.

(h) In circumstances where a building elevation is not visible from the public right-of-way or adjacent lots, the Reviewing Body may waive natural material and/or window requirements.

1120.089. Building design criteria for industrial structures.

(a) The architectural design of all buildings shall establish proper transitional relationships with adjacent developments. Quality architecture shall be utilized with a consistent look and feel. All structures shall be designed to be architecturally compatible with each other by employing similar roof pitches, architectural details, and be constructed of compatible exterior building materials. All buildings and portions thereof shall retain traditional building massing. Buildings shall incorporate elements and forms that reduce large masses into an assemblage of definable parts. The scale of the buildings(s) shall be aided using different materials and architectural elements to help reduce the perception of the building mass.

(b) Split-faced concrete block and painted standard concrete masonry unit (CMU) ~~block (CMU)~~ are prohibited as exterior building materials. Tilt-up or pre-cast concrete wall panels may be used provided the exposed exterior surface is textured, patterned, or detailed to be complementary to the building design.

(c) No masonry shall be painted or altered without prior approval from the Planning and Community Development Department.

(d) Required architectural features shall include transparent store and office fronts and other appropriate features to emphasize and reduce the building scale at the front.

(e) There shall be no apparent rear to any building that has public facing elevations and windows and other architectural features shall be utilized to break up expanses of blank walls.

(f) Roof and ground mounted equipment including HVAC systems, service ladders and the like shall be appropriately screened by physical barriers consistent with building design and/or landscaping.

DRAFT

CHAPTER 1121. LANDSCAPING AND SCREENING

1121.01. Purpose.

The intent of these landscaping and screening regulations is to promote and protect the public health, safety, and welfare through the preservation and protection of the environment. In addition, these regulations are intended to achieve, among others, the following purposes:

(a) To promote the proper utilization of landscaping and screening as a buffer between certain land uses and to minimize the possibility of nuisances including potential noise, glare, and visual clutter of parking and service areas.

(b) To protect, preserve, and promote the aesthetic appeal, character, and value of the City of Delaware's neighborhoods.

(c) To establish a minimum standard for the consistent appearance of plant material in the community landscape.

(d) To soften the appearance of building masses and paved areas and reduce generation of heat and storm water run-off.

1121.02. Sites affected.

(a) New Sites. No certificates of building and zoning compliance shall be issued hereafter for any development or the construction of any building, structure, or vehicular use except where a final landscape plan for such development or construction has been approved according to the procedures set forth in Chapter 1105 of this code.

(b) Existing Sites. No building, structure, or vehicular use area shall be constructed or expanded unless the minimum landscaping and screening required by this Chapter is provided to the extent of the alteration or expansion, but not for the entire property of which the alteration or expansion is a part unless the alteration or expansion is substantial. An alteration or expansion to an existing property is substantial when:

(1) In the case of a building or structure that does not involve additional land, the square footage of the expansion exceeds twenty-five percent (25%) of the existing building.

(2) In the case where additional land is involved, the additional land or the expanded square footage of a structure exceeds twenty-five percent (25%) of the existing site or structure.

(3) Land as used herein includes land for open space, parking, or building uses.

1121.03. General landscaping and maintenance of yards.

Required yards and all other portions of the lot not covered by permitted structures shall be landscaped with grass, trees, shrubbery, and/or other appropriate ground cover or landscaping material, which at all times shall be maintained in good and healthy condition.

(a) Each lot shall maintain open space with landscaping in compliance with the minimum percentage of the area of the lot specified in the district regulations.

(b) All screening shall be free of advertising or other signs, except for approved signage and other signs for the efficient flow of vehicles.

(c) Trees and shrubs shall be arranged to create varied and attractive views and plant material should provide a variety of color displayed throughout the year.

(d) The required landscaping shall be maintained in healthy condition by the current owner and replaced when necessary. Replacement material shall conform to the original intent of the landscape plan.

(e) Vehicle parking shall not be permitted in landscaped or buffer areas.

1121.04. Tree preservation and replacement requirements.

In all districts, trees shall be preserved or replaced in compliance with the provisions of Chapter 1122, unless exempted therein.

1121.05. Street tree planting requirements.

In all zoning districts, unless the requirement is waived by the Shade Tree Commission, developers shall plant and maintain shade trees along public and private streets in compliance with the following:

(a) Species and Location Requirements.

(1) Trees shall be limited to species characterized as hardy, long-lived shade trees, as defined by the Shade Tree Commission. Tree species will be approved by the Shade Tree Commission and finalized development plans will be shared with the contractor. The development plan should be used to determine which species will be planted on each lot. Any changes to the species made by the contractor due to acquisition issues must be approved by the City Forester.

(2) Location: The development plan provides the total permitted trees that can be planted but is not intended to be an exact reference for planting location or quantity. The following specifications should be used to determine planting locations within each lot and throughout the development. A lot may receive less trees than depicted in the development plan or none at all if spacing does not permit.

(3)

	Height	Spacing	Tree Lawn Requirements[1]
Small Trees	25 ft. tall or less	30 ft. between trees	4 ft. or larger
Medium Trees	25-50 ft. tall	40 ft. between trees	6 ft. or larger
Large Trees	50 ft. or taller	50 ft. between trees	8 ft. or larger
[1] New development requires a minimum 8-foot tree lawn.			

(4) Minimum Clearance of other Structures and Utilities.

A. Driveway, fire hydrant, and utility pole: Ten (10) feet

B. Underground water or sewer line and street sign: Five (5) feet

C. Light post: Twenty (20) feet

D. Utility wires: Only small trees may be planted below wires.

E. Intersections. Street trees are not to be planted where they will obstruct the view of stop signs or traffic signals and no tree shall be planted closer than thirty-five (35) feet to any street corner, measured from the point of nearest intersecting curbs or curb lines.

F. Trees are to be planted within the rights-of-way of roads within and abutting the development unless otherwise directed by the Shade Tree Commission.

G. Each tree at the time of installation shall have a minimum caliper of 1.75 inches and a clear trunk height of at least six (6) feet.

(b) Planting Procedures.

(1) The developer shall provide a map, drawn to an appropriate scale and illustrating the location and species of shade trees to be planted, to the ~~Urban Forestry~~Parks and Recreation Department no less than three (3) days prior to planting.

(2) The contractor shall identify any underground impediments prior to beginning planting by contacting Ohio Utilities Protection Service (OUPS).

(3) The developer shall provide the ~~Urban Forestry~~Parks and Recreation Department with a state inspection certificate and a certificate for tree species authenticity for each tree within five (5) days of planting.

(4) All nursery tags shall remain on planted trees until removed by the ~~Department of Grounds and Facilities.~~ Parks and Recreation Department

(c) Maintenance. The developer shall be required to maintain the trees for two (2) years after the trees are planted and to replace any tree that dies, is damaged, or removed, within such two-year guarantee period.

(1) Upon completion of the street tree planting, the landscape contractor shall contact the ~~Urban Forestry~~Parks and Recreation Department.

(2) The two-year guarantee period shall begin after the approval of the ~~Urban Forestry~~Parks and Recreation Department.

(3) A final inspection shall be made at the end of the guarantee period.

A. The developer shall notify the ~~Urban Forestry~~Parks and Recreation Department within five (5) business days of the end of the guarantee period to schedule the final inspection.

B. All trees not exhibiting a healthy, vigorous growing condition, as determined by the City's inspection, shall be replaced at the expense of the developer or builder.

C. If the City determines that replacement of a tree is required, such replacement shall occur within thirty (30) days of the date the City's inspection report is submitted to the developer. The two-year guarantee period shall begin anew for each replacement tree.

1121.06. Landscaping requirements for front yards.

Except for lots devoted to single-family dwellings and two-family dwellings, all areas within the required building and parking setback, excluding driveway openings, shall be landscaped and maintained in compliance with the following:

(a) One (1) shade tree shall be provided for every fifty (50) linear feet of lot frontage or fraction thereof, not including drive entrances.

(b) Each tree at the time of installation shall have a minimum caliper of 3.0 inches and a clear trunk height of at least six (6) feet. Two (2) 1.75-inch caliper trees may be substituted for each 3.0-inch tree.

(c) One (1) landscape shrub shall be provided for every ten (10) linear feet of lot frontage or fraction thereof, not including drive entrances.

(d) All areas not devoted to trees and shrubs shall be planted with grass, ground cover, or other live landscape treatment.

(e) Foundation plantings shall be distributed evenly around the base of the primary structure(s).

(f) The landscaping may be flexible in its arrangement by appropriately aggregating the required plant materials.

1121.07. Screening and buffering.

Screening and buffering along the entire length of a common boundary shall be provided in accordance with the following regulations and shall be approved as part of the development plan required by Chapter 1105 of this code.

(a) Screening and buffering shall be required according to the following:

(1) When a non-residential use or district abuts a residential use or district.

(2) When a multi-family parcel or development abuts any single-family residential use or district.

(b) Width of Buffer Yard.

SCHEDULE 1112.07 BUFFER YARD REQUIREMENTS [(1)]

	Residential	Commercial	Industrial	Institutional
Commercial	25 ft.	0 ft.	15 ft.	0 ft.
Residential [(2)]	0 ft.	25 ft.	30 ft.	25 ft.
Industrial	30 ft.	15 ft.	0 ft.	30 ft.
Institutional	25 ft.	0 ft.	30 ft.	0 ft.

(1) Schedule 1112.07 applies to lots over one (1) acre. Lots under one acre shall maintain a minimum buffer of fifteen (15) feet against dissimilar uses.

(2) Multi-family buildings containing five (5) or more dwelling units, adjacent to existing one family residential lots, shall maintain a minimum buffer of twenty (20) feet for the first two stories and an additional twenty (20) feet for each additional story. [i.e. a four-story building would require a sixty (60) foot buffer].

(c) Buffers may not contain any paved surfaces with the exception of walking paths or sidewalks.

(d) Screening. When the natural vegetation within the required buffer yard does not form a solid, continuous, visual screen or does not have a minimum height of six (6) feet along the entire length of the common boundary, screening shall be installed in compliance with the following:

(1) Screening Materials. Screening within the buffer yard shall consist of one or more of the following:

A. A dense vegetative planting incorporating evergreen trees and/or screening shrubs of a variety which shall be equally effective in winter and summer. Trees and/or shrubs shall be adequately spaced to form a solid, continuous visual screen within three (3) years after the initial installation.

B. Non-living opaque structures such as a solid masonry wall or a solid fence that is compatible with the principal structure.

C. A fence with openings through which light and air may pass together with a landscaped area at least ten (10) feet wide. A chain link fence shall not be permitted.

D. A landscaped mound or berm at least five (5) feet wide, with no more than a 3:1 slope.

(2) Location. The location of the wall, fence, or vegetation shall be placed within the buffer yard to maximize the screening effect, as determined by the appropriate Reviewing Body.

(3) Height of Screening. The height of screening shall be in accordance with the following:

A. Visual screening by walls, fences, or mounds in combination with vegetation, fences, or walls shall be a minimum of six (6) feet high measured from the natural grade, except as set forth in subsection B. below.

B. Whenever the required screening is located within a front yard or within fifty (50) feet of a parking lot, drive, or driveway entrance, the required screening shall not exceed a height of three (3) feet.

C. When used alone, vegetation shall be a minimum of six (6) feet high, as measured from the natural grade, to accomplish the desired screening effect. The required height shall be achieved no later than three (3) years after the initial installation.

1121.08. Landscaping and screening of parking lots.

(a) Landscaping on the Interior of Parking Lots. All new parking spaces and their associated driving aisle shall be defined by landscaped curbed island. In addition to those parking lot islands, larger parking lots shall provide additional intervening or midway islands to break up large expanses of asphalt, to provide shade for cars and pedestrians, and to be areas to absorb run-off. As such, additional interior landscaping of parking lots shall be provided in accordance with the following requirements:

(1) Landscaped islands shall be developed and distributed throughout the parking lot to:

A. Define major circulation aisles and driving lanes; and

B. Provide visual and climatic relief from broad expanses of pavement.

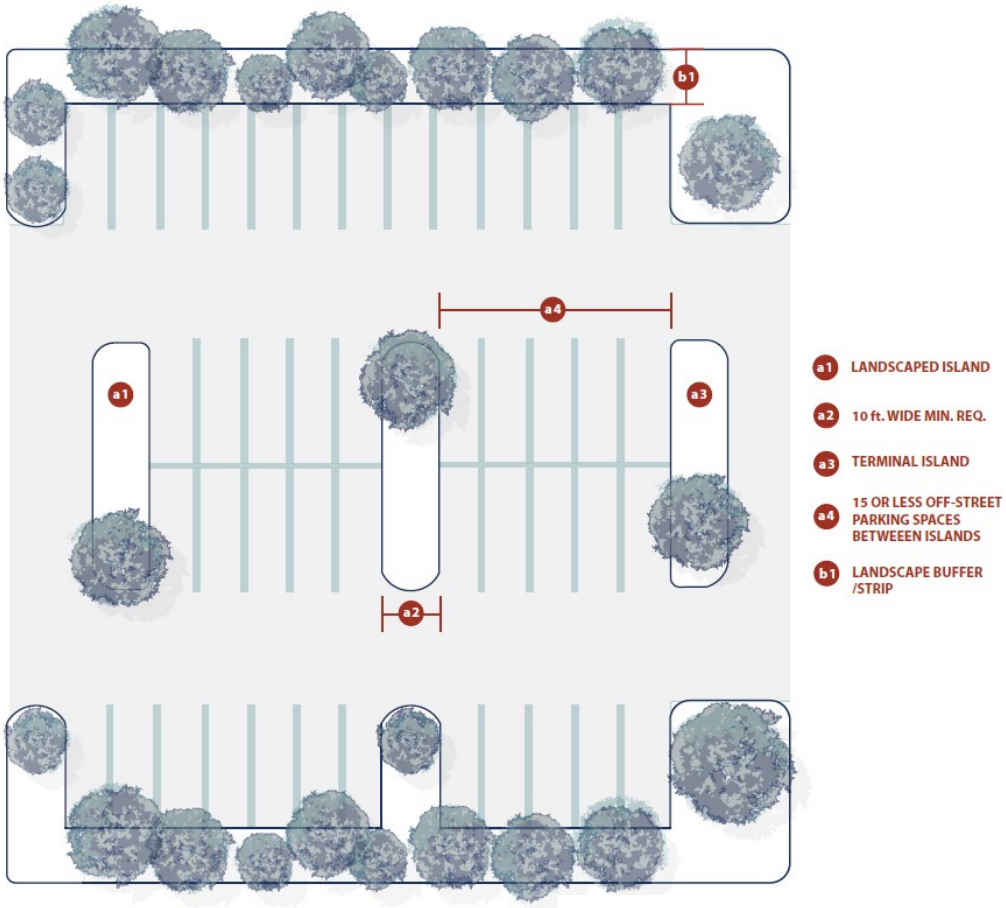


FIGURE 1121.08(a)(1) PARKING LOTS

(2) Each island shall be a minimum of ten (10) feet wide.

(3) Terminal islands shall be required at the ends of all parking bays.

(4) There shall be no more than fifteen (15) off-street parking spaces between landscape islands.

(5) Within the landscaped islands, one (1) shade tree shall be provided for every fifteen (15) off-street parking spaces. Each tree, at the time of installation, shall have a minimum caliper of 3.0 inches and a clear trunk height of at least six (6) feet. Two (2) 1.75-inch caliper trees may be substituted for each 3.0-inch caliper tree.

A. At a minimum, 75% of all parking lot islands shall be planted with perennials and shrubs, not exceeding two feet in height. The remaining 25% may be covered by grass or mulch.

B. Landscaped areas adjacent to the perimeter of the parking area shall not be counted as interior parking lot landscaped areas.

C. Exceptions. In the case where a light pole or other required appurtenance prohibits the installation of trees or other landscaping within an island, that landscaping may be relocated elsewhere on site.

(b) Landscaping on the Perimeter of Parking Lots. The following options may be used individually or in combination for perimeter parking lot landscaping:

(1) Provide a landscape strip between the parking lot and any adjacent property line. The strip shall be ten (10) feet wide for any lots over one (1) acre and five (5) wide for lots under one (1) acre.

A. Within the landscape strip provide one shade tree and three landscape shrubs per thirty-five (35) linear feet of parking lot perimeter adjacent to the property line.

(2) Provide a minimum of twenty-five (25) feet of existing woodlands.

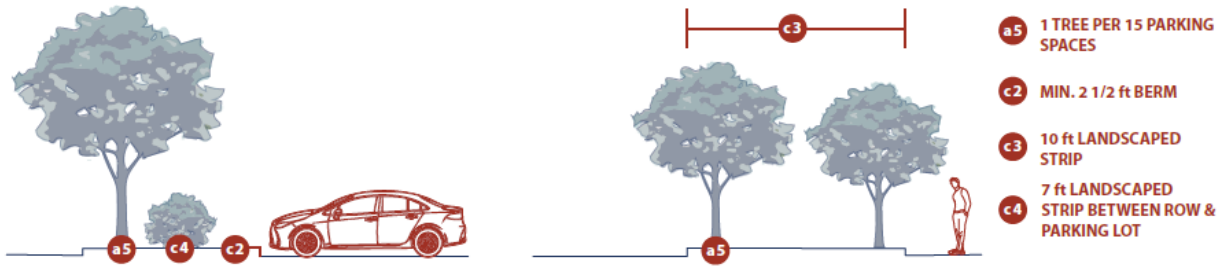


FIGURE 1121.08(b) PERMITER OF PARKING LOTS

(c) Landscape strip requirements. When a parking lot in any zoning district is located adjacent to a public right-of-way, a landscape strip shall be provided on the property between the parking lot and the right-of-way. The landscape strip may not include any paved areas except sidewalks or side paths perpendicular to the roadway. In any district where a greater parking lot setback is required, the greater setback shall prevail. To meet this requirement, any of the following treatments may be used:

(1) Provide a minimum ten (10) foot wide landscaped strip between the right-of-way and the parking lot to be planted with a maximum of one (1) shade tree and ten (10) screening shrubs per thirty-five (35) linear feet of frontage, excluding driveway openings.

(2) Provide a berm, the top of which is at least two and one-half feet higher than the elevation of the adjacent parking lot pavement. The slope of the berm shall not exceed 3:1. Berms should be graded to appear smooth, rounded, and naturalistic with varying heights, not linear in design. Plant with a minimum of one (1) shade tree per thirty-five (35) linear feet of frontage, excluding driveway openings.

(3) Provide a minimum ten-foot-wide landscaped strip and a minimum three-foot grade drop from the right-of-way line to the adjacent parking lot pavement. Plant the resulting embankment with a minimum of one (1) shade tree and five (5) landscape shrubs per thirty-five (35) linear feet of frontage excluding driveway opening.

(4) Provide a minimum seven-foot-wide landscaped strip between the right-of-way line and the parking lot with a minimum three (3) foot high brick, stone, or finished wall, matching the architecture, construction materials, and colors of the principal structure. Plant with a minimum of one shade tree per thirty-five (35) linear feet of frontage, excluding the driveway openings.

(d) Bioswales and raingardens. The use of bioswales and raingardens is encouraged within parking lots and may supplant the requirements of this Section. The final design of any bioswale or raingarden must be reviewed and approved by the City Engineer.

1121.09. Additional screening requirements.

For all developments, screening of accessory uses shall be provided according to the following:

(a) Trash Receptacles.

(1) Applicability. These provisions shall not apply to single unit trash receptacles.

(2) Trash receptacles in all developments shall consist of a solid, opaque enclosure constructed of brick, decorative concrete, integrated color concrete block or other decorative masonry and shall be consistent with the architectural character of the principal structure. The open end of the enclosure shall have a 100% solid opaque metal, vinyl, PVC, or wooden gate with self-closing hinges that includes stop pins to lock the gates open for servicing and which are not readily degradable due to sunlight, moisture, or wind.

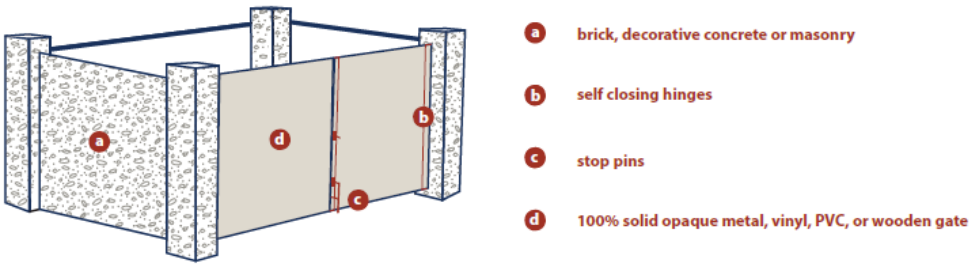


FIGURE 1121.09(a) TRASH RECEPTACLES

(3) Trash receptacles may be further regulated according to the provisions of Section 1130.05 of this code.

(b) Ground mounted and roof mounted mechanical equipment.

(1) Applicability. These provisions shall not apply to HVAC units for one, two, three or four family dwellings that are not part of a greater overall multi-family complex.

(2) All ground mounted and roof mounted mechanical equipment such as HVAC systems and the like, shall be screened from ordinary public view, from the public streets, public rights-of-way, and from abutting or adjacent properties.

(3) Screening of ground mounted mechanical equipment shall consist of either:

A. A solid opaque enclosure constructed of brick, decorative concrete, integrated color concrete block, or other decorative masonry and shall be consistent with the architectural character of the principal structure

B. Landscape material such as shrubs, grass, and or evergreen trees to create an opaque natural enclosure

(4) Screening for roof mounted mechanical equipment shall consist of parapet walls or other screening consistent with the materials of the building.

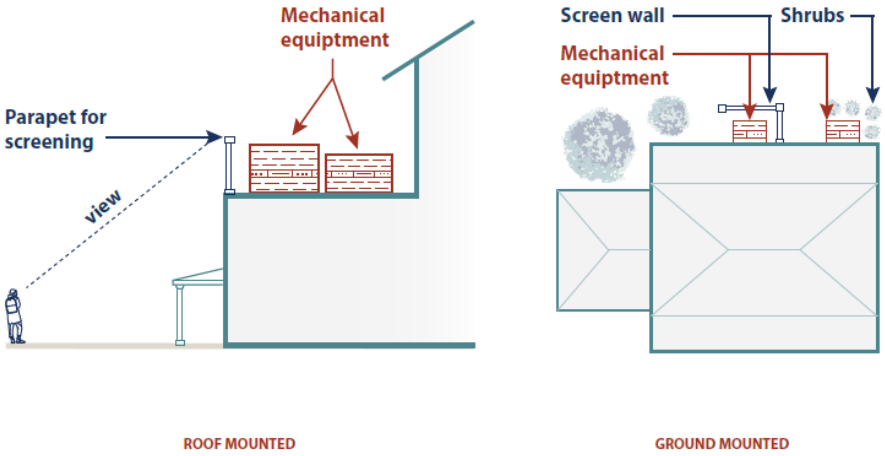


FIGURE 1121.09(b) MECHANICAL EQUIPMENT

(c) Loading and Service Areas. Each loading area shall be screened along any perimeter that can be seen from a street right-of-way or adjoining property according to the screening requirements of Section 1121.07(d).

(d) Accessory Drive-Thru Lanes. Drive-Thru lanes visible from a public right-of-way shall be screened according to the requirements of Section 1121.07(d).

(e) Outdoor Storage. Permitted accessory outdoor storage of goods, supplies or equipment used in the operation of an establishment shall be screened according to the requirements of Section 1121.07(c).

1121.10. Approval process for required landscaping, fences, and walls.

Proposed landscaping, fences, or walls required to fulfill the standards and criteria of this chapter shall be reviewed and approved as part of a development plan pursuant to Chapter 1105 of this code. One and two-family dwellings shall be exempted from these requirements.

(a) Fences and Walls.

(1) When a fence or wall is proposed at a separate time from any other development for new construction, additions or site renovation, a fence or wall may be approved administratively by the Director of Planning and Community Development.

(2) Fences and walls shall comply with the regulations set forth in Chapter 1130.

(b) Required Landscaping. When landscaping is required, no certificate of building and zoning compliance shall be issued until the required landscaping is completed as certified by City inspection.

(1) Upon completion of the planting, the landscape contractor shall contact the Planning and Community Development department for a final inspection.

(2) All plantings not exhibiting a healthy, vigorous growing condition, as determined by the City's inspection, shall be replaced at the expense of the developer or builder. If the City determines that replacement of a planting is required, such replacement shall occur within thirty (30) days of the date the City's inspection report is submitted to the developer.

(c) Upon final inspection, if landscaping has not been installed per the approved landscape plan and the requirements of this Chapter, a revised landscape plan shall be submitted to the Planning and Community Development Department in the form of an incidental modification to the approved development plan for reapproval and reinspection, per the procedure set forth in section 1105.17 of this code.

(a) Said plan shall show additional landscaping proposed to be installed in order to adequately meet the requirements of this Chapter.

(b) Upon completion of the supplemental planting, the landscape contractor shall contact the Planning and Community Development department for a final inspection.

(d) Maintenance. The developer and/or property owner shall be required to maintain the required landscaping in perpetuity after the items are planted and to replace any approved landscaping that dies, is damaged, or removed.

1121.11. Flexibility.

The standards and criteria in this Chapter establish the City's objectives and levels of landscaping intensity expected. However, in applying these standards, the appropriate Reviewing Body may:

(a) Adopt a "Planting Manual" and "Plant List" establishing minimal requirements to use as guidelines for meeting the provisions of this chapter.

(b) Exercise discretion and flexibility with respect to the placement and arrangement of the required elements to ensure that the objectives of this district and the proposed development or redevelopment are best satisfied.

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CHAPTER 1122. TREE PRESERVATION

1122.01. Purposes.

This Cchapter seeks to preserve and enhance tree canopy to protect the public health, safety, and welfare of the City, recognizing the long-term health and safety, property value, economic, environmental, and community benefits provided by tree canopy specifically and tree preservation generally.

The benefits of tree canopy arise specifically from the following characteristics:

(a) Conservation of energy;

(b) Improved air quality;

(c) Reduction of noise pollution and light glare;

(d) Enhancement of habitat for birds and other desirable wildlife;

(e) Improvement of soil stability and erosion control;

(f) Increase of stormwater retention and runoff control;

(g) Increase of property values;

(h) Mitigation of heat island effects;

(i) Provision of visual screening and windbreaks;

(j) Enhancing the aesthetic character of the community;

(k) Contributing to public health; and

(l) Carbon sequestration.

These and other public benefits of tree canopy coverage cannot be realized on public property alone. This chapter recognizes that to preserve and enhance the public benefits of the tree canopy stated above, it is necessary to provide for shared responsibility among the City and private parties that is proportionate to their impact on the City's tree canopy.

1122.02. Applicability.

(a) The requirements of this chapter apply to:

(1) All real property in the City except as specifically exempted herein;

(2) All real property annexed to the City, where trees have been removed from such property within one year prior to its submittal of a petition to annex to the City; and

(3) Any activity that requires the issuance of a development permit involving site disturbance for any non-residential, multi-family residential, or mixed-use; or

(4) Any activity that requires the issuance of a development permit involving site disturbance for any one- or two-family residential use, where such site disturbance is one-(1) acre or more; or

(5) Any activity that requires the issuance of a development permit involving site disturbance and that is part of a larger common plan of development or sale.

(b) The requirements of this Cchapter do not apply to:

(1) Routine maintenance of existing trees, including pruning done in a manner consistent with established arboricultural standards; or

(2) The removal of dead, severely damaged, or diseased trees that have been diagnosed and, if applicable, determined by a certified arborist to be beyond treatment or recovery, the burden of proof being upon the person removing the tree; or

(3) Any tree nursery, silvicultural activity, or agricultural activity, defined as "agriculture" by the Ohio Revised Code and in an agricultural zoning district of the City; or

(4) The removal of trees in a utility or road right-of-way, provided that such activities shall be done to minimize loss of tree cover; or

(5) Removal of trees identified as invasive on the list maintained by State Department of Agriculture at Ohio Administrative Code 901:5-30-01 or successor thereof.

1122.03. Administration.

(a) This chapter shall be administered by the Planning and Community Development Director. The assignment of administrative responsibility of this chapter to the Director shall not be construed as prohibiting the Director from soliciting the assistance and expertise of other City officials, including but not limited to the Department of Parks and Recreation, or other subject matter experts.

(b) A party seeking to develop real property to which this chapter applies shall be required to submit a tree canopy management plan to the Director prior to commencing site disturbance activities. The tree canopy management plan shall be prepared by an arborist or landscape architect. The tree canopy management plan shall constitute an application for tree removal, and approval of said plan shall constitute a permit to remove trees in accordance with said plan. The tree canopy management plan shall include:

(1) A map, drawn to scale, of the site and immediate adjacent property with existing tree canopy delineation and existing canopy tree groupings (general areas of trees of similar character), including such groupings on adjacent properties and within fifty (50) feet of the property line, and an accompanying table of existing tree species on the site, with general assessment of the typical age, size, health, structural stability and risk assessment, and construction tolerance thereof. Stands of trees for which no alteration or impact is proposed, need not be documented by a tree survey but must include a qualitative statement of the tree species and condition that can be verified in the field. The delineation of existing tree canopy coverage may be documented by survey or by using current aerial photographs available through the County's Geographic Information Systems mapping or other source approved by the Director.

(2) A map or maps, drawn to scale, of the proposed development layout, which shall include:

A. Footprints of proposed buildings, other structures, and pavement areas;

B. Limits of land disturbance to occur in association with the development;

C. Property lines;

D. Proposed new landscape and tree planting areas;

E. Delineation of proposed tree canopy cover, at the time of completion of the site development, with an accompanying table of planned composition of the proposed tree canopy cover, and providing that no more than thirty percent (30%) of newly planted trees on site may be represented by any one tree family, twenty percent (20%) in any one tree genus, and ten percent (10%) in any one species;

F. Delineation of proposed tree canopy cover upon occurrence of mature canopy size as indicated by tree nursery estimates for proposed and existing tree cultivars, with a table for proposed tree species or reference to materials concerning mature canopy size for various cultivars as maintained by the Department of Parks and Recreation;

(3) A narrative stating plans for preservation of existing tree canopy cover as it relates to the following priority areas:

A. Preservation of rural viewsheds for adjacent property owners and motorists on adjacent roads;

B. Preservation of contributing canopy tree groupings that cross property lines;

C. Preservation of trees adjacent to watercourses and wetlands;

D. Preservation of trees in locations where, due to grade or soil structure, the removal of trees would have greater tendency for negative impact to soil stability and erosion; and

E. Preservation of trees and tree groupings of sufficient size and configuration to provide habitat, for wildlife, including but not limited to wildlife corridors.

(4) A description of site soil and hydrology characteristics, and implications for development, tree tolerance, and survival.

(5) A narrative description of the overall strategy for tree canopy provisions on the site, including proposed tree protection strategy during construction.

(6) Such application review fee as is established from time-to-time by Council.

(7) Such additional information as determined by the Director to be advisable for the efficient review of tree canopy management plans and the administration of this chapter.

(c) The Director shall cause the tree canopy management plan to be reviewed and may inquire of the party submitting said plan for additional information. The Director may require an onsite conference with the Director or the Director's designee(s) to evaluate the information provided in the submitted tree canopy management plan. The Director, following review, may approve; approve with conditions; or disapprove the tree canopy management plan.

(d) The Director shall send the reviewed tree canopy management plan to Shade Tree Commission concurrently with the development review process detailed in Chapter 1105.

(e) Conformance in all respects with an approved tree canopy management plan, and any conditions of approval thereof, shall be required prior to issuance of a certificate of zoning approval or final plat approval.

1122.04. Target canopy and minimum canopy provisions.

(a) The City establishes the target tree canopy coverage for the City as thirty percent (30%). Tree canopy coverage shall mean the total area of the City covered by tree canopy, as determined by the Director of Parks and Recreation, divided by the total area of the City and multiplied by one hundred. The Director of Parks and Recreation shall calculate the total tree canopy coverage of the City not less than every five (5) years after adoption of this chapter.

(b) Following calculation of the City's tree canopy coverage as set forth in division (a) of this Section, the Director of Parks and Recreation shall provide such calculation to the Shade Tree Commission, along with a report and recommendation of whether to revise either the target tree canopy coverage or the minimum tree canopy coverage set forth herein. The Shade Tree Commission shall review the report and recommendation and may either adopt the report and recommendation for adoption by Council or may adopt its own recommendation for action by Council.

(c) Tree canopy coverage for a site shall mean the total area of the site covered by tree canopy, as determined by the arborist or landscape architect who prepared the tree canopy management plan, divided by the adjusted total area of the site and multiplied by one hundred. The adjusted total area of a site shall be equal to the total area of the site that is subject of the development application, minus the area of any right of way required to be dedicated pursuant to the City's thoroughfare plan and any cleared stormwater detention or retention areas, as required by the City Engineer.

(1) For sites in an industrial district, the minimum tree canopy coverage shall be the greater of five percent (5%), or twenty-five percent (25%) of the tree canopy coverage for the site as measured prior to development.

(2) For sites in other districts, the minimum tree canopy coverage shall be thirty-five percent (35%).

(d) All development activities subject to this chapter shall be required, as projected for the site based on the mature canopy size as indicated by tree nursery estimates for the tree cultivars existing or proposed for the site, to meet or exceed the minimum tree canopy coverage for the development site. The minimum tree canopy can be met with existing trees and newly planted trees, provided however that existing trees shall comprise at least one-third of required canopy coverage unless the pre-development existing canopy coverage is insufficient to meet this threshold, in which case existing trees shall comprise the greatest percentage of minimum tree canopy practicable and as approved by the Director in a tree canopy management plan.

1122.05. Payment in lieu of minimum tree canopy.

(a) It is acknowledged that it may be infeasible, due to site conditions, arboricultural, engineering, or other environmental factors, for the minimum tree canopy to be provided on a given site. In such circumstances, and as approved by the Director in a tree canopy management plan, a party may submit to the City a fee-in-lieu of providing the minimum tree canopy on the development site.

(b) The fee-in-lieu of minimum tree canopy shall be calculated on the basis of $1.20 per square foot or part thereof that is in deficit of the minimum tree canopy coverage. The fee shall be estimated in the tree canopy management plan and confirmed after completion of construction and prior to issuance of a certificate of zoning compliance or final plat approval. The Shade Tree Commission shall review this fee and make a recommendation to increase, decrease, or maintain at the same level, on the same schedule as the Shade Tree Commission's of target and minimum tree canopy provisions.

(c) The fee-in-lieu shall be deposited in the City's tree fund, for uses as permitted by said fund, which shall include planting of trees on public property or publicly held easements, and expenses of maintenance, equipment, and limited administrative costs relative to public trees.

1122.06. Planting and maintenance requirements.

(a) All newly planted trees shall be of the variet(ies) approved in the tree canopy management plan and, if applicable, an approved landscape plan. All newly planted trees shall be a minimum of one and three-quarter caliper inches (1.75") for deciduous cultivars or six (6) feet tall for evergreen cultivars.

(b) Replacement trees that may reach a height of thirty (30) feet shall not be planted within twenty (20) feet of an overhead power line.

(c) Trees shall be planted an adequate distance from access drives and intersections so that, at full maturity, such planting shall comply with Section 1149.06 to ensure the unobstructed visibility of motorists and pedestrians.

(d) The developer, owner, or association of owners shall be required to maintain all newly planted trees in perpetuity.

(e) Preserved or replacement trees shall not subsequently be removed from a site unless approved pursuant to this chapter, unless otherwise exempt under Section 1122.02.

(f) The City will require the original owner of any property on which trees have been preserved or replaced according to the requirements of this chapter to add a restrictive covenant or easement (or other mechanism as required by the Director) to the deed or plat that shall inform subsequent purchasers, lessees or occupants of the site that trees shall not subsequently be removed from a site except when approved pursuant to this chapter.

1122.07. Variance and appeal.

Applications for variance from the provisions of this chapter, or appeal from a determination of the Director, shall be heard by the City's Board of Zoning Appeals and in accordance with the procedures set forth in Chapter 1105.

CHAPTER 1123. OFF-STREET PARKING AND LOADING

1123.01. Purpose.

Off-street parking regulations are established to achieve, among others, the following purposes:

(a) To ensure an appropriate level of motorized and non-motorized parking facilities are provided to support a range of transportation, land uses, and housing types.

(b) To manage growth and ensure multimodal parking facilities are provided in accordance with the goals outlined in the City of Delaware Comprehensive Plan.

112331.02. Relevant chapters for cross-reference

Title	Chapter
Definitions	1102
Procedures ~~(for approval)~~	1105
Landscaping & Screening	1121
Standards for Exterior Lighting	1124
Signs ~~Regulations~~	1125

1123.03. Parking facilities required.

(a) Accessory off-street parking facilities, including access driveways, shall be provided prior to the occupancy of any building or use. Facilities shall be provided for the entire building or use in accordance with the regulations contained in this Chapter whenever:

(1) A building is constructed.

(2) The use of an existing building is changed to a use requiring more parking facilities as determined by the Director of Planning and Community Development.

(3) An existing building is altered and there is an increase in seating capacity, building floor area, or number of employees.

(b) All required off-street parking facilities shall continue unobstructed in operation and shall not be reduced below the required size as long as the principal use remains, unless an equivalent number of spaces are provided for said use in another approved location.

1123.04. Units of measure.

In computing the number of parking spaces required by this chapter, unless otherwise specifically indicated, the following rules shall apply:

(a) Floor Area. Where floor area is designated as the standard for determining parking space requirements, net floor area shall be used.

(b) Seats. Where the number of seats is designated as the standard for determining parking space requirements, the number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs or similar seating facilities shall be used.

(c) Employees. Where the number of employees is the standard for determining parking space requirements, employees shall mean the maximum number of employees during the largest shift.

(d) Fractional Numbers. Where the computation results in a fractional unit, one additional off-street parking space shall be provided.

(e) Parking for Mixed Uses. A building or group of buildings containing two (2) or more uses, operating normally during the same hours, and which have different off-street parking requirements, may jointly provide spaces for not less than the sum of the spaces required for each use.

1123.05. Required parking spaces.

(a) Location of Spaces. All required off-street parking spaces shall be located on the same lot as the use served. Where land is not available on the same lot, or where an approved shared parking facility is available on a nearby lot per Section 1123.09, the appropriate Reviewing Body may modify the location of parking facilities to permit such facilities on another lot within 300 feet walking distance of the building or use.

(b) Number of Spaces Required. The number of off-street parking spaces for each facility or use shall be determined according to Schedule 1123.05. For a use not specified in this Schedule, the appropriate Reviewing Body shall apply the standard for a specified use that the Reviewing Body determines to be most similar.

(c) Planned Unit Development (PUD) Zoning District Parking Requirements. Applicants proposing a PUD shall work with the Director of Planning and Community Development during the development plan process set forth in Chapter 1105 of this code to provide an individualized parking plan establishing both ~~minimum~~ off-street parking and bicycle parking facilities. The applicant shall be permitted to develop modified parking and off-street loading standards for the number of spaces necessary for each permitted use within the PUD development plan, or adopt the parking requirements of Schedule 1123.05, and the off-street loading requirements of 1123.13. Parking and off-street loading standards shall be specified in the development plan and approved by the appropriate Reviewing Body.

~~(c)~~(d) Parking Maximum. The number of off-street parking spaces permitted for any development shall in no case exceed 10% of the minimum spaces required as set forth in Schedule 1123.05.

Schedule 1123.05. REQUIRED OFF-STREET PARKING SPACES

Principal Building or Use	Minimum Spaces Required[1]
(a) Residential Uses	
(1) One, two, three, or four family dwelling	1 space per dwelling unit
(2) Multi-family dwelling	1.5 spaces per dwelling unit
(3) Residential care facility or nursing home	1 space per employee plus 1 space per 4 beds
(b) Community Facilities	
(1) Art gallery, library, or similar public cultural institutions	See Section 1123.05
(2) Day care, child or adult	
(3) Hospital	
(4) Place of worship	
(5) School, college/university, high school, primary or secondary, trade/ business, or cultural arts	
(c) Office and Professional Uses	
(1) Office—Administrative, business, and professional (excluding medical and dental offices)	1 space per employee plus 1 space per 400 square feet of floor area
(2) Medical or dental office or clinic or veterinary office	1 space per employee plus 1 space per patient room
(3) Financial institution/bank	1 space per 300 square feet of floor area

(4) Research and development facility	1 space per employee plus 1 space per 500 square feet of floor area
(d) Retail and Service Uses	
(1) Retail or service establishment	1 space per employee plus 1 space per 300 square feet of floor area
(2) Hotel or motel	1 space per guest room, plus 1 space per employee
(3) Funeral home and related facilities	1 space per employee plus 1 space per 50 square feet of floor area in the public rooms, plus one space for each vehicle maintained on the premises
(4) Restaurant	1 space per employee plus 1 space per 250 square feet of floor area
(5) Self-service storage	1 space per employee plus 1 space per 400 square feet of office area
(e) Automotive Uses	
(1) Gasoline stations[2]	1 space for every 2 pumps, plus 1 space per employee, plus 1 space per 300 square feet of floor area
(2) Heavy automotive repair garage	1 space per 200 square feet of floor area
(3) Automotive, truck and trailer sales, or rental	1 space per 400 square feet of floor area in sales/showroom, plus 1 space per service bay
(4) Light automotive service station	1 space ~~for every 2 pumps~~per employee, plus 2 spaces per service bay
(5) Car wash	1 space per employee
(6) Terminal—Bus, cab	1 space per 200 square feet of floor area, plus 1 space per vehicle used in the conduct of the business
(f) Recreation and Entertainment	
(1) Bowling alley	1 space per 300 square feet of floor area
(2) Golf course[3]	1 space per employee plus 4 spaces per green
(3) Health or fitness club	1 space per employee plus 1 space per 300 square feet of exercise area, including locker and equipment rooms
(4) Indoor auditorium, sports arena, theater, stadium, gymnasium or public meeting rooms (excluding school facilities)	1 space per employee plus 1 space for every 4 seats
(5) Private membership club or lodge	1 space per 500 square feet of assembly area
(g) Industrial Uses	
(1) Production/manufacturing	1 space per employee plus 1 space per 400 square feet of administrative office space
(2) Warehouse, distribution, or indoor storage	
(3) Wholesale facility	

[1] A minimum of five (5) spaces is required for each use other than a one-family or two-family dwelling.
[2] Each pump space may count towards total parking count.
[3] Retail shop or on-site restaurant uses will adhere to appropriate retail and service uses parking requirements in Schedule 1123.05(d).

1123.06. Specific standards for community facilities.

All proposed uses in Schedule 1123.05(b) Community Facilities shall provide an individualized parking assessment for review and approval by the appropriate Reviewing Body.

(a) A parking assessment shall be submitted with the development plan for all proposed uses, according to the procedures set forth in Chapter 1105 of this code.

(b) The goal of the parking assessment is to document the applicant's request to provide the appropriate number of parking spaces based on site specific needs or varying parking demands. In reviewing the parking assessment, the Reviewing Body may approve a fewer number of parking spaces, provided the parking that is proposed shall satisfy the parking demands of the use without placing excess burden on other available parking or in surrounding areas of the City.

(c) The parking assessment shall include a description of the use and its anticipated relationship to, and impact on, the surrounding community. At a minimum, the assessment shall include the following:

(1) The nature of the proposed uses, activities, and events that will be accommodated.

(2) The maximum design capacity of the facility.

(3) The anticipated pattern of use, including peak hours.

(4) The estimated traffic generation and parking demand, including the estimated number of parking spaces required at peak capacity.

(5) The current supply and utilization of parking spaces in the immediate area as well as total number of parking spaces available.

(6) How the available spaces will serve to meet the needs of the proposed use.

(7) Suggested parking management solutions to address any anticipated discrepancy between the number of parking spaces available and anticipated parking demand.

1123.07. Waiting spaces for drive-thru facilities.

Drive-thru establishments and other establishments that, by their nature, create lines of customers waiting to be served within automobiles shall provide off-street waiting spaces on the same lot as the use. Such waiting or stacking spaces shall be provided according to the regulations specified below.

(a) Minimum Number of Waiting Spaces. Off-street waiting spaces shall be provided in addition to the required number of parking spaces specified in Schedule 1123.05, in accordance with Schedule 1123.07:

Schedule 1123.07. MINIMUM NUMBER OF WAITING SPACES

Type of Establishment	Minimum Number of Total Spaces	Measured From
(1) Establishments serving and/or selling food and/or drinks	10 waiting spaces	Order box
(2) Facilities with service or drive-thru windows such as banks, ATM's, ticket/toll booths, and pharmacy/drug stores	5 waiting spaces, but not less than 5 spaces per window/stall when there are 2 or more windows or stalls	Teller or window
(3) Automatic car wash facilities where a chain conveyor or similar method is used to move vehicle through the structure	5 waiting spaces	Entrance
(4) Self-serve car wash facilities	2 waiting spaces per stall	Entrance

(b) Waiting Space Dimensions. Each off-street waiting/stacking space shall have an area not less than 144 square feet (measuring 8 feet by 18 feet) exclusive of access drives and parking aisles.

(c) Location of Waiting Spaces. All waiting/stacking spaces shall comply with the parking setback requirements of the district in which they are located, except for the inside lane of waiting/stacking spaces that are located closest to the wall of the principal use.

(1) The required waiting spaces shall not interfere with other circulation and parking for the principal use, although spaces should be designed to interfere or impede on- and off-site traffic movements as little as possible.

(2) In no case shall vehicles be permitted to wait within any public right-of-way for service at such drive-in or drive-thru facilities.

1123.08. Allowance for shared parking.

The appropriate Reviewing Body may approve a development plan or individual parking plan with a reduction in the number of parking spaces required if it can be shown that the lesser number of spaces is appropriate and consistent with these regulations under the following conditions:

(a) In a project where different components of the use have different parking requirements because of varying peak demands, the parking demands of the uses can be adequately accommodated with a lesser number of parking spaces than that which is required based on the sum of the various uses computed separately.

(b) Two or more non-residential uses may jointly provide and use parking spaces when their peak business hours do not normally overlap. In such case, not more than fifty percent (50%) of the required parking spaces shall be shared. A written agreement must be approved by the appropriate Reviewing Body and filed as a part of a development plan or individual parking plan according to the procedures set forth in Chapter 1105.

1123.09. Specific standards for the Downtown Commercial district.

Due to the nature of the Downtown Commercial District, the original Central Business District and expanded areas of the Central Business District shall comply with the parking requirements listed below. For the purposes of this Ordinance, expanded areas of the Central Business District shall be any lands rezoned to the Downtown Commercial zoning classification.

(a) No off-street parking shall be permitted between the established building setback and the public right-of-way.

(b) In expanded areas of the Central Business District, the number of off-street parking spaces required for each facility or use shall be fifty percent (50%) of the standards set forth in Schedule 1123.05.

(c) However, in recognition of unique building and site characteristics that may be present in these expanded areas of the Central Business District, the appropriate Reviewing Body may approve a development plan with fewer parking spaces than fifty percent (50%) of requirements set forth in Schedule 1123.05. In order for the Reviewing Body to consider a reduction in the required number of spaces, the applicant must demonstrate that such a reduction is warranted based on the following criteria:

(1) The character of the proposed use, the design of the building, and the ability of the proposed use to reinforce the surrounding environment.

(2) The availability and accessibility of public parking spaces, both on-street and within public parking lots.

(3) The availability of shared parking areas on adjacent sites, considering the hours of operation of the proposed use compared to adjacent uses.

(4) The availability and use of public transportation.

(5) The potential negative impact to the character of the Central Business District if the requisite number of parking spaces is provided.

1123.10. Parking design standards.

(a) All parking areas shall be designed and constructed to promote the safety of circulation within a single parking area, and among any adjacent parking areas. Such areas shall also provide efficient ingress and egress points with respect to all affected public streets or public alleys. Where possible, parking shall be placed in the side or rear yard of the principal building.

(b) In accordance with the Americans with Disabilities Act (ADA), all new construction and alterations to commercial facilities and places of public accommodation shall provide parking spaces that are designed and constructed to be readily accessible to persons with disabilities.

(c) Off-street parking areas shall be designed and constructed in accordance with the minimum dimensions set forth in Schedule 1123.10, based on the angle of the spaces. Figure 1123.10 illustrates the requirements for each angle scenario.

Schedule 1123.10. MINIMUM PARKING SPACE DIMENSIONS[2]

	45º	60º	90º	Parallel
(a) Width of parking space[1]	9 ft.	9 ft.	9 ft.	9 ft.
(b) Length of parking space	19 ft.	19 ft.	19 ft.	23 ft.
(c) Width of parking aisle	18 ft.	18 ft.	24 ft.	12 ft.
(d) Circulation aisle (one-way)	18 ft.	18 ft.	24 ft.	18 ft.

[1] When a parking space is located adjacent to walls, columns, or other obstructions, the minimum width of the parking space shall be increased to ten (10) feet.
[2] (*x*) letters refer to illustration in Figure 1123.10.

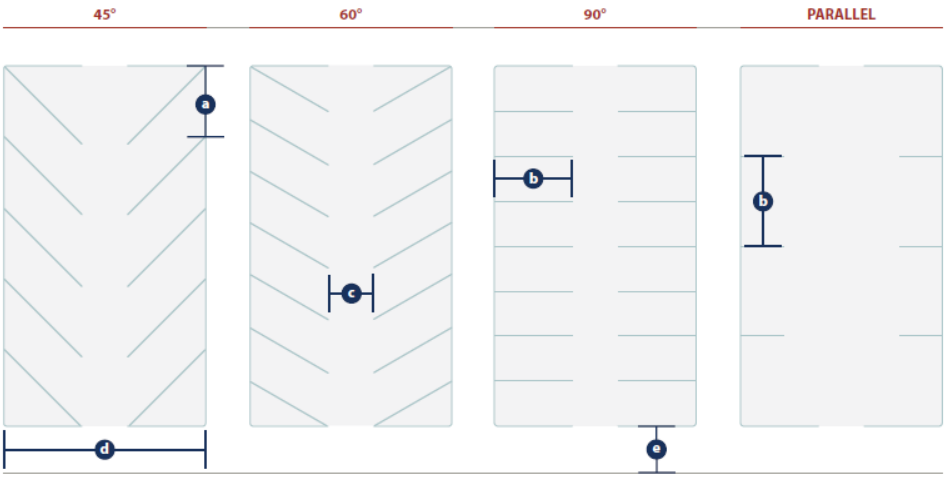


Figure 1123.10—PARKING STANDARDS

1123.11. Bicycle Access and Parking Requirements.

(a) Any new development, expansion of an existing building 1,000 square feet or more, or major renovation of an existing building, shall provide short-term bicycle parking based on the provisions of this section.

(b) Short-term bicycle parking shall be located within fifty (50) feet of, and clearly visible to, the main entrance of the building. Short-term bicycle parking accommodates visitors, customers, messengers, and other persons who intend to depart within two (2) hours or less. Fixtures include bicycle racks, which may be unsheltered.

(c) Bicycle Parking Requirements and Design.

(1) Standard bicycle parking spaces shall be a minimum of six (6) feet long and two (2) feet wide.

(2) Bicycle parking spaces shall not encroach upon pedestrian walkways.

(3) Designated bicycle parking spaces shall include adequate lighting.

(4) Bicycle racks shall provide two points of contact with the bicycle frame such as an inverted "U" or a post and ring and shall allow locking of frame and at least one wheel with a U-lock. Wave, schoolyard, wheel well, bollard, and spiral racks are prohibited.

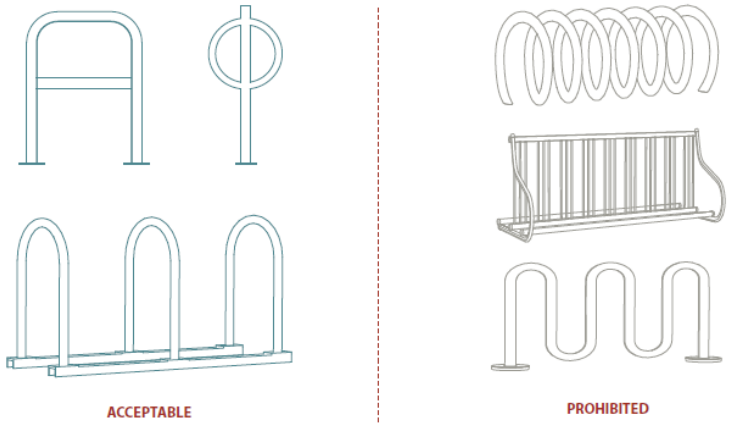


Figure 1123.11—BICYCLE RACKS

(d) Long-Term Bicycle Parking.

(1) There are no minimum long-term bicycle parking requirements, however, for every five (5) long-term bicycle spaces provided, 5% of required vehicle parking spaces may be deducted from the required minimum.

(2) Long-term bicycle parking shall be provided in a well-lit, secure, and enclosed location within convenient distance of a public entrance, lobby, or other common area within the principal building.

(3) Examples of appropriate long-term bicycle parking facilities include the following:

A. A bicycle locker

B. A lockable bicycle cage or other enclosure

C. A lockable bicycle room

D. A designated place visible from employee workstations

(4) Long-term bicycle parking spaces shall be designed to ensure protection from vandalism, theft, and weather, while remaining easily accessible to intended users.

Schedule 1123.11. MINIMUM BICYCLE PARKING REQUIREMENTS

Use	Short-term Parking Requirement[1]
(1) Multi-family dwelling	1 per 5 dwelling units
(2) Retail sales and services	2 spaces plus 1 per additional 2,000 sq. ft.
(3) Office and general commercial	2 spaces plus 1 per additional 10,000 sq. ft.
(4) Industrial	2 spaces plus 1 per additional 10,000 sq. ft.
(5) Primary school	3 spaces per 10 students
(6) Community facility	2 spaces plus 1 per additional 4,000 sq. ft.

[1] A minimum of two bicycle parking spaces must be provided for each principal use where bicycle parking is required. After the first twenty (20) bicycle parking spaces, no additional bicycle parking is required for a principal use.

1123.12. Regulations for access drives.

(a) The location and width of entrance and exit driveways to parking facilities for non-single-family uses shall be planned to interfere as little as possible with the use of nearby property and with pedestrian and vehicular traffic on the nearest streets.

(b) The location, width, and number of entrance and exit drives shall be in accordance with the City Engineering Design standards listed below:

(1) Location. Access driveways shall be located at least forty (40) feet from the right-of-way line of the nearest intersecting street and no less than twenty (20) feet from the side property line.

(2) Number of Drives. Each lot shall be permitted one two-way access drive per street frontage that is wider than 40 feet. Upon reviewing the site plan, the appropriate Reviewing Body may permit additional access drives.

(3) Width of Access Drives.

A. Access drives shall be limited to a maximum of two (2) lanes, except where one driveway provides the sole access to the property and serves as both an entrance and exit, and then it shall be limited to a maximum of three (3) lanes.

B. The width of such entrance and exit lanes shall not be less than thirteen (13) feet or more than sixteen (16) feet per lane and shall not exceed a total of forty (40) feet.

1123.13. Off-street loading requirements.

When off-street loading spaces are provided for non-residential buildings, they shall comply with the following regulations:

(a) All loading spaces shall be located on the same lot as the use served.

(b) No part of any required yard, off-street parking area, access drive, street or public right-of-way shall be used for loading or unloading purposes.

(c) No loading space shall face a street right-of-way unless the appropriate Reviewing Body determines that loading spaces facing the street right-of-way minimize the impact on adjoining properties. Such loading spaces, if approved, shall be enclosed on all sides by a wall or fence no less than six (6) feet in height.

(d) Screening for all loading areas shall be provided along any perimeter that faces a street right-of-way or adjoining property according to the screening requirements of Chapter 1121 of this code.

(e) Access to truck loading and unloading space shall be provided directly from a public street or alley or from a right-of-way that will permit the orderly and safe movement of trucks and that will not interfere with public convenience.

(f) Off-street loading spaces shall not be used for repair or servicing of motor vehicles.

(g) Off-street loading spaces shall be provided in addition to, and not considered as meeting a part of, the requirements for off-street parking spaces.

(h) Each off-street loading space shall have the minimum dimensions of twelve (12) feet in width, thirty (30) feet in length and fifteen (15) feet in height.

1123.14. Improvement and maintenance standards.

All driveways, parking areas, curbs, and parking blocks shall be constructed in accordance with standards established by the City Engineer and the following:

(a) Surfacing. All parking and loading areas and access driveways shall be surfaced with asphalt, Portland cement concrete pavement, or other similar hard surface approved by the City Engineer.

(b) Drainage. Parking areas shall be graded to ensure that accumulated surface water is properly drained.

(1) Parking areas shall be drained to prevent injury to adjacent properties and to prevent water from draining across a public sidewalk or street.

(2) Drainage shall comply with the Engineering Design Standards.

(3) Lighting. Parking areas shall be illuminated whenever necessary to protect the public safety. Lighting used to illuminate off-street parking areas shall be designed and located to shield adjoining residential areas from direct lighting and shall comply with the exterior lighting standards set forth in Section 1124.02.

(c) Marking. All off-street parking areas with five (5) or more parking spaces shall indicate the location of each parking space, the location of spaces for persons with disabilities, and the location and direction for movement along the aisles and access drives by painting upon the surface, by raised directional signs, or by other similar measures placed in the surface.

(d) Curbs, Medians, and Wheel/Bumper Guards.

(1) All major circulation aisles and access drives shall be defined by the construction of raised curbing islands, dividers, or medians instead of only painted lines. Any such raised definitions shall be planted with trees and/or evergreen materials of the low, spreading variety to increase the visibility of the island, divider, or median and to provide an area through which water can permeate.

(2) Appropriate curbs and parking blocks shall be provided in order to define parking spaces or limits of paved areas and to prevent vehicles from projecting into required yards, walkways, or alleys, unless otherwise permitted.

(e) Signs. Signs shall adhere to the requirements set forth in Chapter 1125 of this code.

(f) Maintenance.

(1) All parking areas, loading spaces, and adjacent sidewalks shall be maintained by the property owner in a safe condition and as free as practicable from rubbish, paper, and other loose particles, and free of any dangerous accumulation of water, snow, or ice.

(2) All signs, markers, or other methods used to indicate direction of traffic movement and location of parking and/or loading spaces shall be maintained in a neat and legible condition. Any walls, trees, and shrubbery, as well as surfacing of the parking lot, shall be maintained by the property owner in good condition throughout its use for parking purposes.

1123.15. Landscaping and screening.

All off-street parking areas shall be landscaped and screened in compliance with the regulations set forth in Chapter 1121 of this code.

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CHAPTER 1124. STANDARDS FOR EXTERIOR LIGHTING

1124.01. Purpose.

Lighting standards are established to protect the public health, safety, and general welfare, including a process for review and compliance to determine if an existing or proposed development complies with the exterior lighting standards of this Chapter.

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

Specifically, these provisions are intended to achieve, among others, the following purposes:

(a) Establish performance standards, including a process for review and compliance to ensure an environment free from elements that may jeopardize the health or welfare of the public, or degrade the quality of life in the City of Delaware.

(b) Establish exterior lighting standards to:

(1) Control the installation of exterior lighting fixtures to prevent light pollution in the forms of light trespass and glare.

(2) Provide safe roadways and pleasing community vistas free from distracting and debilitating glare.

1124.02. Exterior lighting standards.

(a) A lighting plan is required for all uses that are required to file a development plan or subdivision plat and shall be approved according to the procedures set forth in Chapters 1105 and/or 1106 of this code.

(b) Existing Sites. No building, structure, or vehicular use area shall be constructed or expanded unless the minimum lighting standards required by this Chapter are provided to the extent of the alteration or expansion, but not for the entire property of which the alteration or expansion is a part unless the alteration or expansion is substantial. An alteration or expansion to an existing property is substantial when:

(1) In the case of a building or structure that does not involve additional land, the square footage of the expansion exceeds twenty-five percent (25%) of the existing building.

(2) In the case where additional land is involved, the additional land or the expanded square footage of a structure exceeds twenty-five percent (25%) of the existing site or structure.

(3) Land as used herein includes land for open space, parking, or building uses.

(c) The lighting plan shall demonstrate compliance with the exterior lighting standards of this section and shall include the following items:

(1) A site plan showing location of all exterior light fixtures, controllers, and transformers.

(2) Property boundaries, building location(s), parking lot layout, pedestrian paths, adjacent rights-of-way, north arrow, and scale.

(3) Specifications and drawings or photographs for all exterior light fixture types, poles, conduit and appurtenant construction.

(4) Lamp wattage of all proposed luminaires.

(5) Information that indicates a minimum light level of 0.5 footcandles at grade in all vehicular use areas and connecting pedestrian paths.

(6) Cut sheets for all proposed exterior light fixtures and poles.

(7) Point-to-point plot with light levels meeting the light uniformity ratio standards of subsection (g) hereof.

(8) Any other information and data reasonably necessary to evaluate the required lighting plan.

(d) General Requirements.

(1) All exterior fixtures shall be full cut-off fixtures, unless exception F. below is used

A. Architectural/accent lighting.

B. Street lighting.

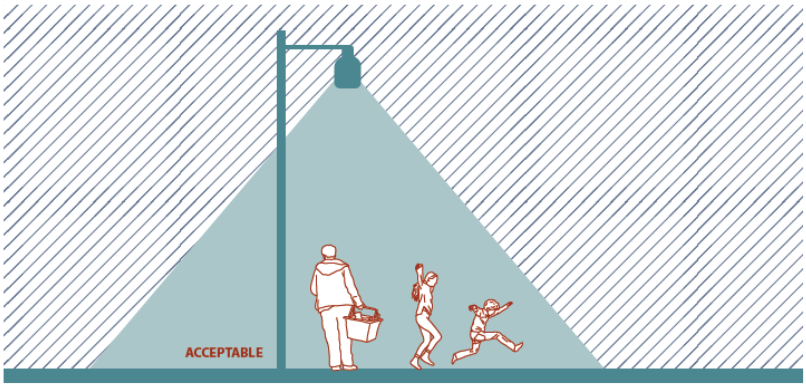
C. Landscape lighting.

D. Area lighting for recreational uses.

E. Exterior residential lighting.

F. Lighting listed in A. through E. above, may be semi-cutoff or non-cutoff luminaires which shall be installed or located so that no lamp or reflector image is directly visible from any site boundary, at or above grade, when the initial lumen output exceeds 2850 lumens (equivalent to a 150-watt incandescent A lamp).

(2) No portion of a lamp, reflector, lens, or refracting system may extend beyond the housing or shield so as to be visible from off-site or cause disabling glare. Streetlights shall be exempt from this provision.



(d)(2)—Full Cut-off Lighting

(3) All light fixtures, including streetlights, shall be directed downward. Uplighting is prohibited, except for accent lighting for buildings or signs, which may be approved as part of a Development Plan and meet the criteria of (1) C. above

(4) Exterior residential lights are exempt from subsections (2) and (3) above when the initial lumen output does not exceed 2850 lumens (equivalent to a 150-watt incandescent A lamp).

(5) All outdoor light poles shall be constructed of metal, fiberglass, or finished wood, shall have a black finish, and shall be approved by the Chief Building Official.

(6) All light poles shall be located outside of paved areas, either in landscape islands or within landscape strips.

(7) All developments with ten (10) or more parking spaces are required to provide exterior lighting for all vehicular use areas including entrance and exit access drives and pedestrian paths connecting parking areas and principal buildings.

(8) Automobile-oriented uses such as fuel stations, automotive service stations, and drive-through facilities shall install recessed ceiling fixtures in any canopy. The maximum allowable foot candle at three and one-half (3.5) feet above grade under the canopy shall not exceed thirty-five (35) foot candles.

(9) Public street lighting and streetlights within residential developments shall conform to the Engineering Design Standards.



(d)(3)—Uplighting

(e) Maximum Height Requirements.

(1) The total height of exterior lighting fixtures shall not exceed the following maximum height requirements. Height shall be measured from the natural grade:

Schedule 1124.02(d). MAXIMUM HEIGHT OF LIGHT FIXTURES

District	Maximum Height
(1) All Residential Districts	20 feet
(2) Commercial Districts[1]	
A. Under 500 Spaces	25 feet
B. Over 500 Spaces	30 feet
(3) Industrial Districts[1]	30 feet

1. When directly adjacent to residential districts the maximum height shall be twenty (20) feet.

(2) All outdoor recreational/sports facility lighting will be reviewed for compliance with the intent of these lighting standards to minimize the impact on all surrounding properties and public rights-of-way.

(f) Extinguish Requirement. All commercial, industrial, recreational, and institutional use exterior lighting (i.e., sign illumination, illumination for decorative effects, recreational facility, or sports field illumination) shall reduce lighting to no greater than twenty-five percent (25%) illumination no later than one (1) hour after closing.

(g) Light Pollution Standards.

(1) Artificially produced light that strays beyond property boundaries shall be considered a public nuisance when intensity levels exceed the maximum illumination levels at or beyond five (5) feet into the adjoining property as listed in Schedule 1124.03(f).

(2) Lighting required exclusively for the illumination of entrance/exit access drives and pedestrian ways from the public right-of-way shall be permitted to illuminate to the far limit of the right-of-way.

Schedule 1124.02(f). MAXIMUM LIGHT POLLUTION ILLUMINANCES

Receiving Area Classification	Maximum Horizontal (footcandles) at Grade Beyond the Property Line	Maximum Vertical (footcandles) at the Structure Height
Residential	0.4	0.8
Commercial	1.0	1.0
Industrial	1.5	1.5
Note: When two differing area classifications abut, the lower light level value shall take precedence along the common boundary.		

(h) Measurement.

(1) Light levels shall be measured in footcandles with a direct reading, portable light meter. Readings shall be taken only after the cell has been exposed long enough to take a constant reading.

(2) Measurements shall be taken at a height of three and one-half (3.5) feet above the ground.

(3) Light Uniformity Ratios.

A. For any one luminary, the light uniformity ratio shall be 10:1, maximum to minimum.

B. The average light uniformity ratio for all luminaires located on a site shall be 4:1, average to minimum.

(i) Exemptions. The following luminaires are exempt from the provisions of this Section:

(1) Luminaires required by the Building Code that operate only in an emergency mode.

(2) Outdoor light fixtures that produce light directly from fossil fuel, such as kerosene lanterns or gas lamps.

(3) Low-voltage lighting and holiday lighting in accordance with Chapter 1126.

(4) Illuminated poles for governmental or institutional flags.

(5) Lighting required by federal regulation such as, but not limited to communication towers or airports.

1124.03. Performance bond for lighting plan completion.

No certificate of building and zoning compliance shall be issued until the improvements required by this chapter and as depicted in the lighting plan are completed as certified by City inspection, or their completion is guaranteed by a performance bond from a banking institution of sufficient amount to cover the estimated cost of materials and labor, as approved by the Chief Building Official, has been posted.

CHAPTER 1125. SIGNS

1125.01. Purpose and intent.

(a) The purpose of this Chapter is to promote the public health, safety, and welfare through the provision of standards for existing and proposed outdoor advertising and signs of all types. More specifically, this Chapter is intended to:

(1) Enhance and protect the physical appearance of the community.

(2) Promote and maintain visually attractive, high value residential, retail, commercial, and industrial districts;

(3) Preserve the scenic and natural beauty of designated areas;

(4) Ensure that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment;

(5) To provide reasonable, yet appropriate conditions for identifying subdivisions and developments in residential zoning districts, as well as businesses and developments in nonresidential zoning districts by relating the size, type, and design of signs to the character and scale of individual zoning districts;

(6) Provide review procedures that enable the City to comprehensively evaluate the appropriateness of a sign to the site, building, and surroundings; and

(7) Prohibit all signs not expressly permitted by this Chapter.

(b) In establishing these purposes, the City has determined that signs which do not comply with these regulations (type, size, location, and limitation on the number of signs) are a public nuisance. Unregulated signs are unduly distracting to motorists and pedestrians and thereby create a traffic hazard and reduce the effectiveness of signs needed to direct the public.

(c) The City does not intend to infringe on the rights of free speech as protected by the First Amendment to the United States Constitution and Chapter I, §11 of the Ohio Constitution. All regulations in this Chapter are to be construed, whenever possible, in favor of vigorous political debate and accommodation of the rights of persons to speak freely.

1125.02. Applicability.

(a) No person shall erect, place, relocate, expand, modify, maintain, or otherwise alter a sign, or cause a sign to be erected, placed, relocated, expanded, modified, maintained, or otherwise altered unless all provisions of this code have been met. This provision shall include when a sign panel is removed and replaced within a sign structure that is intended to have changeable panels.

(b) The construction, erection, safety, and maintenance of all signs shall be in accordance with all applicable municipal codes. The provisions of this Chapter shall not amend or in any way interfere with other codes, rules, or regulations governing traffic signs within the municipality.

(c) Unless otherwise provided, this Chapter shall apply to any sign, in any zoning district, that is visible from a public right-of-way or from an adjacent property. The regulations shall apply only to signs over which the City of Delaware has regulatory authority.

(d) Any sign legally established prior to the effective date of this Chapter, and which sign is rendered nonconforming by the provisions herein, shall be subject to the nonconforming sign regulations of Section 1125.12.

(e) If the type of any sign that legally existed prior to the effective date of this amendment is reclassified by this amendment, such sign shall be classified as the sign type defined in this Chapter and shall be subject to the applicable standards for such sign type from the effective date of this amendment. Such reclassification shall be regardless of any variances that were approved prior to the effective date of this amendment.

(f) Downtown Historic District Signs.

(1) All residential and nonresidential signs in the Downtown Historic District shall comply with the "Architectural Standards for the Downtown Historic District," which provide supplemental standards for signs in the Downtown Historic District.

(2) In the event of a provision or regulation which conflicts with this Chapter, the Architectural Standards for the Downtown Historic District shall prevail.

(3) If certain sign provisions are not addressed in the Architectural Standards, then the standards of this Chapter shall apply.

1125.03. Sign permit required.

(a) To ensure compliance with these regulations, a certificate of building and zoning compliance shall be required to be issued for all signs and sign components subject to this Chapter unless specifically exempted in this Chapter

(b) A complete application for a certificate of building and zoning compliance must be submitted prior to consideration and review.

(c) If a Certificate of Appropriateness (COA) is required for a sign in the Historic district, such COA must be approved prior to a decision on the related sign permit application.

(d) The sign permit issued pursuant hereto shall be valid so long as the owner complies with the terms and conditions of this Zoning Ordinance or any amendment thereto.

(e) Inspection and Enforcement.

(1) The Director of Planning and Community Development shall have the authority to inspect signs and enforce the provisions of this Chapter in accordance with Section 1103.02 of this code.

(2) The Director of Planning and Community Development may order removal of any sign that is not maintained in accordance with the provisions of Section 1103.02 of this code.

(f) Sign Permit Exceptions. The following signs are subject to the requirements of this Chapter but do not require a sign permit or related fees. Permit-exempt signs may still be subject to additional reviews including review under the building code or other applicable code requirements.

(1) Signs and/or notices issued by any court, officer, or other person in performance of a public duty. Any such sign shall be removed no later than seven (7) days after the last day it is required to be displayed;

(2) Signs that are an integral part of the original construction of vending or similar machines, fuel pumps, automated teller machines, drive-through signage, or similar devices that are not of a size or design as to be visible from a street or by any person other than those using the machine or device;

(3) Any sign that is located completely inside a building that is not visible from the exterior or that is not classified as a "window sign.";

(4) Signs that are located within a stadium, open-air theater, park, arena, or other outdoor use that are not visible from a public right-of-way or adjacent property, and can be viewed only by persons within such stadium, open-air theater, park, arena or other outdoor use;

(5) Certain temporary signs as established in Section 1125.10.

(6) A single wall sign placed on the facade of an individual dwelling unit that is not illuminated and does not exceed two (2) square feet in area.

(7) Signs that are an integral part of the historic architecture of a structure that has been designated an official landmark or historic structure by any agency or body of the governments of the United States, State of Ohio, Delaware County, or City of Delaware;

(8) Ground signs and markings located completely within the interior of a lot used for a cemetery where such signs are not designed to be visible from a public street;

(9) Any sign on a truck, bus, or other vehicle that is used in the normal course of a business (e.g., deliveries or fleet vehicles for contractors) for transportation (See also Paragraph 1125.05(v).), or signage required by the State or Federal government;

(10) Signs installed or required by a governmental agency including the City of Delaware, Delaware County, State of Ohio, and the United States, including local and regional transit agencies;

(11) Any warning signs or traffic safety signs required by public utility providers;

(12) Hand-held signs not set on or affixed to the ground;

(13) Any address numbers required by applicable building and fire codes;

(14) Changes of copy on changeable copy signs, including electronic message centers;

(15) Flags. No more than four (4) flags are permitted to be located on flagpoles or on wall-mounted posts in all districts except the C-DC District provided the following shall apply:

A. The maximum height of flag poles shall not exceed thirty (30) feet with a maximum flag area of forty (40) square feet for any individual flag attached to the pole.

B. The maximum projection for wall-mounted flag post is six (6) feet and a maximum sign area of fifteen (15) square feet per flag.

C. Flag poles may require a building permit.

D. In the C-DC and/or Historic district, flag poles are prohibited and only one (1) wall-mounted post for flags is permitted. In such case, the wall-mounted post shall count as a projecting sign for the building unit. See Section 1125.09(b).

(16) Window Signs.

A. Window signs for residential uses are prohibited with the exception that temporary signs may be placed in windows in accordance with Section 1125.10.

B. For non-residential window signs, the signs may be temporarily or permanently attached to the window surface.

C. Window signs shall not occupy more than twenty percent (20%) of any window area on the first floor of buildings in the C-DC District and fifty percent (50%) of any window area on the first floor in all other commercial and industrial districts.

D. For non-residential uses located entirely on upper floors of buildings in the commercial, neighborhood mixed residential, or industrial districts, one (1) window sign is permitted for each tenant or use space provided the window sign does not exceed six (6) square feet.

E. Window signs shall not be illuminated with the exception of one window sign with a maximum sign area of three (3) square feet is permitted provided it is located on the interior side of the window and turns off at closing.

F. Window signs in the Historic district shall require a COA.

G. The sign area of a window sign shall be based on the total window area, regardless of the presence of an awning. Window areas separated by piers, architectural elements, or similar features that are not glass or window framing or support shall be considered separate and distinct window areas. See figure 1125.03(16)(G) .

Figure 1125.03 (16)(G). WINDOW SIGN AREA



(17) Any signs without a commercial message, including illuminated signs, or related decorations erected in observance of religious, national, or state holidays which are not intended to be permanent in nature and which contain no advertising material; and

(18) General maintenance, painting, repainting without alteration of the design or copy, cleaning and other normal maintenance and repair of a sign or any sign structure unless a structural change is made, including changes to the sign dimensions.

1125.04. Computations and measurements.

(a) Sign Setback**.** All required setbacks for signs shall be measured as the distance in feet from the lot line, right-of-way, or highway easement whichever is closest to the nearest point on the sign structure.

(b) Sign Height.

(1) The height of a sign shall be computed as the distance from the base of the sign at normal grade (average grade at the base of the sign) to the top of the highest attached component of the sign. Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely undertaken for the purpose of locating or increasing the height of sign.

(2) The filling of a hole or depression to create an average grade the same level as that surrounding the hole or depression is permitted, provided such filling is allowed by other ordinances.

(3) In cases where the normal grade is at least five (5) feet below grade at street level, the overall height of a sign may exceed the allowed sign height by no more than five (5) feet.

(c) Sign Area**.** The surface of a sign to be included when computing maximum allowable square footage of sign area shall be calculated as established in this section. For the purposes of calculating sign area, the following regular geometric shapes may be used: circle, ellipse, triangle, square, rectangle, trapezoid, pentagon, or hexagon.

(1) The calculation of sign area shall not include any supporting framework, bracing, or decorative fence or wall unless such structural support is determined to constitute an integral part of the sign design by means of text, graphics, or other message, as determined by the Director of Planning and Community Development. See Figure 1125.04(c)(1).

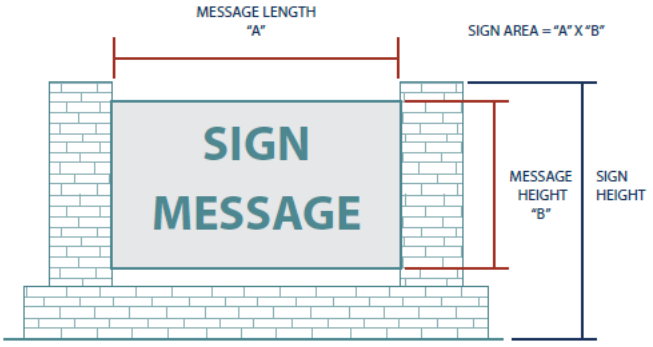


Figure 1125.04(c)(1). SIGN AREA CALCULATION

(2) For sign copy mounted on, painted on, or similarly attached to a background panel or cabinet, the sign area shall be computed by means of the smallest permitted geometric shape, or combination of permitted geometric shapes, that encompasses the extreme limits of the background panel or cabinet. See Figure 1124.04(c)(2).



Figure 1125.04 (c)(2). SIGN AREA CALCULATION

(3) For sign copy that is painted on a surface or where individual letters or sign elements are mounted on a building façade or window where there is no clearly established background panel, cabinet, or surface distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the smallest permitted geometric shape, or combination of permitted geometric shapes, that encloses all the letters or elements associated with the sign. See Figure 1125.04(c)(3).

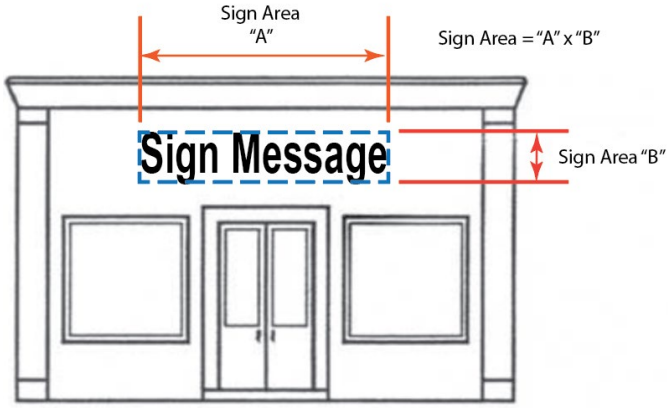


Figure 1125.04 (c)(3). SIGN AREA CALCULATION

(4) In cases where there are multiple sign elements of sign copy on the same surface, any areas of sign copy that are within two (2) feet of one another shall be calculated as a single sign area that shall be computed by means of the area that encloses all sign copy within two (2) feet of one another, otherwise the sign area shall be computed for each separate piece of sign copy. See Figure 1125.04(c)(4) .

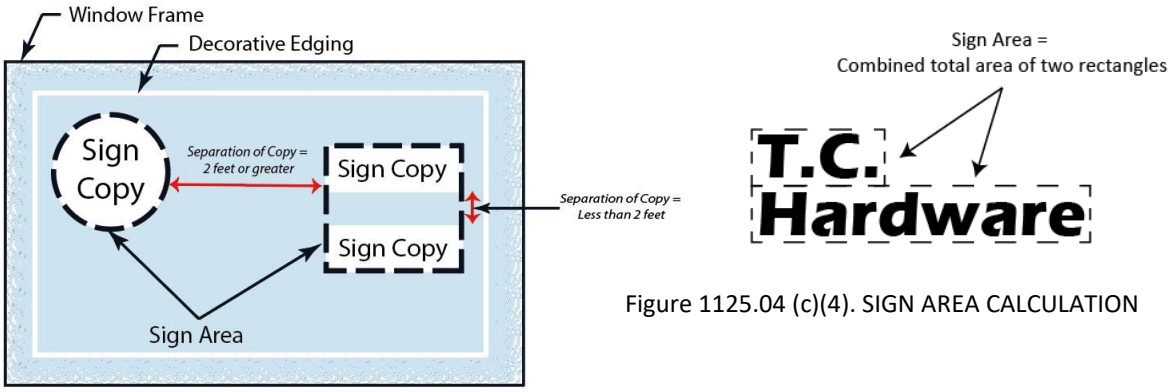


Figure 1125.04 (c)(4). SIGN AREA CALCULATION

(5) Decorative edging or other window treatments that are not an integral part of the sign copy shall not be considered a part of the sign for the purposes of this Chapter.

(6) A sign may contain a maximum of two (2) sign faces that are either mounted back-to-back or at an angle of less than 45 degrees. In such cases, the sign area shall be calculated based on the size of one (1) sign face. If the two (2) faces are unequal, the sign area shall be calculated based on the larger of the two (2) sign faces.

(7) For spherical signs, the sign face shall be considered the plane created by bisecting the sphere with an imaginary line through the center of the sphere.

(d) Buildings and Building Units**.** A stand-alone building or a building divided into separate units or spaces that are individually owned or leased by different enterprises, businesses, firms, or people, are subject to the following provisions:

(1) A stand-alone, nonresidential building that contains one (1) tenant or occupant shall be considered a single building unit.

(2) Where a building is divided into individual spaces for nonresidential uses, and the primary entrance or access point for each space is from the exterior of the building, then each individual space shall be considered a building unit. For example, in the case of a shopping center with multiple tenant spaces that each have its own exterior entrance, each of the tenant spaces shall be considered a building unit.

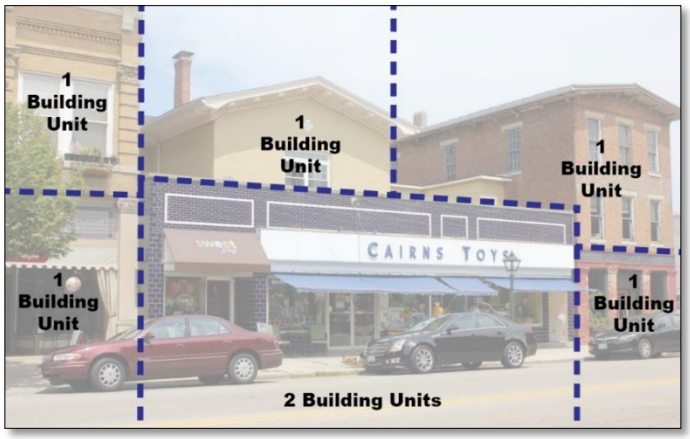
(3) Where a building contains individual spaces that are all accessed from the interior through a joint entry, such building shall be considered one (1) building unit. For example, in the case of an office building where all of the office spaces are accessed internally, the entire office building shall be considered one (1) building unit.

(4) Where a lot contains multiple principal buildings, each principal building shall be assessed for building units based on the above provisions.

(5) The term “building unit” shall not be used to define an apartment building or similar residential-only building that is divided into individual dwelling units.

(6) For mixed-use buildings that contain residential and non-residential uses, or for multi-story buildings with separate uses on the upper floors, the number of building units on any given lot shall be determined by the number of non-residential enterprises, businesses, firms, or other non-residential occupants where the spaces are accessed from the exterior of the building on the ground floor. All upper floor uses and activities shall be considered one building unit, regardless of the number of occupants. For example, a building with three (3) tenant spaces on the first floor, with exterior entrances, and apartments or office spaces on the upper floors, shall be considered to have four (4) building units. One building unit for each of the three (3) ground floor tenants and one (1) building unit total for all upper-level tenants.

Figure 1125.04 (d). BUILDING UNITS.



The image shows how the upper floors of buildings only represent one building unit each, regardless of the number of tenants in those spaces or whether occupied by residential or nonresidential uses. The first/ground floors have a number of building units based on the number of non-residential businesses, tenants, etc. with the primary access from the exterior of the building.

1125.05. Prohibited signs.

The following types of signs are specifically prohibited within the City of Delaware:

(a) Any sign that copies or imitates a sign installed by any governmental agency or purports to have been authorized by a governmental agency;

(b) Signs erected so as to obstruct sight lines along any public right-of-way, including railroads, or visibility of traffic control lights, street name signs at intersections, or signals at railroad grade crossings;

(c) Signs that interfere with, obstruct the view of, or are similar in appearance to any authorized traffic sign, signal, or device because of its position, shape, use of words, or color;

(d) Signs placed in the right-of-way except for signs installed by government agencies or sidewalk signs as allowed in Section 1125.10 of this Chapter;

(e) Signs that constitute a hazard to safety or health by reason of inadequate or inappropriate design, construction, repair, or maintenance, as determined by the Director of Planning and Community Development or City Engineer, or either of their designees;

(f) Awnings that internally light more than a limited sign area of the awning. Transparent or translucent awnings that are internally lighted to create a band of light on a building are also prohibited;

(g) Signs that employ parts or elements which revolve, rotate, whirl, spin, or otherwise make use of motion to attract attention, including signs that are manually rotated, spun, etc. by a person. This shall not include electronic message centers as allowed in this Chapter;

(h) Signs with moving or flashing lights except for electronic message centers as permitted elsewhere in this Chapter;

(i) Beacons and searchlights, except for emergency purposes;

(j) Windblown devices, pennants, streamers, and similar signs, except for flags as allowed in this Chapter, that are designed to move by atmospheric, mechanical, electrical, or other means, whether containing words or numerals or containing no message;

(k) Air-activated graphics;

(l) Balloon signs;

(m) Roof signs;

(n) Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines, or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way except as otherwise specifically provided for in this code;

(o) Signs that obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building;

(p) Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign;

(q) Portable signs, except where permitted elsewhere;

(r) Permanent freestanding signs on an otherwise vacant lot;

(s) Signs with exposed light bulbs or strings of lights not permanently attached to a rigid and permanent background;

(t) Signs mounted upon school bus shelters, benches, and trash containers;

(u) Signs placed on any surface located on public property or on, over, upon or across any public street or right of way, unless expressly allowed by this Chapter;

(v) Vehicle signs viewed from a public road with the primary purpose of providing signage not otherwise allowed by this Chapter. A vehicle sign shall be considered to be used for the primary purpose of advertising if the vehicle fails to display current license plates; if the vehicle is inoperable; if evidence of paid-to-date local taxes cannot be made available; or if the sign alters the standard design of such vehicle. Vehicle signs include those attached to or placed on a vehicle or trailer. Vehicles or trailers shall not be parked continuously in one location to be used primarily as additional signage. This does not apply to a vehicle parked at a driver's residence and is the primary means of transportation to and from their place of employment; and

(w) Any sign not specifically allowed by this Chapter.

1125.06. General standards for all signs.

In addition to ensuring compliance with the numerical standards of these regulations, all signs regulated by this Chapter shall be subject to the following standards unless explicitly stated:

(a) Signs, as permitted in the various zoning districts, shall be professionally designed, constructed, and installed.

(b) Signs shall be constructed of materials which are of appropriate quality and durability and which are compatible with the materials of the building upon which such signs are placed.

(c) The construction, erection, and maintenance of all signs shall be in compliance with the Building Code and all other applicable municipal standards and regulations.

(d) Signs Along the Olentangy Bypass. No signs, other than required by law, which are intended for visibility from the Olentangy Bypass, being the area of U.S. Route 23 between U.S. Route 42 on the south and Pennsylvania Avenue on the north, shall be placed within 200 feet of the right-of-way line of such Olentangy Bypass. The regulation of signs shall conform to the requirements of Ohio Revised Code Chapter 5516 and the regulations adopted pursuant thereto.

(e) Construction Standards.

(1) The construction, erection, safety, and maintenance of signs shall comply with the Ohio Building Code and the Ohio Revised Code.

(2) All signs shall be rigidly secured and no sign shall swing from a bar, crane, awning, or other sign. No part of any sign shall be revolving, oscillating, or otherwise designed to move to attract attention.

(3) All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.

(4) Signs shall be constructed to withstand wind pressures of at least thirty (30) pounds per square foot of surface, and shall be fastened, suspended, or supported so that they will not be a menace to persons or property.

(f) Clearance Requirements.

(1) The lowest member of all signs which are supported or suspended from a building shall have a clearance of not less than seven (7) feet between the finished grade of a sidewalk or other pedestrian way and the bottom most portion of the sign. If located over a pavement used for vehicular traffic or within 18 inches of the vertical projection of the edges of such pavement, the lowest member of the sign shall not be less than 14 feet above the finished pavement.

(2) Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electrical Code specifications, depending on voltages concerned. However, in no case shall a sign be installed closer than twelve (12) inches horizontally or vertically from any conductor or public utility guy wire.

(3) Sight Visibility Clearance. No sign shall be allowed to block the visibility form vehicles at intersections and driveways. Signs may require an additional setback to avoid blocking line-of-sight as determined by the City Engineer.

(g) Illumination.

(1) No sign shall incorporate movement or the illusion of movement. Any illuminated sign or lighting device shall only emit a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving lights, or incorporate reflective materials which imitate or create the illusion of flashing or moving lights.

(2) In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public thoroughfare, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or other nuisance.

(3) Signs shall not be lighted in a manner which obstructs traffic control or any other public signs.

(4) Externally illuminated signs, whether the lighting is mounted above or below the sign face or panel, shall have lighting fixtures or luminaires that are fully shielded.

(5) Temporary signs shall not be illuminated.

(6) All illuminated signs shall meet the requirements of Chapter 1124 of this code.

(7) In the Historic district, signs may be illuminated externally or by exposed neon tubes or a modern equivalent of neon tubes.

(h) Changeable Copy and Electronic Message Center Signs**.** Changeable copy signs, including electronic message centers, shall be permitted subject to the following conditions and any other applicable regulations as established in this Chapter:

(1) The total changeable copy area shall be included as part of the total sign area allowed and constructed.

(2) Manual changeable copy signs and electronic message centers are allowed in accordance with all applicable standards of this Chapter.

(3) Where electronic message centers are allowed, they shall be subject to the following standards:

A. All electronic message centers shall be set back a minimum of 200 feet from the closest point of a residential dwelling unit.

B. Any message changes shall be an instant message change and shall only change once every eight (8) seconds.

C. The transition time between messages shall be less than one (1) second.

D. All electronic message centers shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions.

E. The electronic message center shall come equipped with an automatic dimming photocell, which adjusts the display's brightness based on ambient light conditions.

F. Illumination shall not exceed 0.3 footcandles over ambient lighting conditions when measured at fifty (50) feet in any direction from an electronic message center sign.

G. Audio emissions from electronic message center signs shall be prohibited.

(i) Maintenance. All signs shall be reasonably maintained as needed. In pursuance of this, all signs shall be maintained in accordance with the following:

(1) All signs hung and erected shall be maintained in a safe and secure condition or shall be removed by the owner or person responsible for maintaining the sign.

(2) Signs shall be maintained in a manner that prevents the exposure of any internal elements through the removal of the sign face or the replacement of broken panels or elements.

(3) Failure to maintain a sign in accordance with this Section shall be a violation of this code.

1125.07. Signs in Planned Unit Developments.

(a) All developments in PUD districts shall be subject to the standards of this Chapter unless otherwise modified through the PUD or development plan approval process. In general:

(1) Single-family residential uses and public and institutional uses in a PUD shall comply with the sign requirements of the R-SF District.

(2) Multi-family residential uses in a PUD shall comply with the sign requirements of the R-MF District.

(3) Commercial and office uses in a PUD shall comply with the sign requirements of the C-GC District.

(4) Industrial uses in a PUD shall comply with the sign requirements of the I-1 District.

(b) This section shall apply to both permanent and temporary signs.

1125.08. Permanent signs in agricultural and residential districts.

The following provisions shall apply to permanents signs in the A-1, R-SF, R-NT, R-NX, and R-MF Districts:

(a) Entrance or Development Signs**.** Permanent wall signs or permanent freestanding signs may be permitted for any subdivision or multi-family dwelling development that contains ten (10) or more dwelling units or lots, provided that the signs meet the following requirements:

(1) General Standards

A. For subdivisions or multi-family dwellings with fewer than 25 dwelling units or lots, only one (1) permanent wall sign or one (1) permanent freestanding sign is permitted for the entire development in accordance with this section. The sign shall have a maximum sign area of 16 square feet.

B. For subdivisions or multi-family dwellings with 25 or more dwelling units or lots, a maximum of two (2) permanent wall signs or one (1) permanent freestanding sign is allowed at each entrance to the subdivision or development from a collector or arterial street, as determined by the Director of Planning and Community Development. No more than two (2) freestanding signs shall be permitted for any subdivision or development. The maximum sign area of each sign shall be 32 square feet.

C. The signage shall be an on-premise sign with the entire subdivision or lot counting as the premises.

D. If the sign is to be illuminated, it shall only be illuminated through an external light source.

(2) Freestanding Sign.

A. A freestanding sign may include a monument sign or a post and arm sign.

B. No such sign or any portion of the structure shall exceed five (5) feet in height.

C. The freestanding sign shall be set back a minimum of ten (10) feet from any right-of-way or adjacent lot lines.

D. The freestanding sign may be located on the center island of a boulevard entrance on a private street subject to the following additional standards:

1. Sign faces must be back-to-back (i.e., no sign faces at an angle to one another).
2. The sign shall be set back a minimum of five (5) feet from the edge or curb of the boulevard or street island edge.
3. Sign placement must be approved by the appropriate Reviewing Body during the development plan process, to ensure safety and visibility at the sign location.

E. If an applicant proposes to use a freestanding sign, no wall signs, as allowed in Section 1125.08(a)(3) below shall be permitted.

(3) Wall Signs on Entry Fences, Walls, or Features.

A. The signs shall be mounted to a decorative wall, fence, or architectural feature adjacent to the entrance street.

B. The placement of wall signs on architectural features shall only be permitted by the appropriate review body during the platting process or development plan review, whichever includes the details of the sign place, to ensure safety and visibility at the sign location. See figure 1125.08.

C. The sign shall be set back a minimum of ten (10) feet from any right-of-way or adjacent lot lines. If an applicant proposes to use wall signs, no freestanding sign, as allowed in Section 1125.08(a)(2)above, shall be permitted.

(b) Signs for Nonresidential Uses in Residential Districts**.** The following signs are permitted for approved "institutional/public uses," "commercial uses," and "agricultural uses," as established in Schedule 1111.04 (Permitted Uses) in the residential districts:

(1) One (1) permanent monument or post and arm sign may be permitted on a lot provided the sign meets the following requirements:

A. For any lot that is one-half (½) acre or less in area, only a post and arm sign shall be permitted. On larger lots, either a monument or post and arm sign may be permitted.

B. The sign shall be set back a minimum of ten (10) feet from any right-of-way or adjacent lot lines.

C. The maximum sign area shall be 25 square feet.

D. No such sign or any portion of the structure shall exceed five (5) feet in height.

E. Up to 75% of the sign area may be used for a changeable copy sign, including an electronic message center if such electronic message center complies with Section 1125.01(a) and is located as part of a monument sign

(2) One additional freestanding monument or post and arm sign may be permitted on secondary street frontages on a corner lot.

(3) Building signs shall be permitted in the same manner as building signs in the Civic/Institutional District, as established in Section 1125.09(b).

(4) Driveway signs are permitted in accordance with Section 1125.09(d).

(5) If any of the signs are to be illuminated, they shall only be illuminated through an external light source with the exception of electronic message centers, where allowed.

1125.09. Permanent signs in commercial and industrial districts.

The following provisions shall apply to permanent signs in the C/I, C-NX, C-DC, C-CC, C-GC, I-1, and I-2 Districts

(a) Freestanding Signs**.** All freestanding signs in commercial and industrial zoning districts shall meet the following requirements:

(1) Monument signs or post and arm signs are the only permitted form of freestanding sign.

(2) Freestanding signs are not permitted in the C-DC District.

(3) The freestanding sign shall be set back a minimum of ten (10) feet from any right-of-way lines and adjacent lot lines.

(4) Only one freestanding sign shall be permitted on each lot, unless otherwise specifically stated.

A. A building with multiple tenants that crosses property lines shall be considered to be located on one (1) lot for the purposes of this Section. See 'Building C' in figure 1125.09 (a)(6)B.

(5) Maximum Freestanding Sign Area and Height. The maximum sign permitted area shall be 0.50 square feet of sign area per lineal foot of lot width with a maximum area as established in Schedule 1125.09

Schedule 1125.09. MAXIMUM SIGN AREA AND HEIGHT

Zoning Districts	Maximum Sign Area	Maximum Height
C/I and C-NX	25 sq. ft.	5 ft.
C-CC and C-GC	32 sq. ft.	6 ft.
I-1 and I-2	40 sq. ft	7 ft.

A. For lots with large lot widths that exceed 300 feet, one additional freestanding sign may be allowed along the same frontage. The maximum sign area and height of the second sign shall be the maximum allowed in the applicable zoning district. Each freestanding sign shall be separated by a minimum of 200 feet.

B. For the purposes of measuring lot width for this Section on freestanding signs, the lot width shall be measured along a straight line that runs parallel with the street frontage at the widest point of the lot. This measurement shall be regardless of the presence of driveway entrances to the lot or the presence of smaller outlots in front of the applicable lot. See figure 1125.09(a)(6)C .

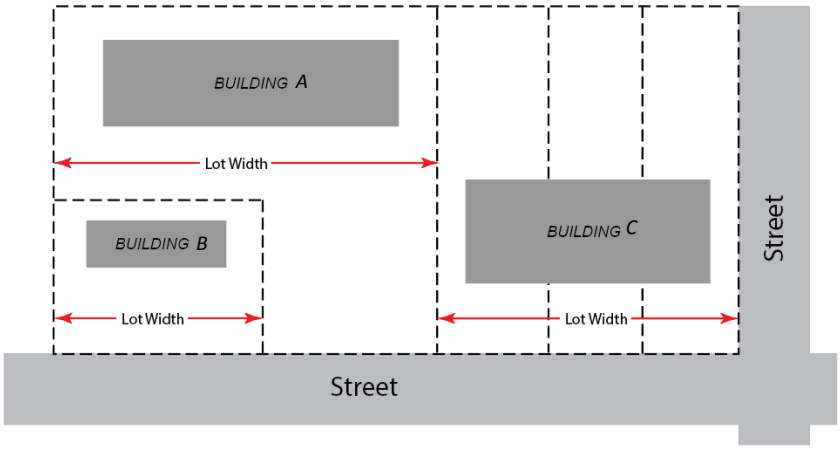


Figure 1125.09 (a)(6)B. LOT WIDTH MEASUREMENT

(6) Monument signs may include manual changeable copy signs or electronic message centers as regulated by this Chapter provided that the changeable copy sign area does not exceed 75% of the total sign area. Electronic message centers shall comply with Section 1125.01(a).

(7) Where a freestanding sign serves a multi-tenant building, it shall be the responsibility of the property owner to determine the messaging on the sign.

(8) Exposed sign foundations shall be constructed with a finished material such as brick, stone, or wood.

(9) Freestanding signs shall be located in landscaped areas with a size that is equal to or larger than the total sign area that is being placed in the landscaped area.

(b) **Building Signs.**

(1) The building sign area allowed in this Section shall include the total amount of all wall, canopy, awning, and projecting signs on each facade wall. Standards for each individual building sign type are established in this section.

(2) Building signs may only be attached to the principal building. No building signage shall be attached to an accessory building or structure.

(3) Building signage shall be an on-premise sign.

(4) The amount of building sign area allowed is based on the facade width and whether the facade is a primary facade or secondary facade as defined below:

A. When calculating the permitted sign area based on the width of any facade, such calculation shall be based on viewing the facade from a 90-degree angle (i.e., straight on), regardless of facade insets, offsets, or angles. See figure 1125.09(b)(4)A .

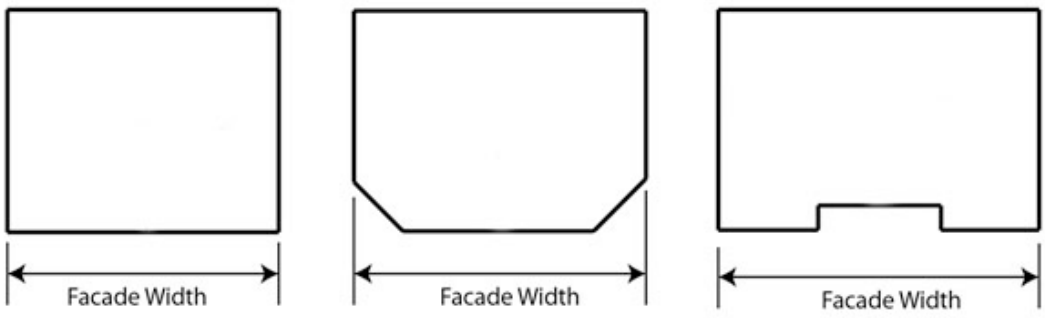


Figure 1125.09(b)(4)A. FAÇADE WIDTH

B. The primary facade shall be the portion of a frontage that runs parallel and nearest to the street or that serves as the main access point to a building or building unit. A site or building can have one secondary facade when any of the following site/building characteristics are present (See figure 1125.09(b)(4)B):

1. The subject site is a corner lot;

2. The primary parking area or customer entry is not located adjacent to a public street; or

3. The building or unit has walls with public or customer entrance points that do not face the public street.

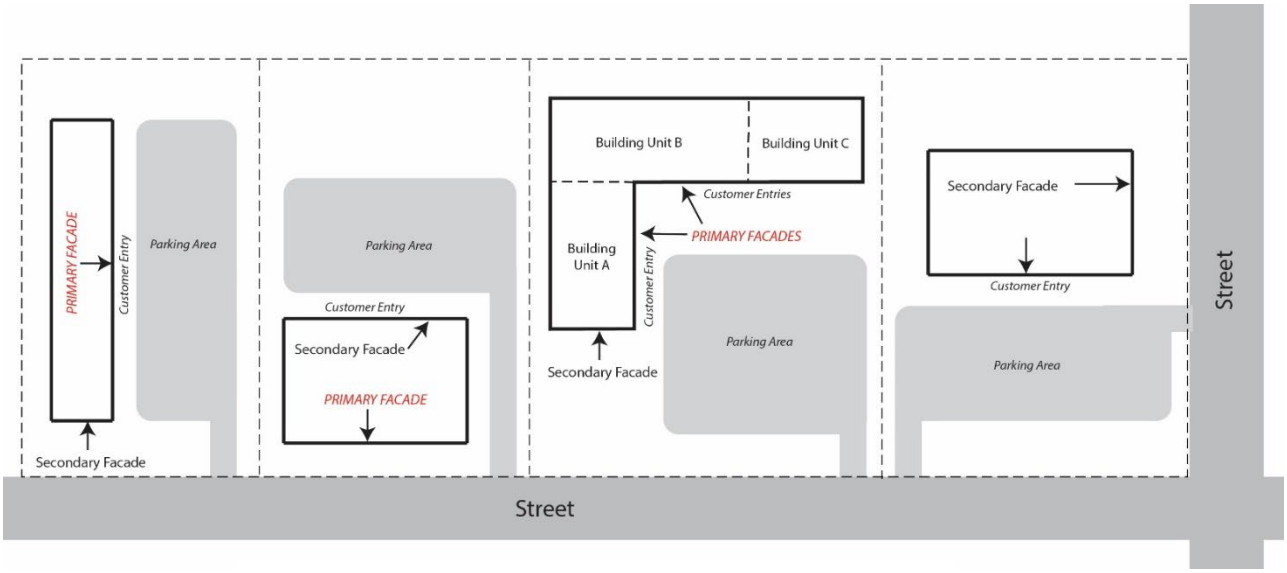


Figure 1125.09(b)(4)B. PRIMARY & SECONDARY FACADES

C. When a site has a primary and secondary facade as defined herein, the Director of Planning and Community Development shall determine which wall shall be the primary building facade and which wall shall be the secondary building facade. Only one outside wall of any business shall be considered its primary facade and only one wall may be a secondary facade.

D. In the case of an L-shaped or other unique shape building where there are separate building units facing in different directions, the primary facade may extend along multiple facades based on the primary customer entry as determined by the Director of Planning and Community Development. See figure 1125.09 (b)(4)B,

E. For multi-tenant buildings, the facade width shall be based on the facade of each building unit. The facade width for a building unit shall be measured from the centerline of the party walls defining the building unit.

F. The Director of Planning and Community Development shall have the authority to make the determination of what facades are primary facades and secondary facades for the purposes of this Chapter.

(5) Building signs shall not extend above the top of the roofline of the building to which it is attached. For canopy signs, the signs may be attached above the canopy, which is attached permanently to the building, provided that the sign does not extend above the top of the roofline of the building.

(6) Building signs shall not include electronic message centers.

(7) If a raceway or wireway is used for the mounting of signs, such raceway or wireway shall be painted or coated in a manner that matches the surface color of the facade.

(8) Building Sign Allowance.

A. There is no maximum number of permitted building signs per façade.

B. Where there is a building sign allowance for a primary facade, such building sign area shall only be attached to the primary facade.

C. Where there is a secondary facade, as determined in Section 1125.09(b)(4), there shall only be one designated secondary facade and any building sign area allowed for the secondary facade shall be attached to the applicable secondary facade.

D. The following shall establish the maximum building sign area in all non-residential districts:

1. The primary facade may contain a maximum sign area equal to one (1) square foot of sign area per lineal foot of facade width.

2. Secondary facades may contain a maximum sign area 0.5 square feet per lineal foot of facade width.

E. The maximum amount of sign area allowed on any facade shall be 300 square feet. In the Downtown Historic District, the maximum amount of sign area allowed on any primary facade shall be 100 square feet and any secondary facade shall be 25 square feet.

(9) Wall Sign Standards**.** Any wall sign shall comply with the following standards:

A. Wall signs shall be mounted on or flush with a wall and shall not project more than twelve (12) inches from the wall or face of the building to which it is attached.

B. A wall sign may be mounted on the facade wall or mounted on a raceway or wireway.

C. No wall sign shall extend any closer than three (3) feet to either the top or side edges of the surface or wall to which it is attached. No wall sign shall cover or obscure any wall opening.

D. No wall sign shall extend above the parapet of the main building to which it is attached, nor beyond the vertical limits of such building.

E. Wall signs may be internally or externally illuminated, except in the C-DC and/or Historic district where internal illumination is prohibited. Reverse channel letters or halo lighting is considered internal illumination for the purpose of this Chapter.

F. Detached accessory roof structures (i.e. open-air structures over fueling stations, car wash vacuum stations, etc.) shall be permitted 0.5 square feet of sign area per linear foot of frontage on three sides of the structure and shall be counted towards the maximum wall sign allowance per site.

(10) Canopy or Awning Sign Standards**.** Any canopy or awning sign shall comply with the following standards:

A. Signage shall not exceed six (6) square feet of any individual awning or sign attached to a canopy in the C-DC and/or Historic district or 24 square feet in any other commercial or industrial district.

B. Signage may be mounted above any canopy that extends over a customer entrance provided that the maximum sign height over the canopy shall be 18 inches as measured from the top of the canopy to the top of the sign.

C. Canopy and awning signs shall not extend into a right-of-way except in the C-DC District, in which case, the edge of the sign shall be set back a minimum of two (2) feet from the back of the street curb.

D. Only the area of the sign may be illuminated internally on a canopy or awning. The remainder of any canopy or awning shall not be illuminated or may be illuminated by an external source such as gooseneck lighting.

(11) Projecting Sign Standards**.** Any projecting sign shall comply with the following standards:

A. Only one (1) projecting sign shall be permitted for each building unit. In the C-DC and/or Historic district, a maximum of two (2) projecting signs shall be permitted per primary facade.

B. A projecting sign shall be perpendicular to the wall of the building to which it is attached and shall not extend more than three (3) feet from the facade wall to which it is attached.

C. Projecting signs shall not extend into a right-of-way except in the C-DC and/or Historic district, in which case, the edge of the sign shall be set back a minimum of two (2) feet from the back of the street curb.

D. The sign areas of a projecting signs shall maintain a minimum six (6) inch clearance from the facade of any building.

E. Decorative supporting structures for projecting signs are encouraged and shall not count toward the maximum square footage of signs allowed, however, in no case shall the supporting structure exceed six (6) square feet.

F. The maximum sign area for a projecting sign shall be 24 square feet in all commercial and industrial zoning districts except for the C-DC and/or Historic district, in which projecting signs on the first floor shall be limited to nine (9) square feet. Upper story projecting signs may be up to 24 square feet.

G. Projecting signs must be suspended from brackets or other supports approved by the building code and contain no exposed guy wires or turnbuckles.

H. A flag mounted on a wall post in the C-DC District shall count as a projecting sign for the purposes of this section. See also Section 1125.03(f)(15).

I. Projecting signs shall be subject to the vertical clearance standards of Section 1125.06(e).

(c) Drive-Through Signs.

(1) The following drive through signs are allowed wherever a drive-through facility is permitted in any commercial or industrial zoning district except the C-DC District.

A. Up to two (2) freestanding drive-through signs shall be allowed for each stacking lane in a drive-through facility provided the total aggregate sign area of all drive-through signs, for each facility, does not exceed 50 square feet. In no case shall a single drive-through sign exceed 25 square feet in sign area.

B. If a drive-through sign is completely screened from view from any right-of-way, private street, ordinary public view, or adjacent residential uses, there shall be no maximum sign area.

C. Drive-through signage shall not be included in the total calculated allowed signage for a property under the remainder of this Chapter.

D. No drive-through sign shall exceed six (6) feet in height measured from the grade of the adjacent driving surface to the top of the sign.

E. Speakers associated with a drive-thru shall not be audible from any adjacent parcel.

F. Drive-through signs may be 100 percent electronic message center subject to Section 1125.01(a).

G. Drive-through signs may be mounted on a pole provided the entire structure does not exceed the maximum sign height established above.

H. Drive-thru signs may be internally or externally illuminated.

(2) No drive-through signs are permitted in the C-DC District.

(d) Driveway Signs.

(1) Driveway signs shall only be permitted near driveway entrances to a public street unless located internally to a development that are not visible from a public street or right-of-way, in which case, they are permitted, subject to the maximum sign area and sign height provisions of this section.

(2) A maximum of one (1) driveway signs is permitted, per direction, for any individual driveway entrance to a public street.

(3) Driveway signs shall be located within 50 feet of the right-of-way. There shall be no minimum setback from a right-of-way or lot line, but such signs shall not encroach into a right-of-way and shall not create a line-of-sight hazard.

(4) Each driveway sign shall not exceed three (3) square feet in area and three (3) feet in height in every district except the I-1 and I-2 District.

(5) In the I-1 and I-2 District, the maximum sign area shall be six (6) square feet with a maximum height of four (4) feet.

(6) Driveway signs may be internally or externally illuminated in commercial or industrial districts. The illumination of driveway signs in residential districts shall be subject to the provisions of Section 1125.06(h).

(7) Driveway signs shall not count toward any other sign allowance in this Chapter.

(e) Supergraphics. Supergraphics are only permitted in the C/I, C-CC, C-GC, C-DC, I-1, and I-2 Districts in compliance with the following standards.

(1) Supergraphics may be temporarily or permanently attached to the wall on secondary facades.

(2) In no case shall any supergraphic have a depth of more than four (4) inches as measured from the facade wall.

(3) Internal illumination of the supergraphic is prohibited. External illumination is only permitted when the supergraphic is on a facade that is adjacent to a lot in a commercial or industrial district. The illumination shall be through indirect lighting methods such as up-lighting or gooseneck lighting.

(4) The supergraphic shall not obstruct any architectural features, windows, doors, points of access, or other similar elements of the building.

(5) Supergraphics shall not count toward any other sign allowance in this Chapter.

1125.10. Temporary signs.

The following are the types of temporary signs allowed in the City of Delaware and the applicable regulations for each type of sign.

(a) Standards Applicable to All Temporary Signs.

(1) Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.

(2) No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roofline of a structure.

(3) Temporary signs shall not be posted in any place or in any manner that is destructive to public property including, but not limited to, rights-of-way, utility poles, public trees, etc.

(4) Unless otherwise specifically stated, temporary signs shall not be illuminated.

(5) No temporary sign shall require a foundation, support, wiring, fittings, or elements that would traditionally require a building permit or electrical permit.

(6) Temporary signs shall not be affixed to any permanent sign or permanent structure except when a banner sign is permitted to cover a permanent sign in accordance with Section 1125.10(c) or when such sign is attached to the principal building as permitted in this section.

(7) All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to people, vehicles, or structures.

(8) Because of the nature of materials typically used to construct temporary signs, to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs must be removed or replaced when the sign is deteriorated. The City may remove any deteriorated sign and charge the expenses for the removal to the owner of the property on which the sign is displayed. Any unpaid charges may be assessed in the form of a lien against the owner of the property.

(9) Temporary signs may be displayed on vacant lots so long as consent of the property owner to display the temporary sign is obtained.

(10) Schedule 1125.10 establishes the allowances for temporary signs in all zoning districts. All sign types are subject to the general provisions above and the sign-type standards that follow the schedule.

(b) Temporary Signs Allowed without Sign Permits. Schedule 1125.10 establishes the allowances for temporary signs in all zoning districts where the signs do not require a sign permit to post. All sign types are subject to the general provisions above and the sign-type standards in Section 1125.10(c)(3).

Schedule 1125.10 TEMPORARY SIGN ALLOWANCES

	Zoning District	
	Residential	**Nonresidential**
Time Limit	Unrestricted	Unrestricted
Maximum Sign Area per Lot	40 sq. ft.	40 sq. ft.
Maximum Sign Area per Individual Sign	8 sq. ft.	32 sq. ft.
Maximum Height	5 ft.	5 ft.
Permitted Sign Types	Banner, Window, or Yard	Window, Sidewalk, or Yard

(c) Additional Temporary Signs Allowed with Sign Permits.

(1) In residential districts, a temporary sign may be authorized to be used for entrance or development signs prior to the construction of a permanent sign as allowed in Section 1125.08(a). Such sign shall comply with the following standards:

A. The sign shall be restricted to a yard sign.

B. The sign may be installed after the subdivision plat has been recorded or the development plan has been approved.

C. The temporary sign shall comply with the maximum sign area, maximum sign height, and locational requirements of the permanent sign, as established in Section 1125.08(a).

D. The temporary sign shall be removed upon the construction of the permanent sign. In no case shall the temporary sign be allowed for more than 18 months or when 90 percent of the units/lots are sold, whichever comes first.

(2) For sign permit applications related to the change of use or tenant within an existing building, where there is existing permanent sign, a banner sign may be approved for up to 60 consecutive days to cover the existing permanent signs. Such banner sign shall not exceed the sign area of the permanent sign. This allowance shall only apply to non-residential uses.

(d) Standards for Sign Types.

(1) Banner Signs.

A. There shall be a maximum of one (1) banner signs per building unit at any one time.

B. Banner signs may only be attached to a building. A banner sign attached to posts and mounted in a yard or landscaped area shall be regulated as a temporary yard sign.

C. The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.

D. Banner signs shall only be permitted to be affixed to the principal building or an accessory building provided that it is placed fully against a facade and is secured along all sides of the banner to prevent movement.

E. Banner signs are prohibited from being hung on or from other structures including but not limited to fences and walls.

F. Banner signs used in the Historic District may only be used as a temporary sign if hung inside of a window or if used for covering pre-existing permanent signs pursuant to Section 1125.10(c).

(2) Sidewalk Signs.

A. Only one (1) sidewalk sign is allowed for any one (1) building unit with a ground floor entrance and shall be located within five (5) feet of the entrance of such building unit.

B. There shall be no time limit for sidewalk signs with the exception that the sign shall only be placed outside during the hours of the establishment's operation.

C. Such signs shall not exceed eight (8) square feet in area with a maximum height of four (4) feet.

D. The sign shall only be permitted on a public sidewalk or private walkway provided it is placed on pavement and not in any landscaped areas or on pavement used for vehicles (e.g., driveways and parking lots).

E. If the sign is placed on a sidewalk or walkway, the sign can only be placed where the paved sidewalk or walkway width, not including curb top, is at least seven (7) feet wide. The width and placement of the sign shall be such so that there shall be a minimum width of four (4) feet of clear and passable sidewalk or walkway for pedestrians.

F. The sign must be freestanding and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.

G. The sign must not obstruct vehicular traffic or access to parking meters, bicycle racks, and other features legally in the right-of-way.

H. The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones, or bus stops.

I. The sign shall be internally weighted so that it is stable and windproof.

J. The City of Delaware shall be held harmless from any liability resulting from accident or injury caused by the placement and/or maintenance of such sign.

K. A sign permit is not required for a sidewalk sign, but such signs are still subject to these regulations.

(3) Window Signs.

A. Temporary window signs shall be mounted or placed on the interior of the building.

B. Temporary and permanent window signs in nonresidential districts are regulated in accordance with Section 1125.03(f)(16).

(4) Yard Signs.

A. Unless otherwise specifically stated, there shall be no maximum number of yard signs provided the aggregate total square footage of all yard signs does not exceed the maximum sign area allowed in this section on temporary signs.

B. There shall be a maximum of two faces to the sign, mounted back-to-back.

1125.11. Master sign plans.

The master sign plan allowance established herein is to provide for the consideration of additional permanent signage for large-scale nonresidential and mixed-use developments.

(a) Applicability.

(1) A master sign plan may be submitted for developments that meet one of the following thresholds:

A. A minor modification to a Development Plan approved in accordance with Chapter 1105;

B. A plan adopted with the approval of a Development Plan in accordance with Chapter 1105;

C. A development that has no development plan and is not located within an overlay or PUD; or

D. A subdivision in the C/I, C-CC, C-GC, I-1, or I-2 District where there are more than five lots.

(2) In all cases, there must be a minimum of two (2) principal buildings proposed for the subdivision or site to qualify for a master sign plan.

(b) Master Sign Plan Requirements

(1) Master sign plans shall be reviewed by the Planning Commission either as part of the PUD approval or Development Plan review process.

(2) A master sign plan is intended to promote consistency among signs within a development, improve wayfinding around the site, and enhance the compatibility of signs with the architectural and site design features within a development, as well as with the surrounding neighborhood.

(3) An application for review of a master sign plan shall include:

A. A master sign plan, drawn to scale, delineating the site proposed to be included within the master sign plan and the general locations of all permanent signs, including freestanding and building signs and the property lines, buildings and roadways;

B. Drawings and/or sketches indicating the dimensions in square feet, location and sign area for all the permanent signs;

C. Drawings and/or sketches indicating the exterior surface details of all buildings on the site on which wall signs, awning signs, canopy signs, projecting signs, window signs or other building signs are proposed;

D. Samples or photos of colors and materials to be used for signs and the relationship to the building materials; and

E. Information regarding the illumination of any signs.

F. Additional relevant information requested by the Director of Planning and Community Development.

(c) Master Sign Plan Allowances. The Planning Commission may approve additional signage as part of a master sign plan in accordance with the following:

(1) Each development or subdivision may contain one additional freestanding sign as allowed by Section 1125.01(a). Such sign may be placed on one of the lots within the subdivision or on the site subject to the master sign plan without counting toward other freestanding signs allowed by this Chapter.

(2) An additional ten percent (10%) of building signage may be permitted for each building unit provided that no individual sign shall exceed 300 square feet in area.

(d) Review Criteria.

(1) In order for the Planning Commission to approve a master sign plan, it must find all of the following:

A. That the master sign plan's contribution to the design of the site and surrounding area will be superior to the quality that would result under the regulations and standards of this Chapter;

B. That the signs proposed as part of the master sign plan will create a uniform sign package for the site related to materials, lighting, design, and other features of the individual signs; and

C. That the proposed signs are compatible with the style or character of improvements and are well-related to each other in terms of location and spacing.

(2) The Planning Commission may impose reasonable conditions to a master sign plan necessary to carry out the intent of this Chapter.

(3) No sign permits, building permits, or other permits required for the construction of any sign shall be issued unless the sign complies with the approved master sign plan.

(4) An approved master sign plan may only be amended or modified through the same review process required for its approval.

1125.12. Nonconforming signs.

Every sign that existed before the effective date of this amendment, was permitted by the City's zoning laws prior to this date, which was properly permitted, and which is not in conformance with the provisions of this Chapter, shall be deemed a legal nonconforming sign. All legal nonconforming signs shall be maintained in accordance with this Chapter.

(a) All nonconforming signs shall be maintained in good condition in accordance with the requirements of this Chapter.

(b) A nonconforming sign shall not be structurally relocated, altered, or replaced unless it is brought into compliance with the provisions of this section. Should any replacement, alteration, or relocation take place without being brought into compliance, the sign shall be declared an illegal sign, subject to removal.

(c) A nonconforming sign shall immediately lose its legal nonconforming status, and therefore shall be brought into conformance with this Chapter or removed, when any of the following occur:

(1) If the size, height, or structural components are changed or altered;

(2) If the sign is relocated;

(3) If either the sign structure or sign copy is damaged to the extent of 50 percent or more of either the structure or its replacement value, the sign shall be removed or brought into compliance. If the damage encompasses less than 50 percent of the structure or its replacement value, the sign may be repaired within 60 days of the date the damage was caused. The replacement value shall be the average of two replacement value estimates as determined by two sign companies requested to provide a quote by the City; or

(4) If the sign is defined as a temporary sign and has been in use for more than one year following the effective date of this amendment.

(5) Certain nonconforming signs shall not lose legal nonconforming status under the following conditions:

A. For legal nonconforming changeable copy signs, the sign copy may be changed provided there are no structural changes to the sign;

B. For legal nonconforming signs that have a sign cabinet or other structure where the sign copy is located on a changeable panel, the panel may be replaced where there are no structural changes to the sign cabinet; and

C. For legal nonconforming wall signs that are painted on a wall in the C-DC District, such signs may be maintained and repainted with the original sign copy.

(d) Subject to the provisions of this section, nonconforming signs may be repaired and renovated so long as the cost of such work, within any 12-month period, does not exceed 50 percent of the value of the sign.

1125.13. Removal of signs.

(a) Abandoned Signs. If any sign shall become abandoned, in the manner defined herein, such sign is declared to be a public nuisance that continued lack of use results in lack of reasonable and adequate maintenance, thereby causing deterioration and a blighting influence on nearby properties.

(1) An abandoned sign is defined as any sign that meets any one of the following criteria:

A. Any legal nonconforming sign associated with an abandoned nonconforming use or that is associated with a business or other nonresidential use that has been closed or vacant for at least 365 consecutive days. Seasonal businesses are exempted from this determination.

B. Any sign that is not maintained in accordance with this Chapter.

(2) When the Director of Planning and Community Development finds, upon investigation, that a sign has been abandoned, as defined herein, she shall notify the owner of said sign and the owner of the land on which the sign is located, by certified mail or by personal delivery, of her findings. Such notice shall advise the sign and property owners that the sign has been declared abandoned and shall be removed within thirty (30) days from the date of mailing of said notice. The sign owners or property owners may appeal such decision to the Board of Zoning Appeals as provided in section 1103.04 of this code.

(3) It shall be the duty of the Director of Planning and Community Development to maintain a photograph and file on said sign together with a written report of his/her findings for submission to the Board of Zoning Appeals upon request.

(4) If the sign is not removed, as ordered, the same may be removed by the City at the expense of the lessee or owner. If the City is not immediately reimbursed for such costs, the amount thereof shall be certified to the Delaware County Auditor for collection as a special assessment against the property on which sign is located.

(b) When a sign is removed for any reason, all mast arms, guys of any nature, clips, brackets, and all structures of the old sign shall be removed with the sign. No new sign may be installed without the issuance of a new sign permit.

CHAPTER 1126. EXTERNAL EFFECTS

1126.01. Purpose.

This Chapter is established to protect the health, safety, and welfare of residents of the City of Delaware and to minimize the impact of nuisances.

1126.02. Applicability.

No land or structure in any district shall be used or occupied in any manner to create a dangerous or objectionable condition, substance or element, in such a manner or in such amount to adversely affect the adjoining premises or surrounding area.

1126.03. General regulations.

(1) Air Pollution. No use shall emit fly ash, dust, vapors, or other substances that are harmful to health, animals, vegetation or other property or which can cause excessive soiling.

(2) Fire Hazards And Explosives. Flammable or explosive materials shall only be permitted in structures having incombustible exterior walls.

(3) Heat. No use shall generate heat that is perceptible without the aid of instruments at any point beyond the lot occupied by the use.

(4) Light And Glare. All exterior lighting and conditions that generate glare shall comply with the requirements of Chapter 1124 of this code.

(5) Noise. No use shall generate noise beyond that permitted in Section 509.10 of the Codified Ordinances of the City of Delaware.

(6) Noxious, Toxic, or Corrosive Fumes. Noxious, toxic, or corrosive fumes or gasses shall not be emitted which shall be injurious to the property, vegetation, or health of the people residing in any adjacent residential district.

(7) Odors. No use shall emit malodorous gas or matter that is discernible on any adjoining lot or property.

(8) Radioactive And Electrical Disturbances. Radioactive emissions or electrical discharges shall be confined to the use and lot from which they originate and shall not occur across any lot line.

(9) Waste.

A. Liquid wastes shall be disposed of in appropriate containers and removed from the site on a regular basis. Liquid waste or sewerage shall not be discharged into a reservoir, stream, or other open body of water or into a storm or sanitary sewer until treated so that the insoluble substances, such as oils, grease, acids, alkalines, and other chemicals in the waste do not exceed the amount allowed by other codes of the City, County, State, or similar jurisdictional authority.

B. Solid waste, including empty packing crates and other excess materials, shall not be allowed to accumulate on a lot and shall be disposed of on a regular basis or enclosed within a wall or fence.

CHAPTER 1130. ACCESSORY STRUCTURES AND FENCES

1130.01. Purpose.

Accessory structure and fence regulations are established to identify and regulate such structures to ensure they do not create public safety or nuisance issues, do not create an adverse aesthetic from street right of ways, and do not create a negative impact (light, air, drainage, or aesthetic) on surrounding properties. For the purposes of this chapter fences shall include walls.

1130.02. Applicability.

Accessory structures and fences shall be permitted in all zoning districts including Planned Unit Developments (PUD~~s~~) as set forth in this Chapter unless otherwise noted in relevant PUD approvals.

1130.03. Accessory structure and fence regulations for all districts.

(a) Principal Structure Required. No lot shall contain an accessory structure or fence without also containing a principal structure.

(b) Permit Required. All new and expanded accessory structures and fences shall require a Certificate of Building and Zoning Compliance except for those noted below:

(1) Accessory structures in residential districts with a footprint of less than 100 square feet, not permanently affixed to the ground;

A. Regardless of size, accessory structures must adhere to all requirements set forth in this Chapter.

B. Only one exception is permitted per property.

(2) Utility boxes and equipment;

(3) Mechanical equipment including air conditioning units; and

(4) At-grade patios/driveways, except where right-of-way permits are required.

A. All requirements of 1130.04 (l) must be met.

(5) Fences not requiring a certificate of building and zoning compliance:

A. Temporary fencing used to enclose gardens or other temporary installations.

i. Non-welded wire (including chicken wire) shall only be used in rear yards.

ii. Temporary fencing shall not exceed three (3) feet in height.

B. Snow fencing between the months of November and March.

C. Construction Fences. Fences necessary for construction and development shall be exempt from the provisions of this chapter provided such fences are temporary and are removed within thirty (30) days following the completion of the construction or development for which the fence was intended.

D. Fences requiring three (3) or fewer post, holes located in side or rear yards and designed to screen mechanical equipment, refuse containers, hot tubs, or similar appurtenances not to exceed six (6) feet in height; and

E. Border fencing designed to be pushed into the ground and not requiring post holes.

(c) Design. All new and expanded accessory structures shall be designed to be compatible with and subordinate to the principal structure in terms of scale, color, and material selection.

(d) Installation. All new and expanded accessory structures shall be tied down or secured as required by the then-current Ohio Building Code.

(e) Any fence or wall located in a utility or drainage easement shall be located and designed to the specifications of the City. The City reserves the right to prohibit any fence or wall from being placed in a utility or drainage easement.

(f) Maintenance and Repair. All accessory structures and fences shall be maintained in good repair and be structurally sound. General maintenance activities, including paint, siding, cleaning, and minor repairs shall not require a certificate of building and zoning compliance.

(1) Repairs which involve the setting of new permanent posts or other major alterations shall require a certificate of building and zoning compliance.

(g) Each property owner shall determine property lines and ascertain that all accessory structures or fences do not deviate from the plans as approved by the Director of Planning and Community Development, or designee, and do not encroach upon another lot. The issuance of a permit by the City shall not be construed to mean the City has determined an accessory structure or fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed herein.

1130.04. Supplemental accessory structure and fence regulations for residential uses.

(a) Applicability. This section shall apply to all residential districts, and those districts that permit residential uses.

(b) Breezeways. If an accessory structure is connected to a principal structure by a breezeway it shall only be considered an addition to the principal structure if:

(1) The accessory structure and principal structure are separated by no more than twelve (12) feet.

(2) Both the breezeway and accessory structure are fully enclosed.

(3) The breezeway and accessory structure are constructed of building materials and color consistent with the principal structure.

(4) The breezeway and accessory structure are designed to be consistent with the principal structure (including in height and roof pitch).

(c) Connected structures that do not meet the criteria set forth in 1130.04 (b) shall be considered an accessory structure and will be counted toward the maximum allowed accessory structure square footage set forth in 1130.04(d).

(d) Maximum size.

(1) Height. Accessory structures shall not exceed twenty (20) feet in height.

(2) Footprint. On any lot, the sum of the footprint of all accessory structures shall not exceed fifty percent (50%) of the footprint of the principal structure, with a maximum of 900 square feet.

A. On lots where the principal structure has a footprint of less than 1,200 square feet, a total of 600 square feet of accessory structure square footage shall be permitted.

B. There is no maximum footprint of accessory structures in the Agricultural District.

(3) Lot coverage. The sum of the footprint of all impervious surfaces on any lot, including the principal structure, accessory structures, pavement, and/or gravel surfaces, shall not exceed fifty percent (50%) of the square footage of the total lot.

A. At no time shall the lot coverage in the front yard exceed fifty percent (50%).

(e) For the purposes of this chapter, yard designations shall be as shown in Figure 1130.04.

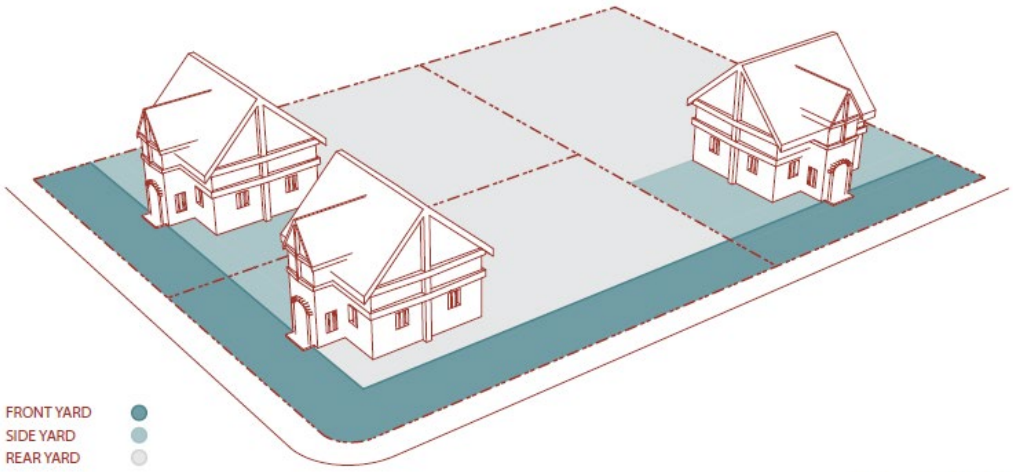


Figure 1130.04 YARDS

(f) Fences and walls.

(1) Permitted locations. Fences and walls are permitted in front, side, and rear yards.

A. Fences and walls in front yards shall be setback at least one (1) foot from the right-of-way or sidewalk. The City Engineer may require fences in front yards to be set back farther from the right-of-way to preserve clear sight distance.

B. Fences in side and rear yards may either be placed on the property line or setback at least three (3) feet. At no point shall a fence be installed within three (3) feet of another fence unless it is tied into the adjacent fence.

C. Any fence or wall located in a City-owned or maintained utility or drainage easement shall be located and designed to the specifications of the City. The City reserves the right to prohibit any fence or wall from being placed in a utility or drainage easement.

D. Fences installed in private utility easements may be installed at the risk of the property owner.

(2) Design.

A. The finished side of all fences shall face outward with no supporting structures visible from adjacent properties.

B. Permitted materials include stone, brick, finished or treated wood, decorative aluminum, iron, welded wire, or synthetic look-a-like products as approved by the Director of Planning and Community Development.

i. Welded wire fences shall require, at minimum, a frame on all sides of each panel constructed of wood or a similar synthetic material.

C. Examples of permitted fence styles include, but are not limited to, those in Figure 1130.04(f)(2).

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Figure 1130.04(f)(2) FENCE STYLES

(3) Prohibited fences and fence materials include above-ground electric, barbed wire, or other sharp-edged fences; chain link fences with weave inserts or fabric coverings/screens; chicken wire and other similar non-welded wire; sheet metal panels.

A. Chain link fences are prohibited in front yards.

(4) Height. Fences in front yards shall have a maximum height of four (4) feet and shall be, at minimum, fifty percent (50%) transparent. Fences in side or rear yards shall have a maximum height of six (6) feet.

(g) Decks, Gazebos, Pavilions.

(1) Permitted locations. Decks, gazebos, pavilions, or other similar accessory structures shall be permitted in side or rear yards and setback at least three (3) feet from side and rear property lines.

(2) Decks located within three feet of the primary structure shall meet the setback requirements for the primary structure.

(h) Sheds or Greenhouses. Sheds or greenhouses shall be permitted in rear yards and located at least three (3) feet from side and rear property lines.

(i) Detached Garages. Detached garages shall be permitted in side yards and rear yards, setback at least three (3) feet from side and rear property lines. In no instance may a garage be located closer to the front property line than the principal structure.

(j) Carports. Carports attached to the primary structure shall be permitted in side and rear yards, no closer to the property line than the required yard setback for principle structure in the relevant zoning district. Detached carports shall be permitted in rear yards only and setback at least three (3) feet from side and rear property lines.

(1) Design. Carports shall be constructed of a rigid material and affixed to the ground in a permanent manner. Carports attached to the existing principal structure shall be architecturally compatible with said principal structure.

(k) Swimming Pools. Swimming pools shall be permitted in rear yards and setback at least ten (10) feet from side and rear property lines. Swimming pools shall be permitted in side yards, setback at least ten (10) feet from side property lines, only if surrounded by a six (6) foot privacy fence.

(1) Fence Required. All swimming pools shall be enclosed by a fence or wall at least four (4) feet in height.

A. All fences and other pool enclosures shall be constructed to have no openings, holes, or gaps larger than the current State of Ohio Building Code permits, except for doors, gates, or windows which

shall be equipped with automatically latching gate to prevent unauthorized access. Access-secured accessory buildings and walls of principal buildings may be used in place of, or as part of, the enclosure.

B. Above-ground pools with sides or railings with a combined height taller than four (4) feet with a locking ladder shall not require a fence.

C. There is no requirement for fencing, provided the pool is at least fifty (50) feet from the rear and side property lines, and is equipped with an automated cover capable of being locked and having a load capacity at least equal to that set forth in the "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs" published by the ASTM International and designated as F 1346-91, or as modified which standard is incorporated herein by reference as if fully rewritten.

(l) Accessory Dwelling Units. See Chapter 1131

(m) At-Grade Patios and Driveways. At-grade patios and driveways are permitted in front, side, or rear yards. Other than an extension of a driveway from a designated curb cut and/or driveway apron, all at-grade patios and driveways shall be set back at least three (3) feet from all property lines. Existing driveways or parking areas may be expanded in accordance with criteria (1)-(3) as shown in Figure 1130.04(m).

(1) Driveway aprons or curb cuts shall not be expanded except with an approved right-of-way permit.

(2) A driveway or parking area shall taper to the driveway apron or curb cut.

(3) A driveway or parking area shall not be expanded towards the front door of the dwelling unit.

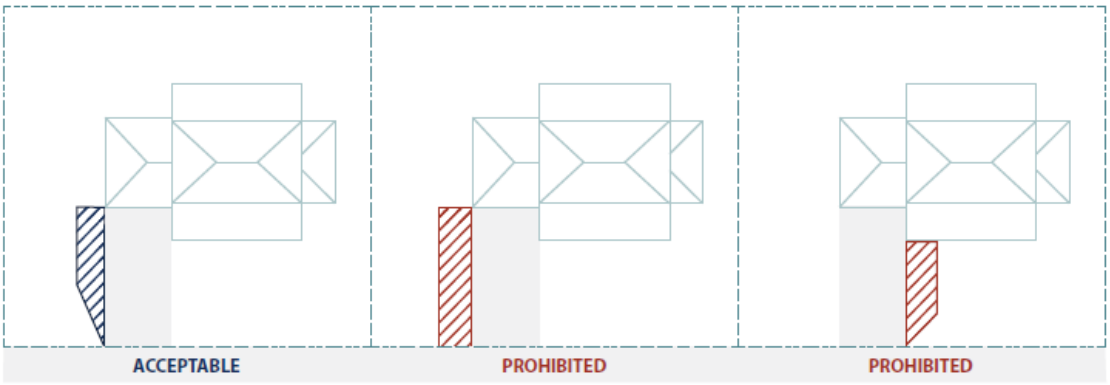


Figure 1130.04(m) DRIVEWAY EXPANSION

(n) Prohibited Accessory Structures. Steel arch buildings, temporary, portable, or inflatable garages or carports, converted shipping containers, semi tractor trailers used for storage (with or without wheels), or other containers not originally intended to be used as accessory structures are prohibited in all residential districts.

1130.05. Supplemental accessory structure and fence regulations for commercial uses.

(a) Fences and Walls.

(1) Permitted Locations. Fences and walls are permitted in front, side, and rear yards.

A. Fences in front yards shall be setback at least one (1) foot from the right-of-way or sidewalk. The City Engineer may require fences in front yards to be set back farther from the right-of-way to preserve clear sight distance.

B. Fences in side and rear yards may either be placed on the property line or setback at least three (3) feet. At no point shall a fence be installed within three (3) feet of another fence unless it is tied into the adjacent fence.

C. Any fence or wall located in a City-owned or maintained utility or drainage easement shall be located and designed to the specifications of the City. The City reserves the right to prohibit any fence or wall from being placed in a utility or drainage easement.

D. Fences installed in private utility easements may be installed at the risk of the property owner.

(2) Design.

A. The finished side of all fences shall face outward with no supporting structures visible from adjacent properties.

B. Permitted materials include stone, brick, finished wood, iron, welded wire, vinyl-coated chain link, or synthetic look-a-like products as approved by the Director of Planning and Community Development.

i. Welded wire fences shall require, at minimum, a frame on all sides of each panel constructed of wood or a similar synthetic material.

C. Prohibited fences and fence materials include above-ground electric, barbed wire, or other sharp-edged fences; chain link fences with weave inserts or fabric coverings/screens; chicken wire and other similar non-welded wire.

D. Height. Fences shall have a maximum height of six (6) feet. Fences in front yards shall be, at minimum, fifty percent (50%) transparent.

(b) Sheds.

(1) Permitted locations. Sheds are permitted in rear yards and shall be setback at least three (3) feet from side and rear property lines.

(2) Each lot in a commercial district shall be permitted one (1) 100 square foot shed or storage building. In lieu of a shed, the dumpster enclosure may be expanded by 100 square feet to accommodate storage.

(3) Design. The shed shall be designed to complement the architecture of the principal structure.

(c) Outdoor Seating.

(1) Permitted locations. Outdoor seating shall be permitted in front, side, or rear yards within the setbacks established for primary structures according to Schedule 1112.04.

(2) Design. Outdoor seating areas shall be designed to complement the architecture of the principal structure. All outdoor seating areas shall require a patio, deck, or other solid surface. Gravel is prohibited.

(d) Prohibited accessory structures. Steel arch buildings, temporary, portable, or inflatable garages or carports, converted shipping containers, semi tractor trailers used for storage (with or without wheels), or other containers not originally intended to be used as accessory structures are prohibited in all commercial districts.

(e) Secondhand donation drop-boxes. Unless regulated, second-hand drop-off containers are a site for the accumulation of junk, rags, and other articles within and outside the container, and unless regulated, second-hand drop-off containers and the accumulation of articles outside the container may impede pedestrian and

vehicular traffic. Any receptacle or box used to collect second-hand articles shall only be permitted in commercial districts and shall conform to the following provisions:

(1) No articles shall be permitted to accumulate outside of the container.

(2) The container must not block any public road or sidewalk, nor block any access way, drive aisle and or required parking spaces as determined by the Planning and Community Development Department.

(3) No flammable or hazardous materials or perishable items shall be placed or kept in containers.

(4) The container must not impede motorists' line-of-sight and must be located directly adjacent to the principal building.

(5) The container shall be anchored to the ground or designed in such a manner that movement cannot easily occur.

(6) The container and the immediate surrounding area shall be kept clean and free from trash and debris and must be emptied on a regular schedule to prevent overflow.

(7) The container shall be equipped with a lid and/or door that automatically closes after the articles are deposited and the container must be kept free of rust.

(8) The owner of the container shall be identified on the container along with applicable contact information, a pick-up schedule and a list of items to be collected.

(9) Containers must be separated by at least 1000 feet (as the crow flies) throughout the City.

(10) The Planning and Community Development Department shall review all requests for such containers and such application shall include a site plan containing dimensions and setbacks as well as an example photograph/rendering of the container with each application in order for approval to be considered. The application must be signed by the owner of the property where the container will be located.

(11) Should the container violate any of the provisions set forth in 1133.14 (c), a notice of violation will be issued by the Director of Planning and Community Development to the owner of the property and the owner of the container. Should the violation(s) not be corrected within fourteen (14) business day(s), the certificate of building and zoning compliance shall be revoked, and corrective action taken for a non-permitted structure.

1130.06. Supplemental accessory structure and fence regulations for industrial uses.

(a) All accessory buildings and structures shall comply with the development standards established for principal buildings

(b) Fences.

(1) Fences and walls are permitted in front, side, and rear yards.

(2) Fences in front yards shall be setback at least one (1) foot from the right-of-way or sidewalk. The City Engineer may require fences in front yards to be set back farther from the right-of-way to preserve clear sight distance.

(3) Fences in side and rear yards may either be placed on the property line or setback at least three (3) feet. At no point shall a fence be installed within three (3) feet of another fence unless it is tied into the adjacent fence.

(4) Any fence or wall located in a City-owned or maintained utility or drainage easement shall be located and designed to the specifications of the City. The City reserves the right to prohibit any fence or wall from being placed in a utility or drainage easement.

A. Fences installed in private utility easements may be installed at the risk of the property owner.

(5) Design.

A. The finished side of all fences shall face outward with no supporting structures visible from adjacent properties.

B. Permitted materials include stone, brick, finished wood, iron, welded wire, vinyl coated chain link, or synthetic look-a-like products as approved by the Director of Planning and Community Development.

i. Welded wire fences shall require, at minimum, a frame on all sides of each panel constructed of wood or a similar synthetic material.

ii. Fences at least seven (7) feet in height may be topped with barbed wire or other sharp-edged materials.

C. Prohibited fences and fence materials include chain link fences with weave inserts or fabric coverings/screens; chicken wire and other similar non-welded wire; electrified fences.

D. Height. Fences shall have a maximum height of eight (8) feet. Fences in front yards shall be, at minimum, fifty percent (50%) transparent.

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CHAPTER 1131. ACCESSORY DWELLING UNITS (ADUs)

1131.01. Purpose.

Accessory Dwelling Unit (ADU) regulations are established to achieve the orderly development of the City and its neighborhoods and the following purposes:

(a) To regulate the bulk and location of accessory dwellings units.

(b) To regulate the density and distribution of accessory dwelling units.

(c) To achieve the goal of the City of Delaware comprehensive plan to promote and ensure a broad spectrum of housing options to meet the current and future needs of the population.

1131.02. Relevant chapters for cross-reference.

Title	Chapter
Definitions	1102
Procedures ~~(for approval)~~	1105
Residential districts	1111
Site and building design	1120
Nonconforming ~~lots~~uses	1139

1131.03. General requirements.

Commented [JW1]: Revise per Accessory chapter's language

ADUs shall be permitted on in all districts where one and two family homes are permitted and shall conform to the location, coverage, maintenance, and general standards contained in this Section as well as provisions of the Ohio Building Code requirements for a habitable space.

(a) Occupancy Requirement. The owner of each lot on which an accessory dwelling unit is established shall maintain a residence in the principal or accessory dwelling unit on the lot for so long as the accessory dwelling unit exists.

(1) A Certificate of Building and Zoning Compliance shall be required prior to initial occupancy or use or If the ADU is changed, converted, or wholly or partly altered or enlarged in its structure.

(2) The owner occupancy requirement shall be certified to the Planning and Community Development Department on an annual basis. The property owner shall provide a notarized, recorded affidavit to the Planning and Community Development Department attesting to the owner occupancy requirement prior to obtaining City approval for the ADU.

(b) Maximum Number of ADUs. No parcel shall contain more than one ADU.

(c) Yard Requirements.

Use	Permitted Yard	Front Setback	Side Setback	Rear Setback
(1) Attached ADU	Rear, Side	[1]	[1]	[1]
(2) Detached ADU	Rear, Side	N/A	3 ft.	3 ft.

1. Shall comply with setback requirements for principal buildings set forth in Schedule 1111.05
2. Building code regulations related to fire code may affect setback allowance as determined by the Chief Building Official.

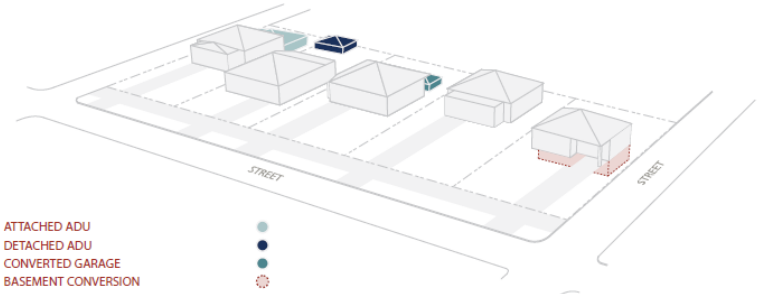
(d) Floor Area. All ADUs must contain a minimum of 400 square feet of livable area.

(1) Attached ADU. The total area of the ADU shall not exceed fifty percent (50%) of the floor area of the principal structure.

(2) Detached ADU. The sum of the footprint of all accessory structures, including an ADU shall not exceed fifty percent (50%) of the footprint of the principal structure, with a maximum of 900 square feet on any lot.

A. On lots where the principal structure has a footprint of less than 1,200 square feet, the maximum footprint of all accessory structures shall not exceed 600 square feet.

B. There is no maximum footprint of accessory structures in the A-1, Agricultural District.



1131.03 General requirements

(e) Height Restrictions.

(1) The maximum height of any attached ADU shall not exceed the maximum allowable height of a primary structure as set forth in each zoning district.

(2) The maximum height of any detached ADU shall not exceed twenty (20) feet.

(f) Parking Requirements. No additional off-street parking shall be required in locations where on-street parking is available within one block. In locations where on-street parking is not available within one block, the ADU shall provide one (1) additional off-street parking space. This may include space on an existing driveway.

(g) Exterior Design Standards. ADUs shall be of similar style, color, and material selection as the primary building as set forth in Section 1120.04 and designed to portray the form of a single-family dwelling.

(h) Additional Requirements.

(1) Access to ADUs. A continuous paved access corridor shall be provided from the front of any lot containing an ADU to the ADU entrance. The route must be suitable for emergency responders to use and shall have an unobstructed vertical clearance of ten (10) feet and an unobstructed horizontal clearance of seven (7) feet, including five (5) feet clear of roof eaves or other projections. The access shall be kept accessible during all conditions, including being accessible when snow is on the ground.

(2) Construction of ADUs may trigger public improvements, including but not limited to sidewalk improvements, curb ramps, street trees, driveway and driveway apron improvements, and water meter upgrades, as determined by the relevant City department.

(3) ADUs proposed on a non-conforming lot shall conform to requirements set forth in Chapter 1139.

(4) All ADUs shall require a certified address from the City of Delaware.

CHAPTER 1132. HOME OCCUPATIONS

1132.01. Purpose.

The purpose of the Home Occupation regulations is to protect the character of the surrounding residential neighborhood while recognizing that traditional workplaces are no longer necessary in all situations due to changing technology, computerization, networking, and the changing job market. These regulations are intended to recognize this trend and allow Home Occupations that are located and conducted in such a manner that the existence of the Home Occupation is not detectable outside of the dwelling unit or accessory building. All Home Occupations shall be clearly subordinate and incidental to the residential use of the property.

1132.02. Standards for home occupations.

(a) Uses Allowed.

(1) Instructional Services. Including, but not limited to, music lessons, tutoring, religious instruction, and nursery school/day care.

A. For instruction purposes, the number of students shall be no more than two (2) at any one time.

B. For nursery school/daycare purposes, the maximum enrollment shall not exceed the number allowed by the State of Ohio in accordance with Ohio Revised Code §§ 5104.01 through 5104.99.

(2) Professional Services. Including, but not limited to, hair/nail salons, barbers, massage therapists, and photographers.

A. For service purposes, the number of clients shall be no more than one (1) at any one time.

(3) Studio/Office. Including, but not limited to, art or recording studios, dressmaking/tailoring, business consulting, and computer/internet business.

A. For office purposes, this may include a business which maintains a management office in a dwelling unit, but conducts day-to-day operation at another location (i.e. landscaping/lawn care service, interior decorating, cleaning services, direct sale of consumer products, etc.)

(b) Districts Allowed. Home occupations shall be allowed in all districts and overlays where residential uses are permitted.

(c) General Regulations for all Home Occupations.

(1) Exterior Appearance. In no way shall the appearance of the structure be altered resulting from the home occupation. There shall be no entrance or exit way specifically provided in the dwelling unit or on the premises for the conduct of a home occupation, nor shall there be any display of products or equipment visible in any manner other than one sign, not to exceed two square feet in area, non-illuminated and mounted flat against the wall of the principal building.

(2) External Effects. No home occupation shall be conducted in a manner which would cause the emission of sounds, noise, vibration, dust, smell, smoke, glare, electrical interference, or any other hazard or nuisance to any greater extent than experienced in an average residential neighborhood as set forth in Chapter 1126

(3) Usable Area. No more than twenty-five percent (25%) of the gross area of such dwelling unit, or 500 square feet, whichever is less, may be used for the home occupation.

A. No more than 500 square feet of either an attached garage or detached accessory building, but not both, may be used for the home occupation.

B. Due to its nature, a daycare may be conducted throughout the primary structure. No day care operations may take place in an accessory structure.

C. There shall be no exterior storage, display, use, or activity of any kind relating to the home occupation.

(4) Employees. Only those residing in the dwelling unit may conduct work from the home occupation. One additional non-resident employee may work from the home occupation for up to 90 days in each calendar year.

(5) Traffic. Traffic generated by the home occupation shall not create safety hazards nor be substantially greater in vehicular size nor exceed on any continual basis the average number of vehicle trips that would normally be expected for a residence in a residential neighborhood.

A. There shall be no commodities sold or services rendered that require receipt or delivery of merchandise, goods, or equipment other than by passenger motor vehicle, parcel delivery service, or U.S. mail service. No deliveries by tractor/trailer trucks are permitted.

(6) Parking. No area on the residential property may be created to park any commercial vehicles or equipment related to the home occupation. Any home occupation business which requires the creation of parking in addition to the parking area already provided for the single-family residence shall not be operated within a residential zoning district. The conduct of a home occupation shall not reduce or render unusable areas provided for required off-street parking for the dwelling unit.

A. A maximum of one (1) passenger vehicle associated with the home occupation may be parked on existing ~~paved~~ parking areas on the residential property at any time.

(7) Hazards. Storage of combustible or flammable matter, accumulation of rubbish, wastepaper, cartons, or boxes, in excess of normal home activities is prohibited.

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CHAPTER 1133. SHORT-TERM RENTALS (STRs)

1133.01. Purpose.

Short-Term Rental (STR) regulations are established to achieve the following purposes:

(a) To provide the opportunity for property owners to supplement their income by leasing part or all of their property to short-term tenants.

(b) To diversify available housing options for temporary residents, and those in need of temporary housing.

(c) To protect the affordability of housing in the City of Delaware.

(d) To protect the residential character of neighborhoods in the City of Delaware.

(e) To encourage economic development and support partner agencies and events by allowing for tourist accommodations~~. in the historic Downtown.~~

1133.02. Types of Short-Term Rentals.

For the purposes of this Chapter, "Short-Term Rentals" shall include Hosted Short-Term Rentals and Non-Hosted Short-Term Rentals. This Chapter shall not apply to hotels or motels as otherwise defined in this Code.

1133.03. General Regulations for all Short-Term Rentals.

(a) Permitted Locations. Short-Term Rentals shall be permitted by-right in the C-DC zoning district and on lots used for one or two-family dwellings.

(b) Registration Required. All persons wishing to operate a Short-Term Rental shall register with the City of Delaware Planning and Community Development Department in accordance with Section 1133.04.

(c) Number of Permitted Short-Term Rentals. There shall be a maximum of one (1) Short-Term Rental registration per fee simple lot.

(1) For hosted short-term rentals, one STR registration shall allow the owner to host multiple short-term tenants simultaneously in separate rooms. There shall be a permanent resident host on-site pursuant to the definition of "hosted short term rental".

(2) For non-hosted short-term rentals, one STR registration shall allow for the rental of a full dwelling unit to one short-term tenant or group.

(3) Each individual, household, or commercial entity shall be permitted to register for a maximum of one (1) hosted short-term rental and one (1) non-hosted short-term rental.

(d) Parking.

(1) In the C-DC Zoning District, no additional off-street parking shall be required.

(2) In zoning districts where single- and two-family dwelling units are permitted, no additional off-street parking shall be required in locations where on-street parking is available within one block. In locations where on-street parking is not available within one block, the short-term rental shall provide one (1) additional off-street parking space for every two (2) possible separate tenants. This may include space on an existing driveway.

(e) Exterior Appearance. In no way shall the appearance of the structure be altered resulting from the Short-Term Rental other than the allowance of one sign, not to exceed two (2) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

(f) Required Posting.

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(1) All short-term rental hosts shall provide tenants with a current version of the "City of Delaware Short-Term Rental Guidelines" packet as provided by the Department of Planning and Community Development.

(2) All short-term rental hosts shall include their current Short-Term Rental Registration number in all listings of their short-term rental.

1133.04. Short-Term Rental Registration Requirements and Procedures.

(a) Registration Application Requirements. Applications to operate a Short-Term Rental shall be submitted in accordance with the checklist on file with the Planning and Community Development Department.

(1) Review by Director of Planning and Community Development. The Director of Planning and Community Development (Director) shall review the submitted application for completeness pursuant to the submission requirements outlined in the checklist on file.

(2) Required Inspection. After an application for a Short-Term Rental permit has been deemed complete, the Director shall forward the application to the Planning and Community Development Code Enforcement Division and City of Delaware Fire Department to schedule an inspection to review the site for compliance with all City codes.

(3) Fees. Upon passage of the required site inspection, the applicant shall pay all fees as determined by City Council to receive their permit.

(b) Registration Expiration. Short Term Rental Registration Permits shall be in effect for one (1) calendar year from January 1 of the current year through December 31 of the following year. All permits shall expire on December 31 of each calendar year regardless of date received.

(1) Registration renewal. Applicants shall re-apply each year they intend to operate a short-term rental and shall pay all required fees set forth in the fee schedule.

(c) Registration Revocation.

(1) Any Short-Term Rentals found to be operating without first registering with the City shall be caused to cease operations until such time as a Registration application has been filed, accepted (including the required inspection), and paid in-full.

(2) Any Short-Term Rentals with three (3) violations of any City Code or Ordinance within one (1) registration year shall be caused to cease operations and any Short-Term Rental Registration shall be revoked for the remainder of the registration period. The applicant may re-apply the following year contingent upon coming into compliance with all City Codes and Ordinances.

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CHAPTER 1134. ALTERNATIVE ENERGY SOURCES

1134.01. Purpose.

Alternative energy regulations are established to achieve the following:

(a) To provide standards for the placement, design, and operation of solar and wind energy facilities.

(b) To facilitate efficient and effective renewable energy development while preserving public health, safety, and welfare.

1134.02 Relevant Complementary Chapters

Title	Chapter
Definitions	1102
Procedures (for approval)	1105
Conditional uses	1105

1134.03 Wind Energy Systems (WES).

Wind energy systems shall be permitted in all zoning districts and adhere to the following standards:

(a) Building-mounted wind energy systems shall be permitted in all zoning districts where structures are allowed, and shall meet the following requirements:

(1) Height. Wind energy systems mounted to a principal or accessory building may not exceed a height ten (10) feet above the highest point of the roof, excluding chimneys, antennae, and similar roof-mounted objects.

(2) Location. Systems shall be located at least ten (10) feet apart.

(3) Quantity. Quantity is limited to two (2) per building.

(4) Historic District. Roof-mounted WES located within the City of Delaware Historic District shall be placed on the roof such that the components would not be visible from public rights-of-way and require a Certificate of Appropriateness prior to installation.

(5) Permit required. All building-mounted WES shall be required to receive a Certificate of Building and Zoning Compliance prior to installation and include the location of the proposed WES, wiring and any associated equipment or provision as required by the Ohio Building Code.

(b) Accessory ground-mounted wind energy systems shall be permitted as a Conditional Use in all non-residential districts and shall meet the following requirements:

(1) Height. The tower of a tower-mounted wind energy system shall not exceed 150 feet in height as measured at grade to top of the tower. Wind energy systems shall be built to comply with all applicable Federal Aviation Administration regulations. The tower of a wind energy system shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of ten (10) feet above the ground.

(2) Siting. Freestanding wind energy systems mounted on a pole or tower shall be set back a minimum distance equal to the height of the wind energy system from any principal building, property lines, aboveground transmission lines, and other wind energy systems.

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(3) Signage. Appropriate warning signage (e.g. “Danger, High Voltage”) shall be placed where it is clearly visible by persons standing near the tower base or other ground-mounted electrical equipment.

(4) Visual Impact.

A. The applicant shall demonstrate through project site planning and proposed mitigation that a wind energy system’s visual impact will be minimized for surrounding neighbors and the community. This may include, but not be limited to information regarding site selection, wind energy system design or appearance, buffering, and screening of ground mounted electrical and control equipment.

B. The color of wind energy systems shall be painted with a non-reflective, unobtrusive color that blends in with the surrounding environment.

C. Wind energy systems shall not be artificially lit unless such lighting is required by the Federal Aviation Administration. If lighting is required, the applicant shall provide a copy of the Federal Aviation Administration determination to establish the required markings and/or lights for the wind energy system.

(5) Sound. Operation of wind energy systems shall not exceed sound levels set forth in Section 509.10 of the Codified Noise Ordinance of the City of Delaware.

A. Utility Connections.

I. All electric and control equipment shall be safely and appropriately enclosed from unintentional access by means such as lockable equipment cabinetry, enclosed tower with lockable access door, or similar.

II. Wiring between wind energy systems and point of interconnection shall be underground.

III. Wind energy systems proposed to be connected to the power grid through net metering shall adhere to Ohio Revised Code Section 4928.67 or any future corresponding statutory provision.

(6) Permit required. All ground-mounted WES shall be required to receive a Certificate of Building and Zoning Compliance prior to installation and shall include:

A. A site plan drawn to scale showing property lines and physical dimensions of the applicant’s property.

B. Location, dimensions, and types of existing structures on the property.

C. Location of the proposed wind energy system, foundations, guy wires and associated equipment or provision as required by the Ohio Building Code.

D. Fall Zone depicted as a radius around the center of the tower for a tower mounted wind energy system.

E. The right-of-way or future right-of-way according to the City of Delaware Thoroughfare Plan for any public road that is contiguous with the property.

i. All overhead utility lines.

F. Any additional information as requested by the Director of Planning and Community Development.

(7) Decommissioning. Wind energy systems shall be removed within six (6) months after they have reached the end of their useful life, which is determined if no electricity is generated for a continuous period of

twelve (12) months. Time extensions may be permitted allowed when good faith efforts to repair can be demonstrated. Extensions shall be requested in writing to the Director of Planning and Community Development.

1134.04 Solar Energy Systems (SES).

(a) Building-mounted solar energy systems shall be permitted in all zoning districts where structures are permitted, and shall meet the following requirements:

(1) Height. No portion of any pitched roof-mounted solar energy system may extend below the roof line or above the highest point of the roof. Flat roof-mounted panels shall not exceed nine (9) feet in overall height or extend more than five (5) feet above the building parapet, whichever results in less height.

(2) Design. SES shall be designed and located to prevent reflective glare toward any inhabited on adjacent properties as well as adjacent street rights-of-way. All solar panels shall be configured in a contiguous square or rectangular shape and aligned with existing roof edges.

(3) Permit required. All building-mounted SES shall be required to receive a Certificate of Building and Zoning Compliance prior to installation and include the location of the proposed SES, wiring, and associated equipment or provision as required by the Ohio Building Code.

(b) Ground-mounted solar energy systems shall be permitted as accessory uses in all districts where residential uses are permitted and permitted as a principal use in the A-1 Agricultural district, I-1 Light Industrial district, I-2 General Industrial, and C/I Civic/Industrial zoning districts. Ground-mounted SES are not permitted in commercial zoning districts.

(1) Accessory ground-mounted solar energy systems shall be located to the side or rear of a principal building to the extent practicable, except in the I-1 Light Industrial district, and I-2 General Industrial zoning districts.

(2) Footprint.

A. Accessory Use. The sum of the footprint for all accessory structures located in residential zoning districts shall not exceed fifty percent (50%) of the footprint of the principal structure, with a maximum total accessory structure square footage of 900 square feet on any lot.

i. On lots where the principal structure has a footprint of less than 1,200 square feet, up to 600 square feet of accessory structures shall be permitted, but the maximum footprint of all accessory structures shall not exceed 600 square feet.

ii. Accessory use ground-mounted SES shall not have a maximum footprint in the A-1 Agricultural District, I-1 Light Industrial District, and I-2 General Industrial zoning districts.

B. Principal use. Principal-use ground-mounted SES shall not count towards the maximum lot coverage for the district unless installed on an impervious surface.

(3) Height. Accessory use ground-mounted SES shall be installed at a maximum height of fifteen (15) feet. Principal use ground-mounted SES shall not exceed twenty (20) feet.

(4) Setbacks. No ground-mounted solar energy system shall be permitted in the front yard and shall not encroach into the required rear or side yard setback for accessory structures of the applicable zoning district.

(5) Screening. Ground-mounted SES shall be reasonably screened from ordinary public view and properties to the maximum extent practicable by a minimum of four (4) foot high landscaping, or other means, except

to the extent that such screening is either impracticable or would result in ineffective solar access on the lot in question.

A. Design. Any SES shall be designed and located to prevent reflective glare toward any adjacent residential lot on adjacent properties as well as adjacent street rights-of-way.

B. Any power transmission lines connecting a ground-mounted or freestanding SES to any other structure on the property shall be buried underground.

C. Ground Cover. Ground-mounted SES shall include the installation of perennial ground cover vegetation maintained for the duration of operation until the site is decommissioned.

D. SES mounted upon existing impervious surfaces must comply with on-site storm water requirements.

E. Permit required. All ground-mounted SES shall be required to receive a Certificate of Building and Zoning Compliance prior to installation and include the location of the proposed SES on the property, height, tilt features, the primary structure, accessory structures, and setbacks to property lines, wiring and associated equipment or provision as required by the Ohio Building Code.

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CHAPTER 1135. WIRELESS TELECOMMUNICATIONS

1135.01. Purpose.

The regulation of the placement, construction, and modification of towers or wireless support structures, and wireless telecommunications facilities to include small cell 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 wireless telecommunications environment in the City, specifically:

(a) To direct the location of towers or wireless support structures, small cell facilities, and wireless telecommunications facilities in the City.

(b) To protect residential areas and land uses from potential adverse impacts of towers or wireless support structures, small cell facilities, and wireless telecommunications facilities.

(c) To minimize adverse visual impacts of towers or wireless support structures, small cell facilities, and wireless telecommunications facilities through careful design, siting, landscaping, and innovative camouflaging techniques.

(d) To require 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 or wireless support structures, small cell facilities, and wireless telecommunications facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed.

(f) To ensure that towers or wireless support structures, small cell facilities, and wireless telecommunications facilities are compatible with surrounding land uses.

(g) To ensure that proposed towers or wireless support structures, small cell facilities, and wireless telecommunications facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.

1135.02. Relevant chapters for cross-reference.

Title	Chapter
Definitions	1102
Conditional Uses	1105
Procedures (for approval)	1105
Signage	1125

1135.03. Applicability.

(a) All towers, antenna support structures, small cell facilities, and wireless telecommunications facilities, any portion of which are located within the City, are subject to this Chapter.

(b) Except as provided herein, 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 City approval in the form of either a conditional use approval or certificate of building and zoning compliance, but has not yet been constructed or located, shall be considered a non-conforming structure so long as such approval is current and not expired.

1135.04. Permitted and conditional uses.

(a) Conditional Use. Wireless telecommunications towers are conditional uses in all 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, construction, and reduction of the need for new towers.

(1) Application Submission. An applicant wishing to install a wireless telecommunication tower must submit a conditional use application in accordance with the requirements of section 1105.20 of this code.

(b) Permitted Use. Antennae co-location and small cell facilities are a permitted uses in all districts subject to the requirements of this Chapter.

(1) A certificate of building and zoning compliance must be approved prior to the installation of any antennae or small cell facilities.

(2) Historic District. Any application to locate a tower, wireless support structure, or wireless telecommunications facilities to include small cell facilities on a lot, building or structure located in the Historic district shall be subject to an appropriateness review by the Historic Preservation Commission and must receive a Certificate of Appropriateness prior to installation.

1135.04. General requirements.

(a) Requirements of All Wireless Telecommunications Facilities. 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 locations in non-residential zoning districts as set forth in section 1135.05 and residential zoning districts as set forth in 1135.06.

(1) Each applicant for an antenna and/or tower shall provide to the City an inventory of its existing towers, antennae, or sites planned and/or approved for towers or antennae that are either within the jurisdiction of the City or within two (2) miles of the border thereof, including specific information about the location, height, and design of each tower. The City may share such information with other applicants seeking to locate antennae within the jurisdiction of the City, provided, however, that the City is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(2) Towers and antennae shall meet the following requirements:

A. Color and Finish. Towers shall either maintain a non-contrasting gray or similar color or have a galvanized steel finish unless otherwise required by the City or any applicable standards of the FAA, FCC, or ODOT.

B. Compatible Design. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, and screening so as to be aesthetically and architecturally compatible with the surrounding environment, as approved by the City.

C. Antenna Color. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be a neutral color, as approved by the City, that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

D. Fencing. Any fencing shall comply with Chapter 1130 of this code and shall be subject to approval of the City.

E. Lighting. Towers and antennae shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause

the least disturbance to the surrounding views and shall comply with the lighting regulations set forth in Chapter 1124.

F. State or Federal Requirement. All towers must meet or exceed current standards and regulations for the FAA, FCC, and any other agency of the state or federal government with the authority to regulate towers and antennae. If such standards and regulations are changed, then the owners of the towers and antennae governed by this Chapter shall bring such towers and antennae into compliance with such revised standards within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

G. Building Codes and Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

H. Non-essential services. Towers and antennae shall be regulated and permitted pursuant to this Chapter and shall not be regulated or permitted as essential services, public service facilities, or utilities (public or private).

I. License to Operate. Owners and operators of towers or antennae shall submit copies of all franchises, certifications, licenses, and permits required by law for the design, construction, location, and operation of wireless communications in the City. Owners and/or operators shall be required to maintain the same and to provide evidence of renewal or extension thereof when granted.

J. Signs. No signs shall be allowed on any antenna or tower except a sign shall be posted on the surrounding fencing or equipment shelters indicating the emergency contact phone number for the tower owner/operator. Any identification signage shall be in accordance with the requirements of Chapter 1125.

K. Underground Equipment Shelters. Underground equipment shelters will be required where appropriate screening of a shelter cannot be accomplished.

L. Accommodation. All towers shall be constructed or reconstructed to accommodate multiple users.

M. Maximum height. No tower, including antenna, shall exceed two hundred (200) feet, as measured from the grade at the base of the tower.

N. Minimum Distance. No tower may be located within 2,500 feet of any existing or approved tower.

1135.05.Location in non-residentially zone districts.

(a) Wireless telecommunication facilities are permitted in all non-residential zoning districts that do not contain a permitted residential use zoning component. Wireless telecommunication facilities are also permitted in residential zoning districts when co-located on existing structures such as apartment buildings, water towers, church towers, electric transmission towers, chimneys, and cooling towers and are subject to the following:

(b) General Requirements.

(1) The existing or future use of property containing a wireless telecommunications facility may be any permitted use in the district or any lawful nonconforming use and need not be affiliated with the wireless telecommunications provider.

(2) The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).

(c) Tower-Sole Use On a Lot. A wireless telecommunications facility is permitted as a sole use on a lot subject to the following:

(1) Minimum Yard Requirements. The minimum distance to any one or two-family residential use or district lot line shall be two hundred (200) feet from the base of the tower.

(2) Maximum Size of Equipment Shelter. Four hundred (400) square feet for a single shelter, or, if there is more than one, eight hundred (800) total square feet.

(d) Tower-Combined With Another Use. A wireless telecommunications facility is permitted on a property with an existing use subject to the following conditions:

(1) 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, buffer planting, and any appropriate setback.

(2) Minimum Yard Requirements. The minimum distance to any one or two-family residential use or district lot line shall be two hundred (200) feet from the base of the tower.

(3) Access. The service to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

(4) Maximum size of Equipment Shelter. Four hundred (400) square feet for a single shelter, or if there is more than one shelter, eight hundred (800) square feet.

(e) Antenna-Combined With An Existing Structure. Where possible, an antenna for a wireless telecommunications facility shall be attached to an existing structure or building subject to the following conditions:

(1) The height of the antennae shall not exceed fifteen (15) feet or five percent (5%) of the building height above the existing building or structure, whichever is greater.

(2) 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.

(3) 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:

A. Shall be set back a minimum of fifty (50) feet from any property line.

B. A buffer yard shall be planted that has been prepared in accordance with 1135.06(d)(7)C. and approved by the Director of Planning and Community Development.

C. Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

D. The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.

1135.06. Locations in residentially zoned districts.

Wireless telecommunications facilities, including towers, are not permitted in residential zoning districts, except under the following conditions:

(a) The proposed location is on residentially zoned property that is devoted primarily to a non-residential use (e.g., church, park, library, municipal/government, hospital, school, utility); or

(b) The proposed location is located in a high-tension power line easement; or

(c) The proposed location is located on a lot, at least two hundred (200) feet from a dwelling and is located within one hundred (100) feet of U.S. Highways 23, 42, and 36; and

(d) A conditional use permit shall be acquired for a wireless telecommunications facility in a residential zoning district subject to the requirements of Chapter 1105 and the following:

(1) 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) Antenna—Combined With a Non-Residential Use. An antenna may be attached to a non-residential 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, and a building or structure owned by a utility. the following conditions shall be met:

A. The maximum height of the antenna shall not exceed fifteen (15) 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:

i. The equipment shelter shall comply with the minimum setback of a principle structure for the zoning district it is located in.

ii. The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one shelter, eight-hundred (800) square feet.

iii. A buffer yard shall be planted that has been prepared in accordance with 1135.06(d)(7)C.

iv. Vehicular access to the equipment shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

(3) Tower—Located on a Non-Residential-Use Property. A tower to support an antenna may be constructed on a property with a non-residential 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 and a utility use, subject to the following conditions:

A. The tower shall be set back from any property line abutting a residential lot by two hundred (200) feet.

B. The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight hundred (800) square feet.

C. Vehicular access to the tower and equipment shelter shall be provided along the circulation driveways of the existing use.

(4) Antenna—Located on a Residential Building. An antenna for a wireless telecommunications facility may be attached to a mid-rise or high-rise apartment building subject to the following conditions:

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(5) The maximum height of the antenna shall not exceed fifteen (15) feet above the existing building or structure.

A. 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.

B. Equipment Shelter. If the applicant proposes locating the telecommunications equipment in a separate equipment shelter (not located in, or attached to the building), the equipment shelter shall comply with the following:

i. The shelter shall comply with the setback of a principle structure for the zoning district.

ii. The maximum size of the equipment shelter shall not exceed four hundred (400) square feet, or, if there is more than one, eight-hundred (800) square feet.

iii. A buffer yard shall be planted in accordance with 1135.06(d)(7)C.

iv. Vehicular access to the equipment shelter shall, if possible, use the existing circulation system

(6) Tower—Located in Open Space. A wireless telecommunications facility is permitted on land that has been established as a permanent open space, or park subject to the following conditions:

A. The open space shall be owned by the City, county or state government, a homeowners association, charitable organization, or a private non-profit conservation organization.

B. The maximum size of the equipment shelter shall not exceed four-hundred (400) square feet, or, if there is more than one shelter, eight-hundred (800) square feet.

C. The tower shall be set back two hundred (200) feet from any residential property line.

D. In order to locate a telecommunications facility on a property that is vacant the tract shall be at least 1.5 acres, or as otherwise determined by the appropriate reviewing body.

(7) Criteria For All Wireless Telecommunications Facilities—Towers: Wireless telecommunications facilities which include a tower may be permitted as a Conditional Use if they comply with the criteria below and any additional conditions deemed relevant by the Planning Commission. 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 1135.05.

A. The Applicant shall demonstrate that the 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.

B. 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 appropriate vehicular access is provided to the facility.

C. 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.

D. The applicant shall present a signed statement indicating:

i. 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 at reasonable fair market cost.

ii. That the applicant agrees to remove the facility within one-hundred eighty (180) days after the site's use is discontinued.

E. A Conditional Use Permit must be approved by the Planning Commission with a subsequent certificate of building and zoning compliance issued for construction of new towers. Co-location of antennae on a single tower, 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.

F. The application for a wireless communication facility may be transmitted to appropriate professional consultants for review and comment. Any reports, comments, or expert opinions shall be compiled and reviewed by the Director of Planning and Community Development and transmitted to the Planning Commission prior to the time of the Commission's review.

G. 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 Planning Commission.

1135.07. Co-location requirements.

(a) No new tower shall be constructed in the City unless such tower is capable of accommodating at least one (1) additional wireless telecommunications facility owned by others.

(b) A Conditional Use Permit shall be issued only if there is not technically suitable space reasonably~~ve~~ available on an existing tower or structure within the geographic area to be served. W~~w~~ith the permit application, the applicant shall list the location of every tower, building, or structure within the search area that could support the proposed antenna. T~~t~~he applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building, or structure. I~~i~~f 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.

1135.08. Abandonment of tower.

(a) All providers utilizing towers shall present a report to the Director of Planning and Community Development notifying them of any tower located in the City whose use will be discontinued and the date this use will cease.

(1) If at any time the use of the tower is discontinued for one hundred eighty (180) days, the Director of Planning and Community Development may declare the tower abandoned. (This excludes any dormancy period between construction and the initial use of the facility).

(2) The tower's owner/operator will receive written notice from the Director of Planning and Community Development and be instructed to either reactivate the tower's use within one-hundred eighty (180) days or dismantle and remove the tower.

(3) If reactivation or dismantling does not occur, the City will remove or will contract to have removed the tower and any appurtenances and assess the owner/operator the costs.

(4) In the case of a multi-use tower, this provision does not become effective until all users cease use of the tower. However, the City may cause the abandoned portions of systems on the multi-use tower to be removed in accordance with this provision.

A. The City must provide the tower owner three (3) months' notice and an opportunity to be heard before the Board of Zoning Appeals 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, treat the tower as a nuisance and order the demolition of the Tower and all appurtenances.

B. The City shall provide the tower owner with the right to a public hearing before the Board of Zoning Appeals, which public hearing shall follow the three (3) month notice. All interested parties shall be allowed an opportunity to be heard at the public hearing.

C. After a public hearing is held pursuant to Section 1135.07(c), the Board of Zoning Appeals may order the acquisition or demolition of the tower and any appurtenances. The City may require Permittee and/or landowner to pay for all expenses necessary to acquire or demolish the tower.

1135.09. Variances and special exceptions.

Any request to deviate from any requirements of this Chapter shall require variance approval in conformance with the procedures set forth in the Zoning Code. In the case of a conditional use approval, the Planning Commission may grant special exceptions to the requirements of this Chapter at the time of their review.

1135.10. Miscellaneous.

Non-Waiver. Nothing in this Chapter shall preclude the City from exercising any right or remedy it may have in law or equity to enforce the terms and conditions of this Chapter.

1135.11. Small cell facilities in the public right-of way.

Small cell facilities and support structures located within the public right-of-way shall be governed by the DESIGN GUIDELINES FOR WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY dated July 31, 2018, or as amended by the City Engineer's Office. These guidelines are available from the City Engineer's Office.

DRAFT

CHAPTER 1136. AGE RESTRICTED RETAIL SALES

1136.01. Purpose.

Age Restricted Retail Sales regulations are established to limit the proximity of age restricted retail sales establishments in relation to places and locations that youth and young adults below legal purchasing age frequent.

1136.02. Relevant complementary chapters.

Title	Chapter
Definitions	1102
Procedures ~~(for approval)~~	1105
Conditional u~~U~~ses	1105
Signage	1125
Schedule of p~~P~~ermitted u~~U~~ses	Appendix A

1136.03. Age Restricted Retail Sales declared a conditional use.

Age restricted retail sales may be conditionally permitted in all districts where retail sales are permitted. The Planning Commission shall review and either approve, approve with additional conditions, or deny the Conditional Use request prior to the application of a Certificate of Building and Zoning Compliance in the Planning and Community Development Department.

(a) Medical Marijuana and Adult Use Cannabis dispensaries shall be required to produce documentation of pre-qualification from state agencies with their request for conditional use approval.

1136.04. Proximity to certain other uses or locations.

(a) Proximity to youth-oriented facilities. No Certificate of Building and Zoning Compliance may be issued, and no existing use may be expanded if located within 500 feet of the boundaries of a parcel of real estate having situated on it a school, church, public library, public playground, or public park as defined in sections 3796.30 and 3780.01 (35) of the Ohio Revised Code.

(b) Proximity to other age restricted retail sales establishments. No Certificate of Building and Zoning Compliance may be issued for any age restricted retail sales establishment within one (1) mile of another age restricted retail sales establishment.

1) For the purpose of subsection (a) and (b) of this section, measurement shall be made in a straight line, without regard to any intervening structures, topography, or objects, from the nearest portion of the building or structure used as the part of the premises where an age restricted retail sales establishment is located, to the nearest property line of the premises of a use listed in subsection (a) and (b). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

1136.05. Existing Age Restricted Retail Establishments.

(a) Any existing age restricted retail sales establishment shall be allowed to continue in operation as it was on the date prior to November 14, 2024. Where a lawful retail establishment exists at the effective date of adoption or amendment of this Zoning Ordinance that could not now be located under the terms of this Ordinance by

reason or restrictions on proximity to other Age Restricted Retail Establishments may be continued so long as it remains otherwise lawful.

(b) If an existing establishment is to be expanded, any expansion shall comply with the provisions within this Chapter.

(c) An existing establishment shall be considered to have stopped operations if it does not renew any licensure or registration that is required by the State of Ohio for the location related to age restricted retail sales, or if the use is discontinued for one 365-day continuous period. The fact that the ownership of a business is transferred does not constitute the ceasing of that business if an applicable valid license or registration is maintained for that location.

1136.06. Signage and outdoor activity.

(a) Signage. Signs shall be limited to the permitted signage set forth in Chapter 1125.

(b) There shall be no outdoor display of any kind, nor shall any activities related to the age restricted retail sales establishment occur outside of a fully enclosed building.

1136.07 Additional requirements.

(a) Walk-up windows shall be prohibited.

(b) The onsite consumption of any products sold on the premises shall be prohibited except for the consumption of tobacco products within tobacco lounges.

(c) Metal bars or gates may not be used on windows or doors.

CHAPTER 1137. ADULT ENTERTAINMENT BUSINESSES

1137.01. Purpose.

It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

1137.02. Definitions.

(a) ADULT ARCADE. Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(b) ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE. A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

(3) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(c) ADULT CABARET. A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity or semi-nude: or

(2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(d) ADULT MOTEL. A hotel, motel, or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or

(2) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than (10) hours.

(e) ADULT MOTION PICTURE THEATER. A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(f) ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(g) EMPLOYEE. A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

(h) ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(i) ESCORT AGENCY. A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

(j) ESTABLISHMENT. Means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The ~~conversation~~ conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(3) The additions of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

(k) LICENSE. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person is whose name a license has been issued authorizing employment in a sexually oriented business.

(l) NUDE MODEL STUDIO. Any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model Studio shall not include a proprietary school licensed by the State of Ohio or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

(m) NUDITY or a STATE OF NUDITY. The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(n) PERSON. An individual, proprietorship, partnership, corporation, association or other legal entity.

(o) SEMI-NUDE or in a SEMI-NUDE CONDITION. The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(p) SEXUAL ENCOUNTER CENTER. A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(q) SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(r) SPECIFIED ANATOMICAL AREAS. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or less than completely and opaquely covered human genitals, public region, buttocks or a female breast below a point immediately above the top of the areola.

(s) SPECIFIED CRIMINAL ACTIVITY. Means any of the following offenses:

(1) Prostitution of promotion of prostitution; dissemination of obscenity; sale, distribution of or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries; For which:

A. Less than two (2) years have elapsed since the date of the conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense;

B. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

C. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

D. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(t) SPECIFIED SEXUAL ACTIVITIES. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; Sex acts, normal or perverted, actual or simulated, including intercourse, oral

copulation, masturbation, or sodomy; or excretory functions as part of or in connection with any of the activities within this definition.

(u) SUBSTANTIAL ENLARGEMENT of a sexually oriented business. An increase in floor areas occupied by the business by more than twenty-five percent (25), as the floor areas exist on the date this section takes effect

(v) TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business. Means and includes any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or similar legal devicse which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership control.

1137.03. Classification.

Sexually oriented businesses are classified as follows:

(a) Adult arcades;

(b) Adult bookstores, adult novelty stores, or adult video stores;

(c) Adult cabarets;

(d) Adult motels;

(e) Adult motion picture theaters;

(f) Adult theaters;

(g) Escort agencies;

(h) Nude model studios; and

(i) Sexual encounter centers.

1137.04. License required.

(a) It is unlawful:

(1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this chapter.

(2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this chapter.

(3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(b) An application for a license must be made on a form provided by the City.

(c) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this chapter.

(d) A person, who wishes to operate a sexually oriented business, must sign the application for a license as an applicant. If persons other than an individual wish to operate a sexually oriented business, all persons legally

responsible for the operations of the sexually oriented business or who have power to control or direct its operations must sign the application for a license as applicant. Such persons include, but are not limited to, general partners, corporate officers, corporate directors, and controlling shareholders. Each application must be qualified under the following section and each applicant shall be considered a licensee if a license if granted.

(e) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

A. An individual, the individual shall state his or her legal name and any aliases and submit proof that he or she is of at least 18 years of age;

B. A partnership, the partnership shall state its complete name, and the names of the partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

C. A corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and controlling stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state the sexually oriented business' fictitious name and submit the required registration documents.

A. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

B. Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another state, city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

C. Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similarly sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.

D. The single classification of license for which the applicant is filing.

E. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

F. The applicant's mailing address, ~~and~~ residential address, and a recent photograph of the applicant(s).

G. The applicant's driver's license number.

H. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram does not need to be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

I. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1500 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 1500 feet of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

J. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 1137.14.

K. Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:

1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
2. Age, date, and place of birth;
3. Height, weight, hair, and eye color;
4. Present residence address and telephone number;
5. Present business address and telephone number;
6. Date, issuing state and number of driver's permit or other identification card information; and
7. Proof that the individual is at least eighteen (18) years of age.

L. Attached to the application form for a sexually oriented businesses employee license as provided above, shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant.
2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country or has ever had a license, permit or authorization to do business denied, revoked, or suspended or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.
3. A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

1137.05. Issuance of license.

(a) Upon the filing of said application for a sexually oriented business employee license, the City shall issue a temporary license to said applicant. The application shall then be referred to the appropriate City departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the

investigation, the City shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(1) The applicant has failed to provide information necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(2) The applicant is under the age of eighteen (18) years;

(3) The applicant has been convicted of a "specified criminal activity" as defined in this chapter;

(4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter; or

(5) The applicant has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in Section 1155.10(d).

(b) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has both been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 1155.06(d).

(c) Within 30 days after receipt of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one ore more of the following findings is true:

(1) An applicant is under eighteen (18) years of age.

(2) An applicant or a person with whom applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.

(3) An application has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(4) An applicant or a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(5) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.

(6) The premises to be used for the sexually oriented businesses have not been approved by the Health Department, Fire Department and the Building Official as being in compliance with applicable laws and ordinances.

(7) The license fee required by this chapter has not been paid.

(8) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(d) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to Section 1155.03. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(e) The Health Department, Fire Department, and the Building Official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the City.

(f) A sexually oriented business license shall issue for only one classification as found in Section 1137.03.

1137.06. Fees.

(a) Every application for a sexually oriented business (whether for a new license or for renewal of an existing license) shall be accompanied by a $250.00 non-refundable application and investigation fee.

(b) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the City an annual non-refundable license fee of $250.00 within thirty (30) days of license issuance or renewal.

(c) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual $150.00 non-refundable application, investigation and license fee.

(d) All license application and fees shall be submitted to the Department of Planning and Community Development of the City.

1137.07. Inspection.

(a) An applicant or licensee shall permit representatives of the Police Department, Health Department, Fire Department, Planning and Community Development Department, or other City departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied of or open for business.

(b) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business.

1137.08. Expiration of license.

(a) Each license shall expire one year from the date of issuance and may be reviewed only by making application as provided in Section 1137.04. Application for renewal shall be made at least thirty (30) days before the expiration of the license will not be affected.

(b) When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial became final.

1137.09. Suspension.

The City shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

(a) Violated or is not in compliance with any section of this chapter;

(b) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter.

1137.10. Revocation.

(a) The City shall revoke a license if a cause of suspension in Section 1137.09 occurs and the license has been suspended within the preceding twelve (12) months.

(b) The City shall revoke a license if it determines that:

(1) A license gave false or misleading information in the material submitted during the application process;

(2) A license has knowingly allowed possession, use or sale of controlled substances on the premises;

(3) A license has knowingly allowed prostitution on the premises;

(4) A license knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;

(5) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

(6) A license is delinquent in payment to the City, County, or State for any taxes or fees past due.

(c) When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(d) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

1137.11. Transfer of license.

A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

1137.12. Location of sexually oriented business.

(a) A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than as a conditional use in an I-2, as defined and described in the City Zoning Code.

(b) A person commits an offense if the person operates or causes to be operated a sexually oriented business within 1500 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including but not limited to libraries, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in the City Zoning Code;

(4) A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City which is under the control, operation, or management of the City park and recreation authorities;

(5) The property line of a lot devoted to a residential use as defined in the City Zoning Code;

(6) An entertainment business which is oriented primarily towards children or family entertainment; or

(7) A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State.

(c) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1500 feet of another sexually oriented business.

(d) A person commits a misdemeanor if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof,

or the increase of floor area of any sexually oriented business in any building, structure, or portion of thereof containing another sexually oriented business.

(e) For the purpose of subsection (b) hereof, measurement shall be made in a straight line, without regard to the intervening structure or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in the subsection (b). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

(f) For purposes of subsection (c) hereof, the distance between any two sexually oriented businesses shall be measure in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(g) Any sexually oriented business lawfully operating on July 1, 2005, that is in violation of subsections (a) through (f) hereof shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days of more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented business are within 1500 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

(h) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection (b) hereof within 1500 feet of the sexually oriented business. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or been revoked.

1137.13. Additional regulations for adult motels.

(a) Evidence that a sleeping room in a hotel, motel or a similar commercial establishments has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(b) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented license, he or she rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or sub-rents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms 'rent" or "sub-rent" mean the act of permitting a room to be occupied for any form of consideration.

1137.14. Regulations pertaining to exhibition of sexually explicit films, videos, or live entertainment in viewing rooms.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one-hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(1) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various

internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The City may waive the foregoing diagram for renewal application if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) The application shall be sworn to be true and correct by the applicant.

(3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.

(4) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of the sight from the manager's station.

(6) It shall be the duty of the licensee to ensure that the view area specified in subsection (a)(5) hereof remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and at all times to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) hereof.

(7) No viewing room may be occupied by more than one person at any time

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candles as measure at the floor level.

(9) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(10) No licensee shall allow openings of any kind to exist between viewing room or booths.

(11) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(12) The licenses shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(13) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(14) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty-eight inches of the floor.

(b) A person having a duty under subsections (a)(1) through (14) above commits a misdemeanor if he knowingly fails to fulfill that duty.

1137.15. Additional regulations for escort agencies.

(a) An escort agency shall not employ any person under the age of eighteen (18) years.

(b) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

1137.16. Additional regulations for nude model studios.

(a) A nude model studio shall not employ any person under the age of eighteen (18) years.

(b) A person under the age of eighteen (18) years shall not appear semi-nude or in a state of nudity or on the premises of a nude model studio unless the person under eighteen (18) years is in a restroom not open to public view or visible to any other person.

(c) No person shall appear in a state of nudity, or knowingly allow another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

1137.17. Additional regulations concerning public nudity.

(a) No person shall knowingly and intentionally, in a sexually oriented business, appear in a state of nudity or depict specified sexual activities.

(b) No person shall knowingly or intentionally in a sexually oriented business appear in a semi-nude condition unless the person is an employee who, while semi-nude, is at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.

(c) No employee of a sexually oriented business, while semi-nude in the sexually oriented business in which they are employed, shall solicit any pay or gratuity from any patron or customer, neither shall any patron or customer pay or give any gratuity to any employee of a sexually oriented business, while said employee is semi-nude in a sexually oriented business.

(d) No employee of a sexually oriented business ~~shall , while~~shall, while semi-nude, ~~-~~touch a patron or customer or the clothing of a patron or customer.

1137.18. Exemptions.

The following conduct is exempt from constituting a violation of Sections 1137.16 or 1137.17 that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a proprietary school, licensed by the State of Ohio; a college, junior college, or university supported entirely or partly by taxation.

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(2) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(3) Where no more than one nude model is on the premises at any one time.

1137.19. Prohibition against children in a sexually oriented business.

No person shall knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.

1137.20. Injunction.

A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of Section 1137.06, 1137.07, 1137.11, 1137.12, 1137.13, 1137.14, 1137.15, 1137.16, 1137.17 or 1137.19 is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business operates in violation of any of the Sections of this Chapter listed in this provision is a separate offense or violation.

CHAPTER 1138. TEMPORARY USES

1138.01. Purpose.

Temporary use regulations are established to achieve the following purposes:

(a) To allow residents, business owners, property owners, and others to host temporary events which contribute to the economic and/or social vitality of the City of Delaware.

(b) To ensure that temporary uses or events do not negatively impact the permanent character of residential, commercial, or industrial sites in the City.

(c) To ensure that first responders can service a temporary use or event.

1138.02. General regulations for all temporary uses.

(a) Permit Required. A temporary use permit shall be required for all temporary uses permitted unless set forth otherwise in this Chapter.

(1) An application for each temporary use permit shall be made on the appropriate form(s), submitted to and either approved or denied by the Director of Planning and Community Development.

(2) A fee as set forth in the schedule of fees established by Council shall be submitted with the application.

(b) Permitted temporary uses are subject to the specific regulations and time limits that follow, and to the other applicable regulations of the district in which the use is permitted.

(c) The recipient of a temporary use permit shall provide for a thorough cleanup of the site upon termination of the outdoor sales, event or display.

(d) Temporary use permits pursuant to this subsection may be issued to applicants other than the owner of the property or tenant when such owner or tenant has granted written permission for the proposed activity on the property.

(e) Dependent on the use and related activities, building permits may be required regardless of whether a temporary use permit is or is not required.

(f) All signs shall adhere to the requirements set forth in Chapter 1125 of this code.

(g) Decision Criteria. Temporary outdoor sales, displays, and events are permitted when it is determined during the review of the application that the proposed location and scope:

(1) Does not create any safety hazards;

(2) Does not unreasonably disrupt traffic, pedestrian movement, or parking;

(3) Does not disrupt daily operations of the principal business located on the lot; and

(4) Does not adversely impact the health, welfare, and safety of the community.

(h) Revocation. Failure to comply with any of the regulations in this Chapter shall result in immediate termination of any issued Temporary Use Permit. Upon revocation, the property shall be ordered to be returned to its previous state prior to issuance of the Temporary Use Permit.

1138.03. Permitted temporary uses.

(a) Temporary Trailers or Mobile Units.

(1) Used as Contractors' Offices and Equipment Sheds. Permitted in any district when erected accessory to a construction project or in conjunction with maintenance operations of an essential service as defined in Chapter 1102. No temporary use permit is required.

A. Shall be limited to a period not to exceed the duration of the active construction phase of such project.

(2) Used as Sales Offices. A temporary use permit is required for such a trailer in a residential district when erected accessory to a new residential development project.

A. Shall be limited to a period not to exceed the duration of the active construction phase of such project.

(3) Used as Temporary Classrooms. A temporary use permit is required for such a trailer in any district when it is erected accessory to principal use, or essential service as defined in Chapter 1102 of this code.

A. Shall be limited to a period not to exceed two (2) school years.

(b) Model Dwelling Units. A temporary use permit is required for a model dwelling unit in a residential district when such use is accessory to a new development. Model dwelling units shall be subject to the following restrictions:

(1) Location. Model dwelling units shall be permitted temporary uses in residential subdivisions in any district containing a residential component.

(2) Construction. Model dwelling units shall be constructed as permanent residential structures with the future intention to sell or lease said unit as a primary residence and shall not include temporary structures, trailers, or mobile units.

(3) Lighting. All exterior lighting shall comply with the exterior lighting standards set forth in Chapter 1124 of this code. All exterior lighting, except for standard residential security lighting, shall be extinguished when the model is closed.

(4) Landscaping and Screening. All model dwelling units shall be landscaped according to the requirements of Chapter 1121 for the district in which the model is located.

A. A landscape plan shall be submitted with the temporary use permit application and shall show adequate landscaping and screening from adjoining residential lots, together with the clear marking of the boundaries of the model home lot.

(5) Storage Prohibited. No building equipment or materials may be stored indoors or outdoors at the model home.

(6) Signs. Each model dwelling unit is permitted one (1) temporary ground sign, not to exceed sixteen (16) square feet. The sign shall not exceed five (5) feet in height from natural grade. The sign may be illuminated only with down lighting and no light source may be visible from adjoining properties. Lighting shall be extinguished when the model is closed.

(7) Hours of operation. To protect the character of the residential neighborhood, model dwelling units shall limit hours of operation to between 8:00 a.m. and 10:00 p.m.

(8) Parking. Additional parking may be required by the Director of Planning and Community Development and must adhere to all landscaping requirements set forth in Chapter 1121 of this code.

(9) Permit Termination. A temporary use permit for a model home shall be valid until building permits have been issued for ninety percent (90%) of the lots therein.

(c) Temporary Outdoor Sales, Displays, and Events. Permits may be granted for temporary outdoor sales, displays, and events on private property subject to the following:

(1) Up to Seven (7) Days in Duration. No permit shall be required for a temporary sale, display, or event that does not extend beyond seven (7) consecutive days, including set up and removal. Three (3) such occurrences are permitted within one (1) calendar year, and there must be at least seven (7) days between each.

(2) Up to Sixty (60) Days in Duration. A temporary use permit for a display or temporary sales of non-manufactured goods, for up to sixty (60) consecutive days may be granted by the Planning and Community Development Director, following review from all relevant departments. No applicant, whether property owner or tenant, may be issued more than one (1) permit per calendar year.

1138.04. Mobile food vendors.

(a) A mobile food vendor may be permitted on any non-residential property for up to forty-five (45) days in a calendar year provided that the mobile food vendor:

(1) Receives approval of a temporary use permit and a mobile food vendor license from the Planning and Community Development Department (except for food trucks catering solely to a private event with no public service).

(2) Does not offer any tables, seating, drive-thru, or drive-in service.

(3) Does not have any other signs than that which are permanently affixed to the mobile vending equipment.

(4) Provides a trash receptacle for use by customers and keeps the surrounding area free of trash and debris at all times.

(5) Maintains all equipment and vehicles free of rust, dents, peeling paint, and in good maintenance and appearance at all times.

(6) Obtains, displays, and keeps current all applicable health, food, safety, vehicle, vending, and other licenses.

(7) Is registered for tax purposes with the City of Delaware.

(8) Does not operate any equipment that creates excessive noise or violates section 509.10 Noise Ordinance of this Code.

1138.04. Keeping of certain animals.

(a) A temporary use permit may be issued for the outdoor keeping of certain small animals related to State approved Agricultural Society shows and competitions on lots whose principal use is a single-family dwelling. Lots whose principal use is other than a single-family dwelling are prohibited from obtaining this temporary use permit. Where permitted, this use is subject to the following regulations:

(1) The purpose of these regulations is to allow State of Ohio approved entities, such as Agricultural Societies and the State Fair, to fulfill their missions with respect to Junior Fair shows, exhibitions, or competitions. To that end, only animals that are part of a Junior Fair (or equivalent as defined by the Delaware County Agricultural Society) exhibition, fair, or show sanctioned, governed or sponsored by or under the control of an Ohio County Agricultural Society, the State fair, or Independent Agricultural Society organized under Chapter 1711 of the Ohio Revised Code and subject to the laws administered by and rules promulgated by the State of Ohio Department of Agriculture for such purposes are permitted under this section. There is no fee for Temporary Use Permits issued under this section.

(2) The only animals permitted under such temporary use are chickens, rabbits, hamsters, guinea pigs, and birds. Other small animals as defined by the appropriate department of a Junior Fair may be considered by the City if they are of the same general size, character, and habit as those listed above.

(3) Only six (6) such animals may be allowed on the lot any time, except for up to fifteen (15) rabbit kits or chicks, which may be kept for up to 90 days.

(4) Ordinary and customary household pets, such as but not limited to dogs and cats, are not subject to the rules and regulations of this section but may be subject to other State, County, and municipal regulations.

(5) Permitted animals under this section shall only be allowed for the documented time frame set out by the recognized group for the Junior Fair Show, exhibition, or competition, at which time the animals shall be completely removed from the premises so it is returned to the same condition as before the temporary use was initiated. Any accessory structures or appurtenances that were used for the keeping of animals shall be either removed completely OR moved completely inside the principal structure or previously approved accessory structure OR the property owner may apply to convert the structure to a conforming accessory structure as provided for elsewhere in the Zoning Code.

(6) Animals shall be housed completely within an accessory structure, allowed in the rear yard only as defined in the Zoning Code for the City of Delaware, must be set back from any property line a minimum of fifteen (15) feet, and shall be subject to all other Zoning Code regulations regarding such accessory structures.

(7) Structures shall have solid walls and roof as part of their design. Windows, doors, and vents are permitted. Structures must be constructed in a manner to resist access by rodents, wild birds, predators, pests, and the like.

(8) Outdoor runs or exercise areas of up to fifty (50) square feet shall be allowed as part of an accessory structure. An exercise area must be fully enclosed with fencing designed to keep the animals contained within the area and may include fencing and poultry mesh but shall not include razor or barbed wire and the like.

(9) Animal feed shall be either stored indoors or completely contained within a lockable, weather and rodent proof container.

(10) All areas must comply with Section 505.08 of the City of Delaware Code of Ordinances and be kept clean of waste and debris and shall be maintained in a sanitary condition at all times in a manner that does not create a nuisance or otherwise disturb the use or enjoyment of neighboring lots due to noise, odor, or other adverse impacts. If raising the animals causes a documented health condition to an immediately adjacent neighboring property owner, it may be cause for removal of the animals and revocation of the Temporary Use Permit.

(11) Prohibitions. The following shall be prohibited with regard to this Section:

A. Keeping of roosters.

B. Slaughtering of animals on the subject property.

C. Selling of eggs or animals or other related commercial activity on the subject property.

1138.13. Public sidewalk use and occupation.

(a) Allowed Activities on Public Sidewalks. Unless otherwise provided for in this Section, no person shall place, deposit or maintain any merchandise, goods, material, equipment, or displays upon any public right-of-way except as follows:

(1) The temporary placement of items for the purpose of delivery or pickup, except for the purposes of refuse collection, so long as such items shall not remain on the public sidewalk for more than one hour.

(2) The placement of news racks and drop-boxes in conformance with Chapter 539 of the Codified Ordinances.

(b) Special Community Events. The placement of items associated with special community events specifically approved by permit through the City Manager shall include, but not be limited to, the Arts Festival, Farmers Market, and Downtown Car Show. The City Manager shall establish the required application submittal requirements and approval policies and procedures. City Council shall establish the fee for said permit.

(c) Temporary Displays and Occupations in the Historic District Overlay. The temporary display and occupation of any public sidewalk in the Historic District Overlay, for purposes other than those set forth above, shall comply with the following:

(1) Permit Required. A permit for temporary displays and occupations of such items under circumstances other than those set forth above, including the placement of chairs or tables, shall require a permit to be approved by the City. The permit shall be valid for the minimum time period necessary for the intent and purpose of said permit and shall expire at the end of the calendar year in which the permit was issued. City Council shall establish a fee for such permit.

(2) An indemnity agreement must be submitted with the permit application. Such agreement shall provide that the applicant will hold the City and its officials and employees harmless of all liability which might arise as a result of injuries or damages suffered as a result of the use of the right-of-way as authorized by this section, and to fully indemnify the City, its officials and employees, in the event they are required to pay such losses must keep current liability insurance that the City requires. Any permit issued for purposes of this Section shall be revocable by the City at any time and for any reason.

(3) Requirements. All uses authorized by this section shall conform to the following requirements:

A. The use shall not have a substantial adverse impact on the use, enjoyment, or property values of adjoining properties.

B. A minimum five (5) feet of unobstructed area of sidewalk shall be maintained for pedestrian traffic.

C. Permit holder is responsible for ensuring that all activity stays within the approved area identified on the permit.

D. No merchandise display shall exceed six (6) feet in height.

E. No person shall unload upon, or transport any heavy merchandise, goods, material, or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury.

F. No person shall allow any cellar or trap door, coal chute, elevator, or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous conditions.

G. All cellar stairways that project into any street or sidewalk in the City, or that open in or near the line of any street, shall be guarded by a good and sufficient railing and shall be sufficiently lighted to protect the public. All other permanent openings in streets or sidewalks shall be protected by nonskid metal covers of necessary load bearing capacity as determined by the City.

H. No decorations, signage, or other items may be hung from any fences or enclosures within the public right-of-way with the exception of decorations associated with religious, national, or state holidays which are not intended to be ~~permanend~~permanent and planter boxes which do not encroach into the required five-feet of clear pedestrian walkway and seasonal decorations.

(d) Limitations. Nothing in this Section shall be construed to prevent the City from unrestricted use of the public right-of-way for the purposes of public safety, public service, or the construction and maintenance of infrastructure and utilities, including private utilities placed in the public right-of-way.

CHAPTER 1139. NONCONFORMING USES, BUILDINGS, STRUCTURES, AND LOTS

1139.01. Purpose.

The purpose of this Chapter is to recognize the existence of uses, buildings, lots, and structures that lawfully existed at the time of this Ordinance's enactment, or amendment thereto, but which now do not conform to one or more of the regulations contained in this Ordinance. Nonconforming status is considered to be incompatible with permitted uses in the zoning district in which it exists. Therefore, nonconforming uses, buildings, lots, and structures are subject to regulations limiting their use, restoration, reconstruction, extension, and substitution. Such nonconforming status shall be continued only in conformance with this Chapter.

1139.02. Nonconforming buildings or structures.

Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Ordinance that could not now be built under the terms of this Ordinance by reason or restrictions on area, lot coverage, height, yards, its 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) Enlargement/Alteration of Nonconforming Building or Structure. No nonconforming structure may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(1) If the cause of the nonconformity of a principal structure and/or accessory structure on a permanent foundation is that it is located within a required setback, an addition to that principal structure or accessory structure may be constructed with a setback the same as or greater than the existing nonconforming principal structure but may not be located any closer to the corresponding lot line than the existing nonconforming principal structure.

(2) Whenever there are existing nonconforming principal structures that do not comply with the required front yard setback, the required front yard setback for additions, alterations, and new construction shall either be the average front yard setback of the homes on either side of the subject property.

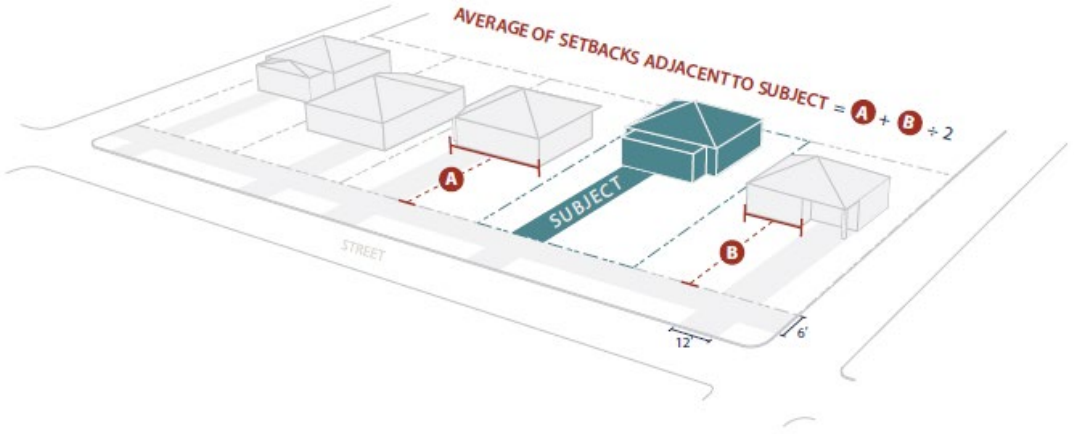


Figure 1139.02 (a)(2)

(b) Reconstruction of Nonconforming Building or Structure. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, other than a natural disaster, criminal behavior of someone other than the owner, or unintentional fire, to an extent where more than fifty percent (50%) of the structure is destroyed, it shall not be reconstructed except in conformity with the provisions of this Chapter.

(1) Existing residential nonconforming foundations, so long as they are deemed safe, may be reused for the purposes of reconstruction, but may not be moved, expanded, or altered in such a way that increases the nonconformity. If the foundation can no longer be used, the new structure must conform to all provisions of this code.

A. The above section does not apply to any existing nonconforming foundations located within a special flood hazard area, which shall not be continued if more than fifty percent (50%) of the structure is destroyed.

(c) Relocation of Nonconforming Building or Structure. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

(d) Repair and Maintenance of Nonconforming Building or Structure.

(1) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, heating, air conditioning, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as long as the nonconformity is not increased.

(2) If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

(3) Nothing in this section shall be interpreted to prevent the strengthening or restoring to a safe condition any building or part thereof declared to be unsafe provided that all requirements set forth in this chapter are met.

1139.03. Nonconforming use of buildings or land.

Where, at the time of adoption of this Zoning Ordinance, lawful uses of buildings or land exist that would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as no division of any parcel is made which creates a lot with width or area below the requirements stated in this Ordinance.

(a) Alteration/Reconstruction of a Building Occupied by a Nonconforming Use. No building or structure occupied by a nonconforming use shall be altered, improved, or reconstructed except when the cumulative cost of the alteration, improvement, or reconstruction does not exceed fifty percent (50%) of the building's replacement value.

(b) Expansion/Relocation of Nonconforming Use of Land. A nonconforming use of land shall not be physically enlarged, increased, extended, or relocated to a part of the lot that was not occupied by the use at the time it became nonconforming. No additional structures shall be constructed in connection with such nonconforming use.

(c) Expansion/Relocation of Nonconforming Use of Buildings. A nonconforming use of an existing building may be extended throughout any parts of the building that were manifestly arranged or designed for such use at the time of adoption or amendment to this Ordinance. However, no such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than occupied by such uses at the effective date of

adoption or amendment of this Ordinance, and no such building shall be enlarged or expanded to increase the nonconforming use.

(d) Discontinuance of Use.

(1) When a nonconforming use of a structure, or land is discontinued or abandoned for a one (1) year period, the structure or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(2) If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Zoning Ordinance for the district in which it is located.

1139.04. Nonconforming lots of record.

On or after the effective date of this Zoning Ordinance or any amendment thereto that causes a lot to become non-conforming, a lot of record that does not comply with the lot area, lot frontage, or lot width regulations of the district in which the lot is located shall be treated as if it were a conforming lot, if it conforms with the rest of this Zoning Ordinance and may be used as follows:

(a) Existing Structure or Use on a Non-Conforming Lot. If the lot is occupied by a structure or use, such structure or use shall be maintained and may be repaired, modernized or altered, provided that the structure or use shall not be enlarged in area, height, or other extent, unless the enlarged section(s) complies with all regulations of this Zoning Ordinance, except the lot area, lot frontage, and lot width regulations of the district in which the lot is located. The number of dwelling units shall not be increased unless all regulations, including lot area, are complied with.

(b) Existing Two-family Structure If a two-family dwelling unit is to be split into two (2) dwellings on two (2) separate lots, the resulting dwellings and lots shall comply with all regulations of this Zoning Ordinance, except the lot area, lot frontage, lot width, or minimum side yard of the district in which the lot is located.

(c) Vacant Lots in Combination. If a vacant non-conforming lot that is non buildable adjoins one or more lots in common ownership on the effective date of this Ordinance or applicable amendment thereto, such lots shall be combined to decrease or eliminate the nonconformity as a prerequisite for development. No portion of such parcel shall be used or sold or otherwise transferred in a manner that diminishes compliance with lot width and area requirements established by this Ordinance.

1139.05. Nonconforming site conditions.

Existing Non-Conforming Site Condition on a Lot with a Non-Residential Use. If any non-conforming site condition(s) exists when a site is redeveloped pursuant to Chapter 1105, then such site condition(s) must be brought into compliance with district regulations, unless the appropriate Reviewing Body determines that such conformance cannot be reasonably achieved because of existing site conditions. In such case, the Reviewing Body may approve a development plan that reduces the existing non-conforming site condition(s) to the maximum extent practicable. This includes but is not limited to parking, landscaping, and lighting.

1139.07. Nonconforming signs.

A sign, lawfully existing at the time this Zoning Ordinance, or any amendment thereto, became or becomes effective, but which fails to conform to the sign regulations of the district in which it is located is a nonconforming sign. Nonconforming signs shall comply with the regulations set forth in Chapter 1125.

1139.08. Nonconforming use due to reclassification.

The provisions of this chapter shall also apply to any building, structure, land or other use hereafter becoming nonconforming as a result of amendments made to this Zoning Ordinance or Zoning Map. A nonconforming lot, use, building, or structure does not include nonconformity with regulations pursuant to a legally granted variance from a zoning regulation.

1139.09. Change from nonconforming use.

A nonconforming building or use shall cease to be considered as such whenever it first comes into compliance with the regulations of the district in which it is located. Upon such compliance, no nonconforming use shall be made, resumed, or reinstated.

1139.10. Determination of nonconforming status.

At the time of application for a certificate of building and zoning compliance or request for variance, or upon the request of Director of Planning and Community Development regarding a nonconforming lot, building, structure, or use, the property owner shall submit sufficient evidence to verify that such lot, building, structure, or use was lawfully created or established in accordance with the zoning regulations in existence at that time. If the evidence submitted indicates the lot, building, structure, or use was legally established and has since become nonconforming because of the establishment of or amendment to this Ordinance, the Director of Planning and Community Development shall process the application subject to the requirements of this chapter and any other applicable zoning regulations.

1139.11. Existing use deemed conditional use; permit required for change.

Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use, but which now, because of the passage of this Zoning Ordinance or amendment thereto, is listed as a conditional use in the district in which it is located, shall be deemed without further action to be a conforming conditional use. Any change, modification, enlargement, or alteration of such use or site development conditions shall only be permitted upon review and approval by the Planning Commission according to the procedures for conditional uses set forth in Chapter 1105.

1139.12. Completion of construction with zoning certificate.

Nothing in this Zoning Ordinance shall prohibit the completion of the construction and use of buildings for which a certificate of building and zoning compliance has been issued prior to the effective date of this Zoning Ordinance, or amendments thereto, provided that construction is commenced within ninety (90) days after the issuance of such certificate, that construction is carried on diligently and without interruption, and the entire building is completed within two (2) years after the issuance of the zoning certificate. 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 begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction.

CHAPTER 1199. ENFORCEMENT, CERTIFICATION, AND PENALTY

1199.01. Enforcement.

The provisions of this Zoning Ordinance shall be administered and enforced by the Director of Planning and Community Development.

1199.02. Certificate of building and zoning compliance required.

No occupied or vacant land shall be changed in its use, in whole or in part, until a certificate of building and zoning compliance has been issued by the Director of Planning and Community Development. No building or other structure requiring building permits shall be erected, moved, added to, or structurally altered, nor shall any building, structure or land be established or changed in use until a certificate of building and zoning compliance has been issued by the Director of Planning and Community Development. Certificates of building and zoning compliance shall be issued only in conformity with the provisions of this Zoning Ordinance.

1199.03. Tree clearance permit required.

No trees shall be removed from land within the City of Delaware except in conformity with the regulations specified in this Chapter and Chapter 1122, and until a tree clearance permit has been issued by the Director of Planning and Community Development.

1199.04. Violation considered a nuisance.

Any building erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this Zoning Ordinance may be declared to be a nuisance. Any building or land use activity considered to be a possible violation of any provision of this Zoning Ordinance that is observed by any City official shall be reported to the Director of Planning and Community Development.

1199.05. Complaints.

Whenever a violation of this Zoning Ordinance occurs, or is alleged to have occurred, any person may file a written or verbal complaint. Such complaints shall fully state the causes and basis of the complaint and shall be filed with the Director of Planning and Community Development.

1199.06. Inspection of property.

The Director of Planning and Community Development shall inspect any building erected, altered, moved, razed, or converted, or any use of land or premises carried on in alleged violation of any of the provisions of this Zoning Ordinance.

1199.07. Stop work order.

Subsequent to the Director of Planning and Community Development's determination that the work is being done contrary to this Zoning Ordinance or approved development plan, conditional use approval, or other legislation, or if the work being performed is causing any situation that threatens the health, safety, or welfare of the surrounding property owners, their respective properties, or of the general public passing through or near the construction area, the Director of Planning and Community Development shall write a stop work order and post it on the premises involved. It shall be a violation of this Chapter for anyone other than the Director of Planning and Community Development to remove a posted stop work order. It shall also be a violation of this Chapter to fail to

comply with a stop work order posted by the Director of the Planning and Community Development ~~or their designee.~~

(a) Such stop work order shall:

(1) Be in writing;

(2) Identify the violation(s);

(3) Include the effective date of the order

~~(3)~~(4) Specify that all work must cease until the violation is remediated.

1199.08. Notice of violation.

(a) Whenever the Director of Planning and Community Development determines that a violation of any provision of this Zoning Ordinance exists, a notice of violation shall be issued.

(b) Such notice of violation shall:

(1) Be in writing;

(2) Identify the violation;

(3) Include a statement of the reason or reasons why the notice of violation is being issued and refer to the chapters of this Chapter being violated; and

(4) State the date by which the violation shall be corrected and provide a reasonable time in which to correct the violation.

(c) Service of a notice of violation shall be by either:

(1) Personal delivery to the person or persons responsible; or

(2) Certified mail addressed to the person or persons responsible at the last known address; or

(3) Posted in a conspicuous place on the premises.

(e) After the notice of violation is served, no work shall proceed on any building or premises included in the notice except to correct the violation or violations identified in the notice or to comply with the notice.

1199.09. Revocation of certificates.

The Director of Planning and Community Development may issue a revocation notice to revoke a certificate of building and zoning compliance which was issued contrary to this Zoning Ordinance or based upon false information or misrepresentation in the application.

1199.10. Clean-up of nuisance property and removal of violating buildings and structures.

Should any property owner fail to comply with the regulations of this Zoning Ordinance, the City may pursue all legal remedies available to it to obtain full compliance, up to and including clean-up and removal of violating buildings and structures. The City may require reimbursement of administrative, legal, court, and actual expenses relating to these actions.

1199.99. Penalty.

(a) It shall be unlawful to:

(1) Use or occupy any land or place; build, erect, alter, remodel, restore, or rebuild thereon any building or structure; permit any building or structure to remain on such land; or use, occupy, or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this Zoning Ordinance; or

(2) Use or occupy any parcel of land; use or occupy a new building; or enlarge, substitute, or otherwise change the use, occupancy, or configuration of any land or building, without having received a zoning certificate or conditional use permit indicating compliance with the provisions of this Zoning Ordinance from the Director of Planning and Community Development; or

(3) Aid, assist, or participate with any person in placing, building, erecting, altering, remodeling, restoring, or rebuilding any building or structure which is not permitted by the provisions of this Zoning Ordinance; or

(4) Violate or fail to perform any condition, stipulation or safeguard set forth in any certificate issued pursuant to this Zoning Ordinance, or continue to use or occupy the premises or building as previously authorized by such certificate beyond the duration limit therein stated; or

(5) Continue construction, renovation, or improvements contrary to a stop work order or notice of violation; or

(6) Refuse to permit the Director of Planning and Community Development to enter any premises in the City to investigate a reported violation of the provisions of this Zoning Ordinance, or refuse or fail to furnish to such Director of Planning and Community Development a statement as to the number of persons occupying such premises; or

(7) Knowingly make any materially false statement of fact in an application to the Director of Planning and Community Development for a zoning certificate, conditional use permit, or in the plans or specifications submitted to the Director of Planning and Community Development in relation to such application; or

(b) Any person, firm, or corporation violating any of the provisions of this Zoning Ordinance and its subdivision regulations or any amendment or supplement thereto shall be deemed guilty of a minor misdemeanor and shall be punished by a fine not exceeding one hundred fifty dollars ($150.00). A separate offense shall be deemed committed each day during or on which a violation occurs. The owner or tenant of any building, premises, or part thereof, and any architect, builder, contractor, 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.

(c) Any development that occurs without first obtaining a certificate of building and zoning compliance shall be subject to an additional penalty fee at the time of permit submittal, equal to the amount of the permit application fee.

	A-1	R-SF	R-NT	R-NX	R-MF	C/I	C-DC	C-NX	C-CC	C-GC	I-1	I-2
Residential Uses												
One-family dwelling	P	P	P	P								
Two-family dwelling			P	P								
Three-family dwelling			C	P	P							
Four-family dwelling				C	P							
Multi-family complex					P							
Cluster single family dwelling					C							
Mobile and manufactured home parks					C							
Accessory dwelling unit	P	P	P	P								
Home occupation	P	P	P	P	P			P				
Dwelling unit(s) on upper floors of a commercial or office building							P	P	C			
Institutional/Public Uses												
Cemetery	C					C						
Colleges, universities, educational research establishment, laboratory						P					C	
Cultural institution or art gallery			C	C	C	P	P	C	P	P		
Hospital						P			C	P		
Library			C	C	C	P	C	C	P	P		
Place of religious assembly – capacity of 50 or fewer	C	C	C	C	C	P	P	P	P	P		
Place of religious assembly – capacity greater than 50	C	C	C	C	C	C	C	C	C	C		
Public or private recreational facility				C		P		C	P	P		
Public service and safety facility	P	P	P	P	P	P	P	P	P	P	P	P
Public service/maintenance facility											P	P
Public utility substation or distribution facility											P	P
Recycling facility												P
School - public or private	C	C	C	C	C	~~C~~P		C	C	C		
School - trade, business, or cultural arts						C	P	C	P	P	C	
Wireless telecommunication tower	C	C	C	C	C	C	C	C	C	C	C	C

	A-1	R-SF	R-NT	R-NX	R-MF	C/I	C-DC	C-NX	C-CC	C-GC	I-1	I-2
Commercial Uses												
Boutique hotel			C	C			C	C				
Crematorium											P	P
Day care, adullt or child				C		C	C	P	C	C		
Drive-in theater	C									C		
Drive-thru facility (stand-alone)									C	C		
Drive-thru facility associated with (P) or (C) use									C	C		
Entertainment, indoor						C	P	C	P	P		
Entertainment, outdoor	C					A			C	C		
Event venue – capacity of 50 or fewer	P							C	P	P		
Event venue – capacity of greater than 50	C								C	P		
Financial institution, bank							P	P	P	P		
Funeral home				C			C		P	P		
Golf course or country club	P					C				C		
Health club							P	C	P	P	A	A
Hotel							C	C	C	C		
Massage establishment				C			P	P	P	P		
Neighborhood commercial establishment				C								
Nursing home					P		C	C	C	C		
Office/ Clerical				C		P	P	P	P	P	P	A
Office/ Medical				C		P	P	P	P	P	P	A
Office/Veterinary with kennel	P										P	P
Offices/Veterinary, no kennel				C			P	P	P	P		
Research and development facility											P	P
Residential care facility				C	P							
Restaurant							P	P	P	P		
Retail development 80,000 square feet or greater									C	C		
Retail development under 80,000 square feet							P	P	P	P		
Training facility										C	P	P

	A-1	R-SF	R-NT	R-NX	R-MF	C/I	C-DC	C-NX	C-CC	C-GC	I-1	I-2
Agricultural Uses												
Farm activity, including sales of goods grown or raised on premises	P											
Indoor cultivation											P	P
Kennel or cattery	P										P	P
Macrobrewery											P	P
Microbrewery or winery	C						P	P	P	P		
Nursery with retail structure	C									P		
Nursery without retail structure	P											
Automotive and Transportation Uses												
Automotive sales and rental									C	P		
Car wash									C	C		
Gasoline station									C	C		
Major automotive repair											P	P
Minor automotive repair garage									C	P	P	P
Truck and trailer rental											A	A
Parking lot or structured parking (principal use)							C		C	C		
Airport and airport related uses												P
Heliport						P						P
Terminal—Bus, cab, train									C	C		P
Train/railroad yard												P
Truck terminal											C	P
Distribution facility											C	P
Storage and Distribution												
Micro fulfillment center											P	P
Self-storage facility											C	C
Storage (aboveground) of flammable or toxic liquid or gas											A	C
Storage (general) of materials											A	P
Storage of equipment for sale or rent											A	P

	A-1	R-SF	R-NT	R-NX	R-MF	C/I	C-DC	C-NX	C-CC	C-GC	I-1	I-2
Storage of fleet vehicles						A				A	A	P
Warehouse or indoor storage facility											P	P
Manufacturing and Processing												
Assembly & production facility utilizing products from previously and elsewhere prepared materials											P	P
Meat packing												P
Manufacture of products from raw materials												C
Chemical manufacture											C	C
Pharmaceuticals manufacture											P	P
Food and beverage production											P	P
Textiles, fabrics, and garments											P	P
Other												
Adult entertainment												C
Contractor sales and/or service										C	P	P
Data center											C	C
Junk yard / scrap yard												C
Semiconductor and computer/IT production											C	P
Solar field											C	C
Wind energy system											C	C

Sign Type	Maximum Possible Area	Maximum Height	Maximum Number	Setback from Property Lines or Right-Of-Way	Notes
Permanent signs in the A-1, R-SF, R-NT, R-NX, and R-MF Districts:					
Entrance or Development Signs:					
Fewer than 25 Dwelling Units	16 sq. ft.	5 ft.	1	10 ft. (5 ft. from curb if in a median)	
25 or more dwelling units	32 sq. ft.	5 ft.	1 freestanding or 2 wall (per entrance)	10 ft.	
Signs for Nonresidential Uses in Residential Districts:					
Post and Arm	25 sq. ft.	5 ft.	1 primary frontage, 1 on secondary frontage	10 ft.	75% allowed as changeable copy
Monument	25 sq. ft.	5 ft.	1 primary frontage, 1 on secondary frontage	10 ft.	Only permitted on lots over 0.5 ac. 75% allowed as changeable copy
Building Sign	300 sq. ft.	n/a	None	n/a	May not include electronic message center; area dependent on facade width
Permanent signs in the C/I, C-NX, C-DC, C-CC, C-GC, I-1, and I-2 Districts					
Freestanding Signs (Post and Arm or Monument):					
C-DC	n/a	n/a	n/a	n/a	not permitted in C-DC
C/I and C-NX	25 sq. ft.	5 ft.	1	10 ft.	If more than 300 ft. of frontage may have 2
C-CC and C-GC	32 sq. ft.	6 ft.	1	10 ft.	If more than 300 ft. of frontage may have 2
I-1 and I-2	40 sq. ft	7 ft.	1	10 ft.	If more than 300 ft. of frontage may have 2
Building Signs:					
Wall Sign	300 sq. ft.	n/a	None	n/a	Area dependent on facade width
Canopy or Awning Signs	6 sq. ft. in C-DC, 24 sq. ft. in all other districts	18 inches above canopy for extending signs	None	2 feet from back of street curb in C-DC; not in ROW in all other districts	

Sign Type	Maximum Possible Area	Maximum Height	Maximum Number	Setback from Property Lines or Right-Of-Way	Notes
Projecting Signs:					
C-DC	9 sq. ft. first floor / 24 sq. ft. on upper stories	n/a	1 per building unit	2 feet from back of street curb	Maximum 2 projecting signs per primary façade
C/I, C-NX, C-CC, C-GC, I-1, and I-2	24 sq. ft.	n/a	1 per building unit	Not in the right -of-way	
Drive-Through Signs					
Any C or I district, except C-DC	50 Sq. ft. total, no more than 25 sq. ft individual	6 ft.	2 per stacking lane		No maximum area if screened from view; May be 100% electronic message center.
Driveway Signs:					
C/I, C-NX, C-DC, C-CC, C-GC	3 sq. ft.	3 ft.	1 per direction	within 50 ft of right-of-way	
I-1, and I-2	6 sq. ft.	4 ft.	1 per direction	within 50 ft of right-of-way	
Supergraphics					
C/I, C-CC, C-GC, I-1, and I-2	up to 75% of secondary façade				shall not obstruct architectural features

Sign Type	Maximum Possible Area	Maximum Height	Maximum Number	Setback from Property Lines or Right-Of-Way	Notes
Temporary signs (no permit required):					
Residential (per lot):	40 sq. ft.	5 ft.	None		non-illuminated
Banner			1		
Window	8 sq. ft. individual	N/A	None		
Yard	8 sq. ft. individual	5 ft.	None		
Wall Mounted Flag	40 sq. ft. Total, 15 sq. ft. individual	N/A	4		
Pole Mounted Flag	40 sq. ft. Total	30 ft.	4		
Nonresidential: Per Lot	40 sq. ft.	5	None		non-illuminated
Sidewalk	8 sq. ft.	4 ft.	1		Within 5 ft. of entrance to business
Window, First Floor	20% of Window area in C-DC, 50% of window area in other districts	N/A	None		
Window, Upper Floor	6 sq. ft.	N/A	1		
Yard	32 sq. ft.	5 ft.	None		
Temporary signs (permit required):					
Entrance or Development Signs:					
fewer than 25 Dwelling Units	16 sq. ft.	5 ft.	1	10 ft. (5 ft. from curb if in a median)	
25 or more dwelling units	32 sq. ft.	5 ft.	2 freestanding or 1 wall	10 ft.	
Change of Use or Tenant: Banner	Not larger than Existing Sign	N/A	1		
Banner			1 per building unit		Must be hung inside in C-DC district (or to cover pre-existing permanent signs)

APPENDIX C: ARCHITECTURAL STANDARDS FOR DOWNTOWN HISTORIC DISTRICT

INTRODUCTION

The Architectural Standards apply to all structures and sites within the Downtown Historic District. They are intended to provide guidance to property owners, business owners, architects and contractors who are proposing work on any building or site within the Downtown Historic District. The goal of the Standards is to protect the architectural resources and historic character of the downtown. These Standards supplement the City Building and Zoning codes in effect and do not in any way reduce the requirements set by those or any other codes. There are separate Signage Standards for the Downtown Historic District.

The Standards protect and enhance the overall value of property by encouraging the preservation of the character of historic structures and by requiring new construction to be compatible within the District. City staff and the Historic Preservation Commission (HPC) implement the Standards by reviewing all proposed exterior work and new construction within the Downtown Historic District. The review process has historical, aesthetic, and economic benefits to both the property owner and the community.

Delaware is rich in 19th century commercial architecture that reflects the history of the downtown while providing an appealing environment for the present. It is this collection of buildings, in their arrangement, size, shape, and form, that gives downtown Delaware its character. Once lost, the unique identity of the downtown and the surrounding area is irretrievable. The downtown has been nationally recognized with a listing on the National Register of Historic Places.

Preservation provides benefits for the entire community. The preservation of the downtown's historic character is fundamental to its economic revitalization. By retaining and enhancing Delaware's older architecture, the community recognizes the achievements and significance of Delaware's past while establishing adaptive reuses of these buildings for present and future use. This, in turn, can be translated into economic vitality through renewed community pride in the downtown's historical character, as well as increased commercial activity.

Introduction to Part 1: Standards for Historic Structures

Part 1 of the Standards directs the rehabilitation of historic buildings. Because these buildings were designed and built in a different era, using different materials and techniques from those common today, the materials and methods required for their preservation and maintenance are sometimes very different from those used on newer structures. Frequently, there are appropriate solutions for historic buildings which are more cost effective than replacing or covering up historic elements because they place an emphasis on preserving and repairing. For example, while properly maintained historic windows, doors, and siding will last for many decades, as shown by their continued existence, many modern replacement components are designed to last no more than 10-20 years. Therefore, if new materials are being considered, the cost of the eventual replacement has to be evaluated and added to the cost of rehabilitation. In addition, preservation and repair of historic features often increase the market value of the building and its contribution to the character of the Historic District. In the long run, both the historical integrity and value of the building are preserved and enhanced.

Introduction to Part 2: Standards for New Construction

Part 2 of the Standards guides new construction in the Downtown Historic District. New construction includes entirely new structures and additions to historic structures, as well as alterations, additions, and maintenance of existing non-historic buildings.

In the Downtown Historic District, the goal is for new construction to be visually compatible with the existing historic character. This does not mean that new structures have to duplicate historic details and materials. In fact, efforts to duplicate historic details and materials may end up being very expensive and/or not very successful, principally because construction techniques, materials, and skills are different today from when Delaware's historic downtown building stock was constructed.

Part 2 of the Standards is based on the idea of *type*. Types define fundamental relationships between a building and its neighbors: how it sits on its site and how it relates to the street and the sidewalk. The concept of type, as used here, is different from *style* or *use.* Buildings of different styles (Italianate, Romanesque, etc.) and uses (retail, office, services, and so on) can sit very comfortably side by side, if they have certain elements in common. While *style* is important for the individual building, in the context of the whole community, it is the adherence to *type* that builds consistency and compatibility.

The Standards in Part 2 identify characteristics that define several types. These include number of floors, visual proportions, types of openings, entrance location, and emphasized building elements (such as base, lintel, and cornice). Some of the major building elements covered by these Standards include overall building form, site plan, storefronts, upper floors, awnings, porches, and required materials. The Standards do not address the *style* of these elements.

HOW TO USE THE STANDARDS

Different types of structures dominate different parts of the Downtown Historic District. What is appropriate new construction in the Downtown Core, for example, may not be appropriate in other parts of the District. Therefore, the Standards identify three subdistricts within the Downtown Historic District, based upon the predominant building types found within each. The three subdistricts are the Downtown Core subdistrict, the Transitional subdistrict, and the Residential subdistrict. Emphasizing similar and compatible building types within a subdistrict can create a consistent pattern for new buildings, renovations, and additions. This helps preserve the historic character of the District, while allowing flexibility in the design of particular buildings.

To apply the Standards, first determine whether you are rehabilitating a historic building under the Part 1 Standards or undertaking new construction, including alterations to a non-historic structure or an addition to a historic building, under the Part 2 Standards. If the proposed project falls under Part 2, look at the District Map in the Appendix and locate your project site within one of the three subdistricts. This will direct which subdistrict Standards apply.

There are illustrations in the Appendix of typical historic building types found within each subdistrict. The illustrations help define elements of each type of structure. Following the specific requirements for a subdistrict type enhances the new construction and adds to the visual cohesiveness of the Downtown Historic District as a whole.

Inasmuch as there are many zoning and building code issues which will affect a building project, it is highly advisable to get the help of a design professional, such as an architect, for the design of your project. For a small project, such as the renovation of a storefront, this service may not be expensive and may save time, money, and problems on your project.

PART 1: STANDARDS FOR REHABILITATION OF HISTORIC BUILDINGS

New additions to historic buildings shall comply with both the Secretary of the Interior's Standards for Rehabilitation and with the Standards for New Construction. Any alteration or addition to a non-historic building shall be treated as new construction and shall comply with the Standards for New Construction (Part 2).

For purposes of applying these Standards, a historic building is defined as any building or building feature that has gained historical significance in the community. In establishing historical significance, the Commission may consider a number of factors, including but not limited to the age of the building, the architectural contribution of the building, whether events of historical or cultural significance have occurred at the building, and whether a noted individual or group is associated with the building.

The Secretary of the Interior's Standards for Rehabilitation, as currently published and hereafter revised, shall be applied in rehabilitating historic buildings within the Historic District.

The Secretary of the Interior's Standards for Rehabilitation (37 CFR 67)

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

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

Treatment of Non-Historic Storefronts

When undertaking changes to a non-historic storefront on a historic building, the new work shall be designed and constructed to reflect the historic character of the building. The historic character shall be determined from historic photographs and physical evidence. In the absence of such documentary evidence, a design shall be based upon typical commercial storefronts of the era from which the building dates. In any situation the Commission may consider changes in design necessitated by adaptive reuse of the building or by the use of modern materials and building techniques.

Historic Window and Door Treatments

When existing historic windows cannot be repaired, replacement windows shall maintain the profile and size of the historic window, including sash and trim. Windows shall not be replaced with single fixed light installations. Window sash shall not be replaced with sash inappropriate to the age and style of the building. If divided sash are used, divisions shall appear from the exterior as true muntins. Aluminum cladding shall not be a mill finish and/or natural aluminum color. Replacement windows shall be of wood**,** wood with aluminum cladding**,** or wood with fiberglass cladding. Existing windows shall not be boarded up, bricked in, or otherwise covered up. Street-facing windows that have been boarded up, bricked in, or otherwise covered up shall be reopened and/or reinstalled as a part of any façade renovation or rehabilitation. Figure 9 in the Appendix illustrates a typical window profile with guidance on factors to consider in determining if a window may be repaired or replaced and selecting a replacement window.

PART 2: STANDARDS FOR NEW CONSTRUCTION

New construction is defined in these Standards as any entirely new structure, addition to a historic building, and alterations, additions, or maintenance of existing non-historic buildings.

STANDARDS FOR THE DOWNTOWN CORE SUBDISTRICT

The Standards in this subdistrict are intended to maintain the character of the Downtown Core as a pedestrian scale business environment. The majority of buildings sit within 20- to 25-foot-wide lots built to the back of the sidewalk, forming a uniform streetwall with continuous pedestrian interaction.

Two of the most striking architectural aspect of the Downtown Core's buildings is the emphasis on vertical proportions and the strong separation between the street-front level and the upper floors. The emphasis on the vertical is carried through

to the storefront treatment and the proportions of the upper floor windows. Much of the vertical character of the historic storefronts derives from the construction difficulty of spanning more than seven or eight feet at the time the majority of the downtown buildings were built.

A fully glazed storefront occupies the entire ground floor. The upper floors are treated much differently than the storefront, expressing their difference in use. The wall of the upper floors has individual window openings, rather than continuous bands of windows.

A prominent lintel at the top of the storefront level carries across the entire building. A strongly articulated cornice caps the street wall.

Figures 1 and 2 in the Supplemental Information illustrate typical historic commercial buildings in the Downtown Core subdistrict.

Site Plan

Buildings in the Downtown Core shall be built to the back of the sidewalk and cover the entire width of their lot, maintaining a continuous streetwall. Parking can be on the street or at the rear of the building but not on the side of the building. The main entrance shall be at the front. Rear entrances, where they exist, shall be designed as true entrances, not as back doors.

Overall Building Form

All new construction in this subdistrict shall reflect the vertical design character of the existing historic streetscape. The emphasis on the vertical shall be carried through on the storefront treatment and the proportions of upper floor windows.

The entire ground-floor street wall shall be a fully glazed storefront. The upper floors shall be treated differently than the storefront. The wall of the upper floors shall have individual window openings, rather than continuous bands of windows.

A prominent lintel at the top of the storefront level shall carry across the entire building and shall be at least 12 inches high and not more than 24 inches high. The elevation of the lintel above the sidewalk shall match that of an adjacent building, where possible. A strong cornice element shall cap the street wall.

All new buildings erected in this subdistrict shall be a minimum of two stories and a maximum of four stories. Buildings may cover more than one lot; in which case the facade shall be visually treated to express bays of a single lot width.

Storefront

The Downtown Core storefront shall consist of a solid base, transparent glass, and a header (which may be of transparent or opaque glass). The base shall be 12 to 24 inches high.

Columns and other vertical divisions within the street-front bays shall extend to the sidewalk and be superimposed over the base. Columns shall maintain slender proportions no wider than a 1:12 width to height ratio and shall contrast with the base.

Store entrances may be recessed 3-6 feet into the building face so that a door may open outwards without obstructing the sidewalk. The recessed opening shall extend from the ground to the bottom of the header. The door shall be glazed (with at least 50% glass in area and not more than 75%) and the sides of the recess at the entrance shall also be transparent above the base. A transparent or opaque glass transom shall extend from the top of the door to the bottom of the header.

Upper Floors

The Downtown Core upper floors shall be faced with standard modular brick or cut stone facing with stone or cast stone details, such as lintels, sills, and capitals. Upper floors shall have vertically proportioned window openings whose width is no more than half their height. Existing windows are important to the look of a building and shall not be boarded up, bricked in, or otherwise covered up. Street-facing windows that have been boarded up, bricked in, or otherwise covered up shall be reopened or reinstalled as a part of any façade renovation or rehabilitation.

When replacing windows, the profile and size of the original sash and trim shall be maintained. Window sash shall not be replaced with sash inappropriate to the age and style of the building. If divided sash are used, divisions shall appear from the exterior as true muntins. Upper story windows shall be double hung or have a horizontal division in the middle and shall

be of wood**,** wood with aluminum cladding**,** or wood with fiberglass cladding. Aluminum cladding shall not be a mill finish and/or natural aluminum color. Figure 9 in the Appendix illustrates a typical window profile with guidance on factors to consider in determining if a window may be repaired or replaced and selecting a replacement window.

Window spacing shall be consistent with the divisions that occur within the storefront.

In the case of a multi-lot width property, the upper floors shall express the 20 to 25-foot typical lot divisions in the form of bays by using different window types, pilasters, other changes in wall articulation, or any combination of these across lot divisions.

The street-facing roofline shall be horizontal and carry a strong cornice element that is at least 1/15th of the total building height. Alternatively, the vertical dimension of the cornice of an adjacent building may be approximated.

Structures in the Interior of Blocks

In the Downtown Core, structures constructed in the interior of city street blocks shall be no more than three stories or 40 feet in height. Walls of such structures that are visible from a public way shall be finished in brick that may be combined with pre-cast concrete or stone masonry details.

These walls shall have horizontal tops and be capped by a cornice. These walls shall also carry windows, openings or relief such as recesses to create the appearance of windows. These shall be proportioned so as to be taller than wide. Building walls not visible from a public way may be finished in brick or cementitious or synthetic stucco.

STANDARDS FOR THE TRANSITIONAL SUBDISTRICT

The Standards for this subdistrict are intended to maintain the character of the area surrounding the Downtown Core as a transitional environment between the downtown and the surrounding neighborhoods. This subdistrict consists primarily of commercial buildings of one or two stories. Some of the buildings form a uniform streetwall as in the Downtown Core subdistrict, while others appear as separate buildings.

In some areas of this subdistrict, one-and two-story buildings are characterized by a continuous wall surface that carries down to street level around the storefront. Others look more like Downtown Core buildings. The result is a streetscape that shows more building variation than the Downtown Core.

Figures 3, 4, and 5 in the Supplemental Information illustrate typical historic commercial buildings in the Transitional subdistrict.

Site Plan

Transitional subdistrict buildings shall be built to the back of the sidewalk and cover the entire lot width, maintaining a continuous streetwall. Parking may be on the street or on-site at the rear of the building but not on the side of the building. The main entrance shall be at the front. Rear entrances, where they exist, shall be designed as true entrances, not as back doors.

Overall Building Form

All new construction in the subdistrict shall be compatible with the design character of the surrounding historic streetscape. Buildings shall be either a Transitional building, as described herein, or a Downtown Core building, as described in the Standards for the Downtown Core subdistrict.

Transitional buildings shall be one or two stories with a continuous wall surface that carries down to street level around the storefront. The façade's primary building material shall be brick. At least ninety percent (90%) of the width of the ground-floor streetwall shall be fully glazed storefront. All upper stories shall have street-facing windows.

Buildings may cover more than one lot, in which case the facade shall be treated visually to express bays of a single lot width.

Storefront

The storefront shall consist of a solid base, transparent glass, and a header, which may be transparent or opaque. The base shall be 12 to 24 inches high, and the material used shall contrast with the primary building material of the façade.

The entrance door shall be glazed (with at least 50% glass in area and not more than 75%) but does not need to be recessed. If it is recessed, the sides of the recess shall also be glazed. In both cases, the transom between the top of the door and the header shall also be made of transparent or opaque glass.

Upper floors

The upper floors of buildings taller than one-story in the Transitional subdistrict shall have separate, vertically proportioned windows with at least a 2 to 1 height to width proportion. Existing windows are important to the look of a building, and shall not be boarded up, bricked in, or otherwise covered up. Street-facing windows that have been boarded up, bricked in, or otherwise covered up shall be reopened and/or reinstalled as a part of any façade renovation or rehabilitation. When replacing windows, the profile and size of the original sash and trim shall be maintained. Window sash shall not be replaced with sash inappropriate to the age and style of the building. If divided sash are used, divisions shall appear from the exterior as true muntins. Upper story windows shall be double-hung or have a horizontal division in the middle and shall be of wood**,** wood with aluminum cladding**,** or wood with fiberglass cladding. Aluminum cladding shall not be a mill finish and/or natural aluminum color. Their placement shall coordinate with the storefront divisions. Figure 9 in the Appendix illustrates a typical window profile with guidance on factors to consider in determining if a window may be repaired or replaced and selecting a replacement window.

The upper wall on the single-story type may include sign bands that do not extend over the storefront divisions.

The street-facing roofline shall be horizontal. The cornice at the top of the building face shall be plain and not heavily articulated as in the Downtown Core buildings. The cornice height shall be approximately 1/15th of the total building height, unless it is or is to be a Downtown Core type of building. Alternatively, the vertical dimension of the cornice of an adjacent building may be approximated.

Structures in the Interior of Blocks

Buildings constructed in the interior of city street blocks within the Transitional subdistrict shall be no more than two and one-half stories or 35 feet in height.

Walls of such buildings that are visible from a public way shall be finished in brick that may be combined with pre-cast concrete or stone masonry details. These walls shall have horizontal tops and be capped by a cornice. These walls shall also carry windows, openings or relief (such as recesses) to create the appearance of windows. These shall be proportioned so as to be taller than wide. Building walls not visible from a public way shall be finished in brick or cementitious or synthetic stucco.

STANDARDS FOR THE RESIDENTIAL SUBDISTRICT

Buildings in these areas, regardless of their use, are residential in character. Within the subdistrict, there is considerable variation in siting, streetscape, and the style of the buildings, depending on the immediate neighborhood. One of the defining characteristics of this subdistrict is that most of the buildings were built originally as free-standing, separate residences, with front, side, and back yards.

Figures 6 and 7 in the Supplemental Information illustrate typical historical buildings in the Residential subdistrict.

Overall Building Form

The typical building form shall be a simple, one and a half or two-story box, with few projections. Projections may be the full height of the building, roof dormers, or simply be a front porch (open or screened). The roof may be hipped or gabled. Roof pitches shall be 6 in 12 or steeper. Street-facing windows shall be separate and shall align vertically between the two floor levels. Street-facing garages are prohibited.

Site Plan

The Standards for the Residential subdistrict reflect the variation in existing siting within the subdistrict. See Figure 8 in the Appendix.

Franklin Street, E. Winter Street, and Central Avenue

The front yard setback shall match that of an adjacent residential structure. If no residential structure is present, the front yard setback shall be 15 feet. No additional curb cuts shall be allowed without the approval of the City Engineer. The front yard shall be planted with turf and/or landscaped.

On-site parking shall be at the back of the building and shall be screened from the street. While there may be an entrance from the parking area, the building's main entrance shall be on the street face, connected to the sidewalk by a paved walkway.

Existing trees in the tree lawn shall be maintained or, if necessary, replaced at or near their present locations, as approved by the Shade Tree Commission.

William Street and S. Union Street

The front yard setback shall match that of an adjacent residential structure. If no residential structure is present, the front yard setback shall be 35 feet. No additional curb cuts shall be allowed without the approval of the City Engineer. The front yard shall be planted with turf and/or landscaped.

On-site parking shall be at the back of the building and shall be screened from the street. While there may be an entrance from the parking area, the building's main entrance shall face the street, connected to the sidewalk by a paved walkway.

Existing trees in the tree lawn shall be maintained or, if necessary, replaced at or near their present locations, as approved by the Shade Tree Commission.

Windows

Street-facing windows shall be double-hung and shall maintain vertical proportions with at least a 3 to 2 height to width ratio. If divided sash are used, divisions shall appear from the exterior as true muntins. When replacing windows, the profile and size of the original sash and trim shall be maintained.

Required Materials

Main building: Standard modular brick and/or painted horizontal wood siding.

Trim (e.g., fascia, soffit, frieze, casement, etc.): Stone and/or painted wood.

Porch columns, railings, etc.: Painted wood.

Roofing: Slate, standing-seam metal, asphalt shingles, or wood or composite shakes or shingles.

Windows: Wood, wood with aluminum cladding, or wood with fiberglass cladding. Aluminum cladding shall not be a mill finish and/or natural aluminum color. Figure 9 in the Appendix illustrates a typical window profile with guidance on factors to consider in determining if a window may be repaired or replaced and selecting a replacement window.

PART 3: STANDARDS APPLICABLE TO ALL PROPERTIES IN THE HISTORIC DISTRICT

Treatment of Brick Exteriors

Brick shall not be cleaned with abrasive techniques. The method of cleaning, removing dirt or paint, replacing, or repairing of the brick or mortar shall be reviewed for approval or modification by the City or, upon appeal by the Applicant, by the Historic Preservation Commission.

For historic buildings, any unpainted surface such as, but not limited to, masonry such as brick, or stone shall not be painted. In the event that an existing unpainted surface cannot be restored or preserved through acceptable means, painting of the surface may be considered as a last resort.

Painting Exteriors of Buildings

In choosing colors for a historic building in the Historic District, applicants shall use colors that are appropriate to the age and style of the building. In choosing paint colors for a non-historic building in the Historic District, applicants shall use

colors that are appropriate to the overall character, age, and style of the Historic District. No garish, bright, or fluorescent colors will be permitted.

Historic and non-historic buildings shall not be painted so as to enlarge and/or extend the signage area beyond the approved signage, or to use the building itself as corporate identification.

Parking Lots

New parking lots (including expansions of five or more parking spaces) within the Downtown Historic District shall be screened from the public way by means of fencing and landscaping. **A brick or stone wall may be used instead of a fence.** A permanent fence shall extend over the entire length of the lot that is visible from the public way, except where access is required. The fence shall not be more than four feet behind the back of the sidewalk.

The fence shall be historically-appropriate wrought iron or other metal made to resemble historically-appropriate wrought iron. Posts may be the same metal as the fence or may be of brick, stone, or pre-cast concrete masonry. In the residential districts only, fences and posts made of wood are also permitted.

The fence or wall shall be not more than 3 feet high. A landscaped area shall exist behind a fence, planted with dense shrubbery to hide the lot from view from the public way. No landscaped area is required behind a wall but is encouraged in front.

All landscaping (except for tree trunks and the like) shall be planted and kept trimmed from the clear sight zone that exists between three feet and six feet above the pavement everywhere within the parking lot plus along any vehicular access into or out of the parking lot.

All such parking lots shall have at least 10% of their surface area covered by landscaped areas.

Rear and Sides of Buildings

Although these Standards address street fronts primarily, the rear and sides of a building are also important. Because these are visible from adjacent properties and often from parking areas or side streets, they can enhance or diminish the appearance of an entire area. The rear and sides of a building shall be compatible in design with the front façade.

Roof-Mounted Mechanical Equipment

Roof-mounted mechanical equipment and other projecting items shall not be prominently visible from an adjacent right-of-way.

Awnings and Canopies

Awnings shall be constructed of non-coated cloth material attached to a rigid or retractable frame. The outer edge (skirt) of a sloped awning shall not be more than 10 inches high. Awnings may only be supported by the building to which they are attached. "Awning" means a structure attached to a building constructed of a rigid fixed or retractable metal frame covered with cloth fabric.

Storefront awnings may be installed beneath the lintel and shall not extend beyond a storefront division. Such awnings may project to within two feet of the curb in front of the premises.

Upper story window awnings may be installed. Such awnings shall not extend more than 6 inches beyond the dimensions of any individual window opening.

New canopies are forbidden. "Canopy" means a rigid, permanent structure projecting from a building made from any material, which is cantilevered, suspended or supported on columns intended only for shelter or ornamentation. An awning-like structure not covered by cloth material is a canopy.

Standards for exterior colors for building, signs and awnings

1. For historic buildings, any unpainted surface such as, but not limited to, masonry such as brick, or stone shall not be painted. In the event that an existing unpainted surface cannot be restored or preserved through acceptable means, painting of the surface may be considered as a last resort.

2. Historic and non-historic buildings shall not be painted so as to enlarge and/or extend the signage area beyond the approved signage, or to use the building itself as corporate identification.
3. In choosing colors for a historic building and its signage (including awning) in the Historic District, applicants shall use colors that are appropriate to the age and style of the building. In choosing paint colors for a non-historic building and its signage (including awning) in the Historic District, the applicant shall use colors that are appropriate to the overall character, age and style of the Historic District. No garish, bright, or fluorescent colors will be permitted.
4. Sign materials shall be compatible with those of the historic building. Materials characteristic of the building's period and style, used in contemporary designs, can form effective new signs.

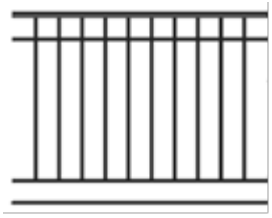
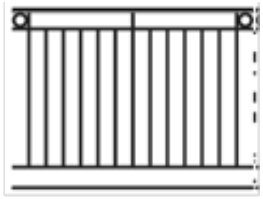
Sidewalk Uses

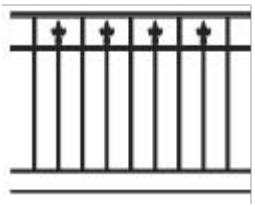
The following guidelines have been established for any tables and chairs proposed for temporary placement on the sidewalk area:

1. The **tables and chairs shall be comprised of metal or wood** and the color shall compliment the storefront (refer to the*Downtown Historic District Architectural Standards for color standards). The style and material of any barriers (planters, fences, etc.) shall compliment the storefront.
2. Any use purposing to serve alcoholic beverages in the sidewalk area will need to delineate the entire area with a physical boundary as required by the State Division of Liquor Control. The boundary shall be a removable fence that is secured by self-tapping concrete anchors; such anchors shall not exceed ¼ of an inch in diameter and be embedded at least 1 inch into concrete but not more than 1 ¾ inches. Such anchoring is not permitted on any brick section of the sidewalk.
   a. At the end of each outdoor season, the City reserves the right to require any holes to be filled per the specifications of the City.
   b. If the object is permanently removed or the hole pattern is modified, the applicant or property owner must fill all holes per specifications of the City.
   c. Any damage to the public sidewalk resulting from the anchoring of any object shall be corrected by the applicant or property owner at their own expense and per specifications of the City.
   d. All fencing and structures will be removed by November 1st and not placed until March 1st.

The fence shall be historically appropriate wrought iron or steel made to resemble historically appropriate wrought-iron.

Example fence styles include the following:



3. Compliance with the guidelines can result in an administrative approval (no hearing with the Historic Preservation Commission). Those who do not comply will need to submit for a Certificate Of Appropriateness and the case will be set for a public hearing at the next available meeting of the Commission.

PART 4: SIGN STANDARDS

GENERAL REGULATIONS

Applicability: The standards of Chapter 1125 (Signs) in the Delaware Planning and Zoning Code shall apply to all permanent and temporary signs in the Downtown Historic District unless otherwise modified in this document. Such signs may require a Certificate of Appropriateness (COA) prior to applying for a sign permit.

Non-historic Paint and Materials: No part of a sign on private property shall be or use garish, bright, or fluorescent, glowing, reflective, or similar non-historic paint or materials. In choosing colors for signage and awnings on a historic building in the Historic District, applicants shall use colors that are appropriate to the age and style of the building. In choosing paint colors for signage and awnings on a non-historic building in the Historic District, applicants shall use colors that are appropriate to the overall character, age, and style of the Historic District. Sign materials shall be compatible with those of the historic building. Materials characteristic of the building's period and style, used in contemporary designs, can form effective new signs.

Installation: No sign shall be installed or mounted in any way which damages or impacts architectural details of a building.

Illuminated Vending Machines: Vending machines that have illuminated fronts, regardless of the presence of signage, shall not be visible from a public right-of-way in the Historic District.

SIGNS PERMITTED IN ANY SUBDISTRICT

The following signs shall not require a Certificate of Appropriateness in the Downtown Historic District:

(1) Signs that are exempt from requiring a sign permit in Chapter 1125;

(2) Temporary signs authorized by Chapter 1125;

All other signs shall require a Certificate of Appropriateness unless expressly stated otherwise.

SIGNS PROHIBITED IN ANY SUBDISTRICT

The following signs are specifically prohibited in any subdistrict of the Downtown Historic District:

(1) Signs that are not on-premise signs;

(2) Changeable copy sign with the exception that the illuminated window sign allowed in the C-DC (Downtown Commercial) District may have digital changeable copy if approved as part of the related COA;

(3) Freestanding signs;

(4) Signs on any street furniture and sidewalk patio fencing; and

(5) Any sign prohibited by Chapter 1125.

SIGNS PERMITTED IN THE DOWNTOWN CORE AND TRANSITIONAL SUBDISTRICTS

Specific Requirements for Certain Signs

Awning Signs

Signs may be placed on the main body of the awning or on its skirt. In place of a wall sign, a sign placed on the body of an awning may be the primary sign for the premises and counts towards the total allowable sign area. If a wall sign is used, a sign on the body of an awning is prohibited.

Signs on the skirt of an awning are permitted, including the sides.

Area and Size of Awning Body Signs: The sign area shall be no more than 15 inches tall. The height of the sign area for signs on the body of an awning may be no greater than 85% of the height of the Sign Area of the awning.

Area and Size of Awning Skirt Signs: A sign may be placed on the skirt of the awning. Such graphics shall be no larger than 8 inches in height. Signs on the skirt of an awning that are no larger than 8 inches in height do not count towards the total allowable sign area.

Illumination of Awning Signs: Awnings may be lit externally. The illumination shall be such that the lettering, logo or graphics of the awning sign is brighter than the surrounding fabric.

Canopy Signs

Size and construction of signs: Signs mounted atop the canopy shall be no higher than 15 inches. Such signs shall be composed of detached letters or symbols separately mounted to the top of the canopy. Such signs shall not be mounted on a panel. Signs mounted on the face of the canopy shall be no more than 6 inches high.

Projecting Signs

Illumination: Projecting signs may be illuminated externally or by exposed neon tubes (or a modern equivalent of neon).

Wall Signs

Height limitations: The height of the sign area of a wall sign shall be no more than 85% of the height of the header on which it is mounted. The height of the sign area of a wall sign shall be no more than 85% of the height of the Sign Area of the sign or 15 inches, whichever is less.

If the sign is not mounted on a panel, the height of the sign area shall be no more than 85% of the height of the header or 15 inches, whichever is less. If the sign is mounted in a sign band, its Sign Area height shall be no more than 85% of the sign band height. The sign area height shall be no more than 85% of the Sign Area height or 15 inches, whichever is less.

Placement: Wall signs shall be placed in the header of the storefront, where such a header exists. If no header exists, then the sign shall be placed in the sign band. Signs may not cover or intrude upon any architectural features of the wall such as lintels, string courses, window sills, pilasters, and cornices.

Window Displays

Area and Size of Window Displays: There is no limitation of the area or size of window displays.

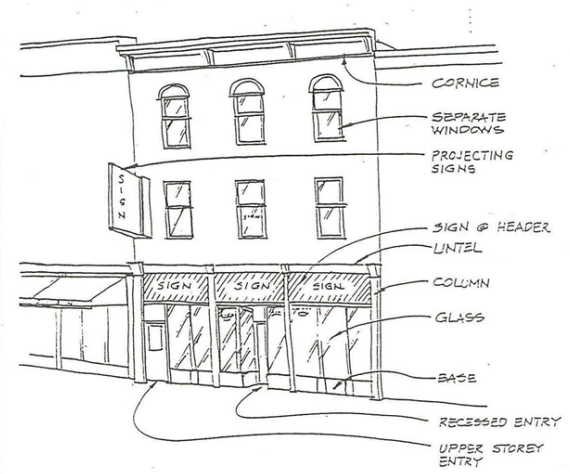
Enclosure of Window Displays: Window displays may be enclosed so as to block the view of the premise's interior from the public way.

Illumination of Window Displays: Such illumination shall not create a nuisance to traffic, pedestrians or other premises. Such illumination shall not be intermittent or vary in brightness, color, or intensity.

SIGNS PERMITTED IN THE RESIDENTIAL SUBDISTRICT

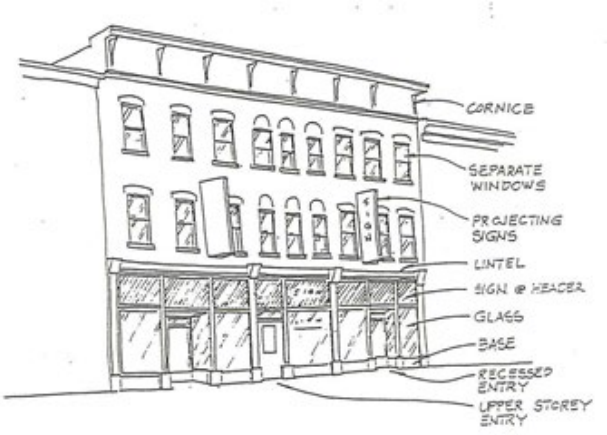
Signs in the Residential Subdistrict shall follow the regulations outlined in Section 1125.08 of Chapter 1125 (Signs) in the Delaware Planning and Zoning Code.

SUPPLEMENTAL INFORMATION



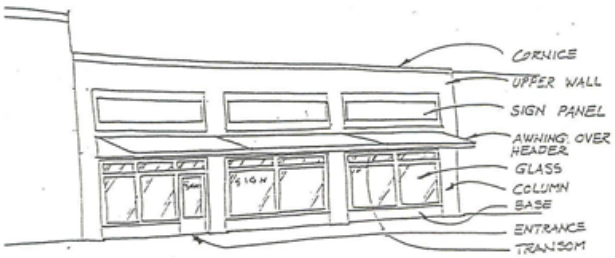
DOWNTOWN CORE COMMERCIAL
SINGLE LOT WIDTH

Figure 1



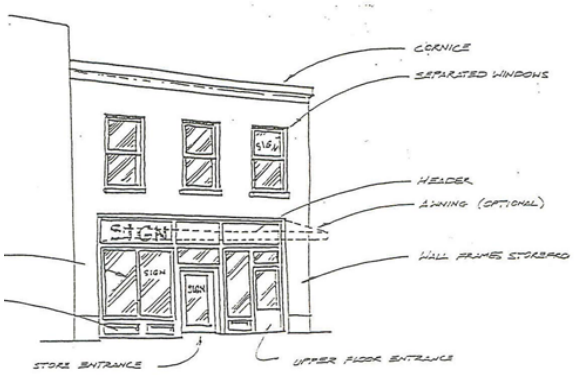
DOWNTOWN CORE COMMERCIAL
MULTI-LOT WIDTH

Figure 2



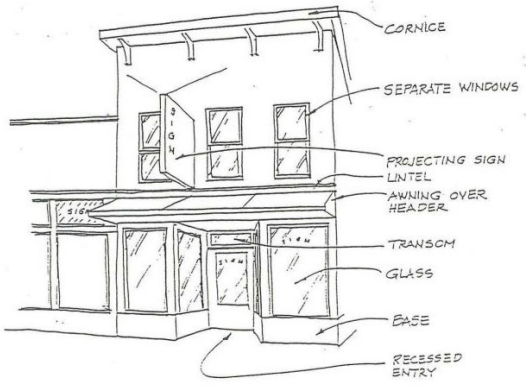
TRANSITION AREA COMMERCIAL
ONE STORY

Figure 3



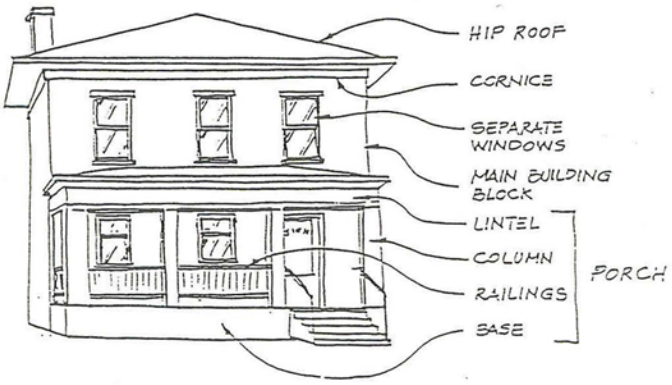
TRANSITION AREA COMMERCIAL
TWO STORY

Figure 4



TRANSITION AREA COMMERCIAL
TWO STORY

Figure 5



RESIDENTIAL AREAS

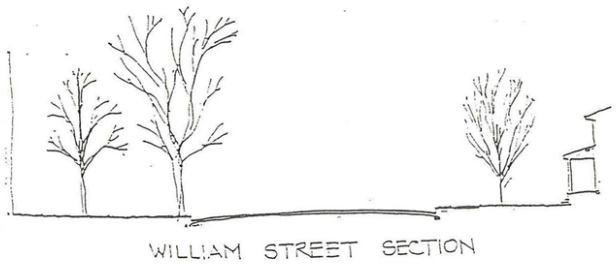
Figure 6



RESIDENTIAL AREAS

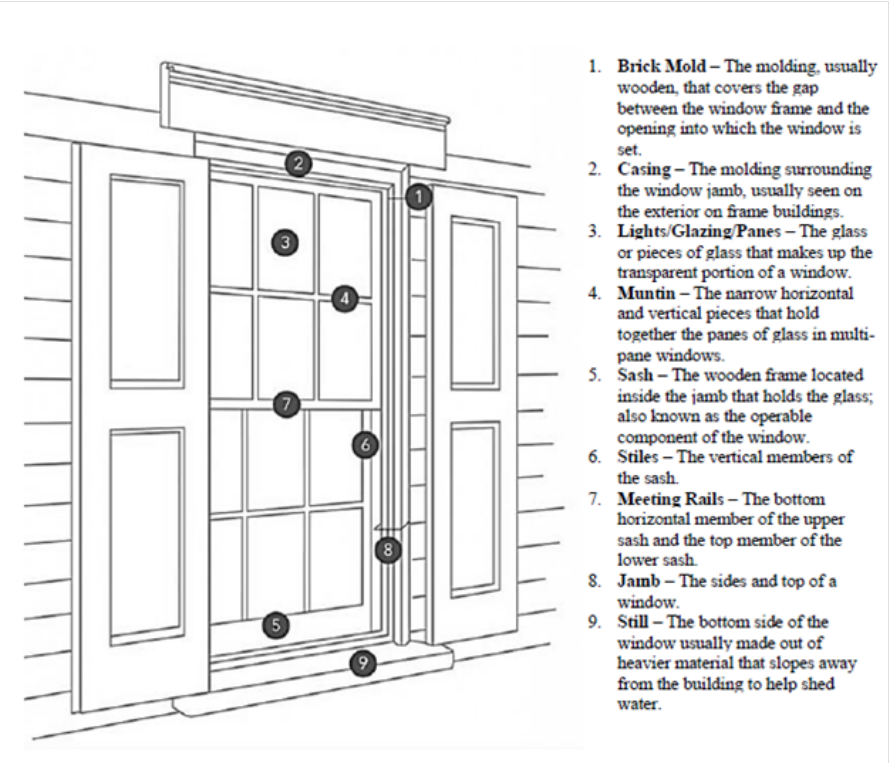
Figure 7





RESIDENTIAL AREAS SITING

Figure 8



TYPICAL WINDOW PROFILE
Figure 9

GUIDANCE ON WINDOW REPAIR AND REPLACEMENT

Factors to consider in the repair or replacement of windows

Original windows define the historic context of the building; reflect its time period, style, and regional characteristics; and should be preserved when possible. There is a point when the condition of a window may clearly indicate replacement. The decision process for selecting replacement windows should begin with an assessment of the existing windows, rather than window products currently available. Select a replacement window which retains as much of the character of the historic window as possible. Energy efficiency is only one of the factors for replacement; it should not dominate the decision.

Generally, typical residential windows and upper floor windows on downtown commercial buildings include: one-over-one, two-over-two, four-over-four, or six-over-six. This is in reference to the number of window panes in each window sash. (For example, the window in the diagram is considered six-over-six.) The original windows typically are double-hung with counterweights to move the sash up behind the upper sash. Attempt to understand the uniqueness of the window's contribution to the appearance of the façade, including:

• the pattern of the window openings and their size

• proportions of the frame and sash (e.g. the width/depth of styles, rails, and meeting rails)

• configuration of window panes

• muntin profiles (replacement must be simulated divided lite–not just grids between the glass)

• type of wood

• paint color

• characteristics of the glass

• associated details such as arched tops, hoods, or other decorative elements

In many cases, repair and retrofit of the historic windows is more economical than total replacement. If not carefully analyzed, selected replacement units will be unlike the originals in design and appearance. Since windows are important in defining the building's historic character, insensitively designed replacement windows may destroy the building's historic character. At times, unique designs require custom-made windows. Changing the original window pane style or opening size is not appropriate.

Factors Determining Window Replacement

The following factors may be considered in determining whether a window may be replaced:

• The window frame or sash is missing.

• The window is not original or contributing.

• The window does not have stained or leaded glass.

• More than half of the sash is rotten (wood) or rusting (metal) and the existing condition has been documented by the Applicant and reviewed by City Staff.

• Mold is continuously growing on the interior of the window sash or frame and the existing condition has been documented by the Applicant and reviewed by City Staff.

• Condensation is continuously appearing on the interior of the window and the existing condition has been documented the Applicant and reviewed by City Staff.

• The window does not meet egress requirements.

• Appropriate ongoing efforts to weatherize, maintain, or repair the window are not successful.

• The installation of a storm window over a contributing primary window will not address the issue.

• The installation of a storm window will not allow the operation of a contributing primary window.

Replacement Window Selection

The following factors may be considered in selecting a replacement window if it is determined the existing contributing window cannot be weatherized, maintained, or repaired:

• The Applicant is to submit details and profiles of the existing and new windows for comparison by the Historic Preservation Commission.

• Only the sash should be replaced if the original frame is in good condition.

• Replacement sash must be comparable to material and profiles of the existing contributing window.

• All parts of a replacement window (including sash, frame, stile, rails, sills, moldings and muntins) must be comparable to the existing contributing window in material, size, profile, operation, and proportion.

• A wood, aluminum-clad wood window, or fiberglass-clad wood window may be considered if the size, profile, operation, and proportion is comparable to the contributing window.

• A wood, aluminum-clad wood window, or fiberglass-clad wood window may be considered if the contributing window was all metal. The new window must be comparable in profile, operation, and proportion to the contributing window.

• Window openings shall not be filled in or altered to accommodate larger or smaller replacement windows.

• Basement windows should be maintained to allow light and ventilation into that space.

• Glass block should not to be installed in window openings.

• An insulated window may be considered if the size, profile, operation, and proportion is comparable to the contributing window.

• Insulated windows with divided lites shall have true divided lites with muntins that are comparable to the size and profile of the original muntins. Simulated divided lites may be considered, if the muntins are bonded to the exterior and interior of the window, are comparable to the size and profile of the original muntins, and have a minimally visible spacer bar between the two glass panes.

• Glass color, texture, and tinting are to match existing.

• Stained or leaded glass is not to be insulated unless original to the opening or historically documented for the opening.

• A wood, aluminum-clad wood window, or fiberglass-clad wood window may be considered for new construction if the size, profile, operation, and proportion are appropriate to the style and design of the new construction.

Storm Windows and Window Screens

The following recommendations may be considered in maintaining or installing storm windows and window screens:

• If there are no historic photographs or other physical evidence of historic storm windows or screens being in place, in the absence of such documentary evidence, interior storm windows and interior screens are to be installed on residential use and commercial buildings in the Historic District following the design parameters above. Alternatively, a request for a Certificate of Appropriateness may be made to the Historic Preservation Commission for consideration of exterior screens on a case-by-case.

• Maintain and preserve historic storm windows whenever possible. (These are typically found in the Residential Sub-district of the Historic District.)

• To be historically accurate, choose removable or fixed exterior wood storm windows. Painted metal storm windows are an appropriate alternative to wooden storm windows.

• Choose as narrow a sash frame as possible if an exterior metal storm window is selected.

• The storm window meeting bar is to be in the same location as the meeting rails of the primary window sashes.

• Install exterior, low profile storm windows that fit the original window openings and do not obscure the glass or sash. The frame of the storm window should be mounted inside the existing window frame.

• Exterior wood and metal storm windows of the primary windows are to be a color compatible with the color scheme of the building, usually the same color as the sash.

• Single sheets of glass or Plexiglas are not permitted as storm windows over double-hung windows.

• Single sheets of glass may be used on transoms and single-pane or single-lite windows.

• Do not install mirrored or tinted glass in storm windows.

SUBMISSION REQUIREMENTS

FOR A CERTIFICATE OF APPROPRIATENESS APPLICATION FOR WINDOW REPLACEMENT

The key to successful planning for window replacement is a careful evaluation of the existing physical condition of the existing windows. Replacement should match or be comparable to the historic sash in pane size and configuration, glazing, muntin detailing and profile, and historic color and trim. At times, the profiles of replacement elements, such as muntins, sash, frames, and moldings are flatter and wider or narrower and thinner than the historic profiles. These items are important for consideration since a change in relief and profile affects the character of the historic window, which in turn alters the overall appearance of the entire building.

If it is obvious that the windows in place are not the original windows, the Applicant will be asked to locate historic photographs of the building to replicate the original or earlier style. Or, in the absence of documentary evidence, select a window style that will not detract from the historic appearance of the building or the Historic District.

The following information will be required to submitted with a request for a Certificate of Appropriateness for window replacement for review by the Historic Preservation Commission:

1) Clear, colored, detailed photographs, including at least one of each:

- Full-frame shot of the entire building
- Full-frame shot of individual windows from the exterior
- Full-frame shot of individual windows from the interior
- Close-up views of intersection of sills and frames
- Close-up views of sash, focusing on bottom rail and muntins (if existing)
- Close-up view of sills and bottom rails from the interior

2) A photograph key illustrating the location of the windows on the building in relation to the photographs.

3) A written description of each existing window denoting its material, the type of window it is, and its configuration. For example: Window 1 is wood, double-hung, 6-over-6.

4) Window section drawings of both the existing and proposed windows or submitting a list of measurements comparing the individual elements of the existing windows to the proposed windows (as depicted in Figure 9 Typical Window Profile).

5) A brochure from the window manufacturer detailing a durable mid-range to high-end quality product and the selected product color.

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Jonathan Owen, City Engineer
ITEM TYPE:	Ordinances
AGENDA SECTION:	**CONSIDERATION OF ORDINANCE NO. 25-43**
SUBJECT:	Ordinance No. 25-43, an ordinance changing the name of Cedar Creek Court to Brooke Creek Court.

SUGGESTED ACTION:

ATTACHMENTS:

Fact Sheet 25-43 Brooke Creek Ct.docx
Ord 25-43, Brooke Creek Ct - NSH 07092025 Edits.docx
250707 MI Homes Letter.pdf

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: 13	DATE: 7/14/2025
ORDINANCE NO: 25-43	RESOLUTION NO:
READING: FIRST	PUBLIC HEARING: YES **(July 28, 2025 at 7:20 p.m.)**

TO: Mayor and Members of City Council

FROM: Paul J. Brake, City Manager

VIA: Jonathan R. Owen, P.E., City Engineer

TITLE OF PROPOSED ORDINANCE/RESOLUTION:

AN ORDINANCE CHANGING THE NAME OF CEDAR CREEK COURT TO BROOKE CREEK COURT

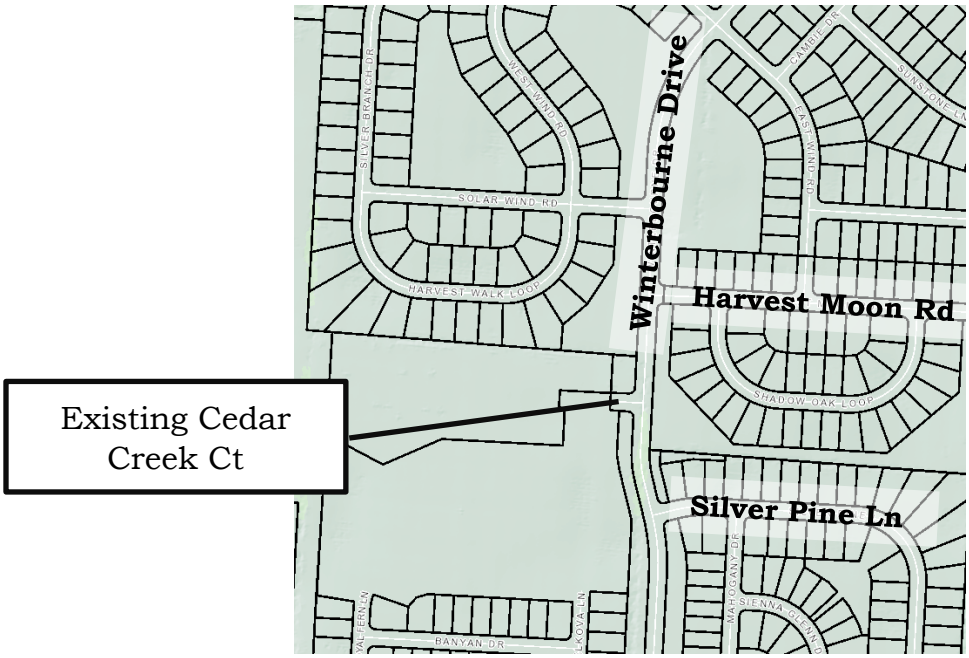
BACKGROUND:

Cedar Creek Court is an existing segment of street located within the platted subdivision *Winterbrooke Place Phase 3 Part A*. The existing segment of street intersects Winterbourne Drive between Harvest Moon Road and Silver Pine Lane, is 113-ft long, and will be extended by the future subdivision *Winterbrooke Place Phase 6*.

After recording of the plat, it was determined by Delaware County Emergency Communications that the name *Cedar Creek Court* too closely resembles an existing street *Cedar Creek Street.* To avoid possible confusion in emergency response dispatching, the name *Cedar Creek Court* will be changed to *Brooke Creek Court*. This new name will also be used for the extension of the road in the future subdivision phase.

One existing platted lot exists on Cedar Creek Court. This lot is an open-space reserve lot owned by Winterbrooke Place Homeowners Association Inc. The proper notifications will be made to re-assign this address to the new street

name. The attached letter from M/I Homes satisfies the ORC 723.04 requirement for the street name change to be initiated by a petition from a property owner.



REASON WHY LEGISLATION IS NEEDED:
The legislative authority of a municipality must formally vote to change a street name.

COMMITTEE RECOMMENDATION:

N/A

FISCAL IMPACT(S):

N/A

POLICY CHANGES:

None

PRESENTER(S):

Jonathan R. Owen, PE, City Engineer

RECOMMENDATION:

Approval with rule suspension.

ATTACHMENT(S)

- Street Name Change Request from M/I Homes

ORDINANCE NO. 25-43

AN ORDINANCE CHANGING THE NAME OF CEDAR CREEK COURT TO BROOKE CREEK COURT.

WHEREAS, Cedar Creek Court is a public street in the Winterbrooke Place Phase 3 Part A subdivision, platted on March 22, 2024; and

WHEREAS, a similar street name exists elsewhere in the City of Delaware; and

WHEREAS, there is a need to avoid duplicate or similar street names to avoid confusion in emergency response dispatching; and

WHEREAS, only one non-buildable, open-space lot currently exists on Cedar Creek Court; and

WHEREAS, this Council finds good cause exists to change the street name from "Cedar Creek Court."

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio that:

SECTION 1. That street named "Cedar Creek Court" shall be changed to "Brooke Creek Court".

SECTION 2. The Council Clerk is directed to file a certified copy of this ordinance with the Delaware County Recorder's Office to be recorded in the official records of the Delaware County Recorder in accordance with Ohio Revised Code Chapter 723.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION: YEAS____NAYS____
ABSTAIN ____

PASSED: _____, 2025 YEAS____ NAYS____
ABSTAIN ____

ATTEST: _____ _____
CITY CLERK MAYOR

M/I HOMES
Welcome to Better

Columbus Division
4131 Worth Ave, Suite 310
Columbus, OH 43219
614.418.5800 **OFFICE**
614.418.8499 **FAX**

Jonathan Owen, P.E.
City Engineer
City of Delaware
440 E. William Street
Delaware, OH 43015

Re: Winterbrooke Place – Street Name Change Request

Dear Jonathan Owen:

M/I Homes of Central Ohio, LCC. is writing this letter on behalf of M/I Homes of Central Ohio, LLC., Winterbrooke Place Homeowner's Association and WB Reserve Inc.

All parties listed above would like to formally request a street name change within the Winterbrooke Place community.

When Winterbrooke Place Section 3 Part 1 was constructed and platted the stub street was named *Cedar Creek Court*. When the rest of the roadway was constructed and going through the approval process for the plat for Section 5 and Section 6, the roadway was named *Brooke Creek Court*.

All parties would like to request a formal name change from *Cedar Creek Court* to *Brooke Creek Court*.

Thank you,

Steve Christman
M/I Homes
Land Development Manager

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Jonathan Owen, City Engineer
ITEM TYPE:	Resolutions
AGENDA SECTION:	**CONSIDERATION OF RESOLUTION NO. 25-49**
SUBJECT:	Resolution No. 25-49, a resolution authorizing the City Manager to enter into a Local Public Agency (LPA) Agreement with the Ohio Department of Transportation (ODOT) for the Pedestrian Path Connections Project and to execute contracts as required to design, acquire property for, and to construct the project.

SUGGESTED ACTION:

ATTACHMENTS:

Fact Sheet Res 25-49, Paths LPA Agreement.docx
Res 25-49, Path Project LPA Agreement - NSH 07092025 Edits.doc
PID 123333 LPA Agreement.pdf
Location Map.pdf

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: 14 | DATE: 7/14/2025

ORDINANCE NO: | RESOLUTION NO: 25-49

READING: FIRST | PUBLIC HEARING: NO

TO: Mayor and Members of City Council

FROM: Paul J. Brake, City Manager

VIA: Jonathan R. Owen, City Engineer

TITLE OF PROPOSED ORDINANCE/RESOLUTION:

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LOCAL PUBLIC AGENCY (LPA) AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE PEDESTRIAN PATH CONNECTIONS PROJECT AND TO EXECUTE CONTRACTS AS REQUIRED TO DESIGN, ACQUIRE PROPERTY FOR, AND TO CONSTRUCT THE PROJECT.

BACKGROUND:

In 2024, the City was awarded a grant through ODOT's systemic safety program for a project to fill missing segments of sidewalks and share use paths at various locations across the City. The application was made for segments of sidewalk and shared use paths on roadway segments that qualify for the program. The project will make the following improvements:

- New sidewalk on London Rd. at two locations where no sidewalk currently exists.
- New sidewalk on the east side of S. Sandusky St. where no sidewalk currently exists.
- Replacement of sidewalk on the west side of S. Sandusky St. with shared use path between Olentangy Ave. and Belle Ave.
- Upgrades to existing sidewalk along US36 (E. William St.) between the Olentangy River and Lake St.
- New sidewalk on the east side of Lake St. between Winter St. and William St. where no sidewalk currently exists.

- New shared use path on US36 (W. William St.) between Houk Rd. and Penick Ave. to fill several gaps that currently exist.

The project is included in the approved 2025-2029 Capital Improvement Plan (CIP) allocations and the 2025 budget appropriations. The systemic safety grant provides 90% grant funding for design, right of way, and construction. See the fiscal impacts section for additional information.

The project will be designed starting in 2025 and constructed in 2027. Any necessary acquisition of right of way or easements will take place in 2026.

This resolution authorizes the City Manager to enter into the LPA agreement with ODOT as well as any future contracts for design, right-of-way acquisition, and construction. For this project, the design contract is held by ODOT.

REASON WHY LEGISLATION IS NEEDED:
Intergovernmental Agreements require City Council approval.

COMMITTEE RECOMMENDATION:
N/A

FISCAL IMPACT(S):
The following table summarizes the estimated project funding, including the systemic safety grant amount included in the LPA Agreement. It is expected that construction will require additional 100% local funding beyond the 10% grant match.

Funding Sources	2025	2026	2027	Total
ODOT Systemic Safety Grant (90%)	$420,361.81	$264,870.00	$1,590,498.19	$2,275,730.00
Local Funding (10% Grant Match)	$46,706.87	$29,430.00	$176,722.02	$252,858.89
Local Funding (100%)			$85,328.98	$85,328.98
Total Funding	**$467,068.68**	**$294,300.00**	**$1,852,549.19**	**$2,613,917.87**

POLICY CHANGES:
N/A

PRESENTER(S):
Jonathan R. Owen – City Engineer

RECOMMENDATION:
Approval

ATTACHMENT(S)
- LPA Federal Local-Let Project Agreement
- Project Location Map

RESOLUTION NO. 25-49

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LOCAL PUBLIC AGENCY (LPA) AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE PEDESTRIAN PATH CONNECTIONS PROJECT AND TO EXECUTE CONTRACTS AS REQUIRED TO DESIGN, ACQUIRE PROPERTY FOR, AND TO CONSTRUCT THE PROJECT.

WHEREAS, the City of Delaware pursued and received grant funding for a project to fill gaps in sidewalks and shared use paths on W. William St., E. William St., Lake St., London Rd., and S. Sandusky St.; and

WHEREAS, ODOT has designated the project DEL-VAR-Sidewalk/SUP; PID 123333; and has designated the City of Delaware as the LPA for the project; and

WHEREAS, an LPA Federal Local-Let Project Agreement is required at this time to assign responsibilities, convey Federal regulations, and document the current funding arrangement for the project; and

WHEREAS, the City of Delaware will enter into contracts with private consulting firms, property owners, and contractors to complete this project.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DELAWARE, STATE OF OHIO THAT:

SECTION 1. The City Manager of the City of Delaware is hereby authorized on behalf of the City of Delaware to execute the attached LPA Federal Local-Let Project Agreement with the State of Ohio, Department of Transportation for the Pedestrian Path Connections Project, with changes therein and amendments thereto consistent with this Resolution and not substantially adverse to the City of Delaware, which shall be evidenced conclusively by the City Manager's execution thereof.

SECTION 2. The City Manager of the City of Delaware is further authorized to execute and enter any agreement, the form of which is approved by the Delaware City Attorney, as may be necessary and appropriate to design, acquire property for, and to construct the project.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those

formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

SECTION 4. That this resolution shall be in force and effect immediately upon its passage.

PASSED: _____, 2025 YEAS____ NAYS____
ABSTAIN ____

ATTEST: _____ _____
ACTING CLERK MAYOR

Agreement Number: 42842

PID Number: 123333

County-Route-Section: DEL VAR Sidewalk/SUP

SAM Unique Entity ID: 71643498

LPA FEDERAL LOCAL-LET PROJECT AGREEMENT

THIS AGREEMENT is made by and between the State of Ohio, Department of Transportation, (ODOT), 1980 West Broad Street, Columbus, Ohio 43223 and **the City of Delaware, 1 South Sandusky Street, Delaware, Ohio 43015** (LPA).

1.1 The National Transportation Act has made available certain Federal funding for use by local public agencies. The Federal Highway Administration (FHWA) designated ODOT as the agency in Ohio to administer FHWA's Federal funding programs.

1.2 Section 5501.03 (D) of the **Ohio Revised Code** (ORC) provides that ODOT may coordinate its activities and enter into contracts with other appropriate public authorities to administer the design, qualification of bidders, competitive bid letting, construction, inspection, and acceptance of any projects administered by ODOT, provided the administration of such projects is performed in accordance with all applicable Federal and State laws and regulations with oversight by ODOT.

1.3 The **systemic safety improvement project to provide enhanced pedestrian connectivity along US 36, US 42, S. Sandusky St., and London Road by filling in gaps in sidewalks and shared use paths** (PROJECT) is a transportation activity eligible to receive Federal funding, and which is further defined in the PROJECT scope.

1.4 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the PROJECT and to establish the responsibilities for the local administration of the PROJECT.

2. LEGAL REFERENCES AND COMPLIANCE

2.1 This Agreement is authorized and/or governed by the following statutes and/or policies, which are incorporated, by reference, in their entirety:

A. FEDERAL

- 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 23 CFR 1.33 – Conflicts of Interest
- 23 CFR Part 172 – Procurement, Management and "Administration of Engineering and Design Related Service"
- 23 CFR 630.106 – Authorization to Proceed
- 23 CFR 636.116 – What Organizational Conflict of Interest Requirements Apply to Design-Build Projects?
- 23 CFR Part 645 –Utilities
- 48 CFR Part 31 – Contract Cost Principles and Procedures
- 49 CFR Part 26 –Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Financial Assistance Programs
- 23 USC § 112 – Letting of Contracts

- 40 USC §§ 1101-1104 – “Selection of Architects and Engineers”
- Federal Funding Accountability and Transparency Act (FFATA)

B. STATE

- ORC 102.03
- ORC 153.65 -153.71
- ORC 5501.03(D)
- ORC 2921.42 and 2921.43
- Ohio Administrative Code 4733-35-05

C. ODOT

- ODOT’s Manual for Administration of Contracts for Professional Services
- ODOT’s Specifications for Consulting Services – 2016 Edition
- ODOT’s Consultant Prequalification Requirements and Procedures
- ODOT’s Construction and Material Specifications Manual
- ODOT’s Construction Administration Manual of Procedures
- ODOT’s Local-let Manual of Procedures

2.2 The LPA shall comply with all applicable Federal and State laws, regulations, executive orders, and applicable ODOT manuals and guidelines. This obligation is in addition to compliance with any law, regulation, or executive order specifically referenced in this Agreement.

2.3 The LPA shall have on file a completed and approved Local-let Participation Requirement Review Form (FORM) before the first required submission of the Project’s Stage Plan Set. Failure to comply will result in the delay of the Federal Authorization for Construction, until the FORM has been completed and approved. Failure to submit a completed FORM will result in the PROJECT reverting to ODOT-let and the LPA will be prohibited from participating in the Local-let Program until the Form is completed and approved by ODOT.

3. FUNDING

3.1 The total cost for the PROJECT associated with Federal funds is estimated to be $2,596,692.01.

ODOT shall provide to the LPA 90 percent of the eligible costs, utilizing Spending Authority Code (SAC) 4HJ7 (Assistance Listing Number: 20.205 Highway Planning and Construction,) up to a maximum of $2,275,730 in Federal funds in the All phase(s)/subphase(s). The funding does not include Toll Revenue Credit or Credit Bridge. This maximum amount reflects the funding limit for the PROJECT set by the applicable SAC Program Manager.

3.2 The LPA shall provide all other financial resources necessary to fully complete the PROJECT, including all 100% Locally funded work, and all cost overruns and contractor claims in excess of the maximum(s) indicated in 3.1 above.

3.3 The LPA is administering the Federally funded Right-of-Way and Construction Contract/Construction Inspection phase(s)/subphase(s) of the project and is therefore considered a subrecipient of Federal funds and is responsible for reporting the applicable Federal expenditures (including any Toll Revenue Credit or Credit Bridge) on their Schedule of Expenditures of Federal Award.

4. PROJECT DEVELOPMENT AND DESIGN

4.1 The LPA and ODOT agree that the LPA is qualified to administer this PROJECT and is in full compliance with all LPA participation requirements.

4.2 The LPA and ODOT agree that the LPA has received funding approval for the PROJECT from the applicable ODOT Program Manager having responsibility for monitoring such projects using the Federal funds involved.

4.3 The LPA shall design and construct the PROJECT in accordance with a recognized set of written design standards. The recognized set of written design standards may be either the LPA's formally written local design standards that have been **reviewed and accepted** by ODOT **or** ODOT's Design Manuals and the appropriate AASHTO publication. Notwithstanding the foregoing, for projects that contain a high crash rate or areas of crash concentrations, ODOT may require the LPA to use a design based on ODOT's L&D Manual. The LPA shall be responsible for ensuring that any standards used for the PROJECT are current and/or updated. The LPA shall be responsible for informing the District LPA Manager of any changes.

4.4 The LPA shall designate a Project Design Engineer, who is a registered professional engineer to serve as the LPA's principal representative for attending to project responsibilities. If the Project Design Engineer is not an employee of the LPA, the LPA must engage the services of a pre-qualified ODOT consultant, who has been chosen using a Qualification-Based Selection (QBS) process, as required pursuant to ORC 153.65 through 153.71. The pre-qualified list is available on the ODOT website at: www.dot.state.oh.us/DIVISIONS/Engineering/CONSULTANT .

4.5 If Federal funds are used for a phase of project development and the LPA executes an agreement with a consultant prior to the receipt of the "Authorization" notification from ODOT, ODOT may terminate this Agreement and cease all Federal funding commitments.

4.6 ODOT reserves the right to move this PROJECT into a future sale year if the LPA does not adhere to the established PROJECT schedule, regardless of any funding commitments.

5. ENVIRONMENTAL RESPONSIBILITIES

5.1 In the administration of this PROJECT, the LPA shall be responsible for conducting any required public involvement events, for preparing all required documents, reports and other supporting materials needed for addressing applicable environmental assessment, for clearance responsibilities for the PROJECT pursuant to the National Environmental Policy Act (NEPA) and related regulations, including but not limited to the requirements of the National Historic Preservation Act, and for securing all necessary permits.

5.2 If the LPA does not have the qualified staff to perform any or all of the respective environmental responsibilities, the LPA shall hire an ODOT Pre-Qualified Consultant through a QBS process. The pre-qualified list is available on the ODOT web page at ODOT's Office of Contracts. If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and guidelines.

5.3 ODOT shall be responsible for the review of all environmental documents and reports and shall complete all needed coordination activities with State and Federal regulatory agencies toward securing environmental clearance.

5.4 The LPA shall be responsible for assuring compliance with all commitments made as part of the PROJECT's environmental clearance and/or permit requirements during the construction of the PROJECT.

5.5 The LPA shall require its consultant(s), selected to prepare a final environmental document pursuant to the requirements of NEPA, to execute a copy of a disclosure statement specifying that the consultant(s) has no financial or other interest in the outcome of the PROJECT.

5.6 The LPA shall submit a Notice of Intent to the Ohio EPA to obtain coverage under the National Pollution Discharge Elimination System (NPDES) Construction General Permit for all projects where the combined Contractor and Project Earth Disturbing Activity (EDA) are one (1) acre or more. If the LPA chooses not to use ODOT's L&D Vol. 2 on Local-let LPA projects, they may use an alternative post-construction Best Management Practice(BMP)criterion with Ohio EPA approval.

6. RIGHT-OF-WAY(R/W)/ UTILITIES/ RAILROAD COORDINATION

6.1 All R/W Acquisition activities shall be performed by the LPA in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Public Law 91-646) as amended by 49 CFR Part 24 (Uniform Act), any related Federal regulations issued by the FHWA, and any rules, policies, and procedures issued by ODOT.

6.2 If existing and newly acquired R/W is required for this PROJECT, the LPA shall certify that all R/W has been acquired in conformity with Federal and State laws, regulations, policies, and guidelines. Per ODOT's Office of Real Estate, any LPA staff who perform real estate functions shall be prequalified. If the LPA does not have the qualified staff to perform any or all of the respective R/W functions, the LPA shall hire an ODOT Pre-qualified Consultant through a QBS process. The LPA shall not hire the same consultant to perform both the appraisal and appraisal review functions. Appraisal review shall be performed by an independent staff or fee reviewer and shall be hired directly by the LPA.

6.3 If the LPA hires a pre-qualified consultant, the LPA shall be responsible for monitoring the consultant's activities and ensuring that the consultant is following all Federal and State laws, regulations, policies, and procedures.

6.4 All relocation assistance activities shall be performed by the LPA in conformity with Federal and State laws, including the Uniform Act, and any related Federal regulations issued by the FHWA, and any rules, policies, and procedures issued by ODOT. The LPA shall not hire a consultant to perform both the relocation and relocation review functions, nor shall the LPA hire a sub-consultant for Relocation and another sub-consultant for Relocation Review. Relocation Review shall be performed by an independent staff person or independent fee reviewer and shall be hired directly by the LPA.

6.5 The LPA shall provide the ODOT District Office with its LPA Certification of Right of Way Control Letter, certifying that all R/W property rights necessary for the PROJECT are under the LPA's control, that all R/W has been cleared of encroachments, and that utility facilities have been appropriately relocated or accounted for so as not to interfere with project construction activities. ODOT shall make use of the LPA's Certification of Right of Way Control Letter, as well as evaluate the LPA's and/or consultant's performance of the project real estate activities under Titles II and III of the Uniform Act, and, as appropriate, certify compliance to the FHWA. The LPA shall be liable to repay to ODOT all Federal funds disbursed to it under this Agreement if the certification of the LPA is found to be in error or otherwise invalid.

6.6 In the administration of this PROJECT, the LPA agrees to follow all procedures described in the ODOT Utilities Manual and 23 CFR Part 645. When applicable, the LPA shall enter into a Utility Relocation Agreement with each utility prior to the letting of construction.

6.7 The LPA shall submit all subsequent modifications to the design of the PROJECT and/or any disposal of property rights acquired as part of the PROJECT to ODOT and FHWA for approval. Consistent with Sections 6.1 and 6.4 of this Agreement, the LPA shall assure that, if any property

acquired for this PROJECT is subsequently sold for less than fair market value, all Title VI requirements are included in the instrument which transfers the property. Consistent with sections 6.1 and 6.4 of this Agreement, the LPA shall assure that if the LPA grants a permit or license for the property acquired for this PROJECT that the license or permit require the licensee or permit holder to adhere to all Title VI requirements.

6.8 Unless by prior written agreement, the LPA shall be responsible for any necessary railroad coordination and agreements. The LPA shall comply with the provisions of Title 23 of the Code of Federal Regulations and applicable chapters of the ORC regarding all activities relating to Railroad-Highway projects.

6.9 No reimbursable construction costs shall be incurred by the LPA prior to the receipt of the "Authorization to Advertise" notification from ODOT. If such costs are incurred, ODOT may terminate this Agreement and cease all Federal funding commitments.

7. ADVERTISING, SALE, AND AWARD

7.1 The LPA **shall not** advertise for bids prior to the receipt of the "Authorization to Advertise" notification from ODOT. Should advertising or work commence prior to the receipt of the "Authorization to Advertise" notification, ODOT shall immediately terminate this Agreement and cease all Federal funding commitments.

7.2 Any use of sole source or proprietary bid items must be approved by the applicable ODOT district. All sole source or proprietary bid items should be brought to the attention of the LPA Manager as soon as possible so as not to cause a delay in the plan package submission process. Bid items for traffic signal and highway lighting projects must be in conformance with ODOT's Traffic Engineering Manual.

7.3 Once the LPA receives Federal authorization to advertise, the LPA may begin advertising activities. Whenever local advertisement requirements differ from Federal advertisement requirements, the Federal requirements shall prevail. The period between the first legal advertising date and the bid opening date shall be a minimum of 21 calendar days. The LPA shall submit to ODOT any addendum to be issued during the advertisement period that changes estimates or materials. ODOT shall review and approve such addendum for project eligibility. All addenda shall be distributed to all potential bidders prior to opening bids and letting the contracts.

7.4 The LPA must incorporate ODOT's LPA Bid Template in its entirety in project bid documents. The template includes Form FHWA-1273, Required Contract Provisions, a set of contract provisions and proposal notices that are required by regulations promulgated by the FHWA and other Federal agencies, which must be included in all contracts as well as appropriate subcontracts and purchase orders.

7.5 The LPA shall require the contractor to be enrolled in, and maintain good standing in, the Ohio Bureau of Workers' Compensation Drug-Free Safety Program (DFSP), or a similar program approved by the Bureau of Workers' Compensation, and the LPA must require the same of any of its subcontractors.

7.6 Only ODOT pre-qualified contractors are eligible to submit bids for this PROJECT. Pre-qualification status must be in effect/current **at the time of award**. For work types that ODOT does not pre-qualify, the LPA must still select a qualified contractor. Subcontractors are not subject to the pre-qualification requirement, unless otherwise directed by the LPA in the bidding documents. In accordance with FHWA Form 1273, Section VII and 23 CFR 635.116, the prime contractor must perform no less than 30%of the total original contract price. The 30%-prime contractor requirement does not apply to design-build contracts.

7.7 In accordance with ORC 153.54, et. seq., the LPA shall require that the selected contractor provide a performance and payment bond in an amount equal to at least 100% of its contract price as security for the faithful performance of its contract. ODOT shall be named an obligee on any bond. If the LPA has 100%locally funded work product within this Agreement, the LPA must allocate the correct percent of the performance and payment bond cost to the 100% locally funded work product.

7.8 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is not subject to a finding for recovery under ORC 9.24, that the contractor has taken the appropriate remedial steps required under ORC 9.24, or that the contractor otherwise qualifies under the exceptions to this section. Findings for recovery can be viewed on the Auditor of State's website at https://ohioauditor.gov/findings.html . If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.

7.9 Before awarding a contract to the selected contractor, the LPA shall verify that the contractor is an active registrant on the Federal System for Award Management (SAM). Pursuant to 48 CFR 9.404, contractors that have an active exclusion on SAM are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits. If the LPA fails to so verify, ODOT may immediately terminate this Agreement and release all Federal funding commitments.

7.10 Per ORC 9.75(B), the LPA is prohibited from imposing any geographical hiring preference on any bidder in the LPA's bid documents or on any successful contractor in the LPA's award or contract for the construction of the PROJECT.

7.11 After analyzing all bids for completeness, accuracy, and responsiveness, per ORC 153.12, the LPA shall approve the award of the contract in accordance with laws and policies governing the LPA within 60 days after bid opening. Within 45 days of that approval, the LPA shall submit to ODOT notification of the project award by submitting a bid tabulation, a copy of the ordinance or resolution, and direct payment information as required in Attachment 2 of this Agreement, if applicable.

8. CONSTRUCTION CONTRACT ADMINISTRATION

8.1 The LPA shall provide and maintain competent and adequate project management covering the supervision and inspection of the development and construction of the PROJECT. The LPA shall bear the responsibility of ensuring that construction conforms to the approved plans, surveys, profiles, cross sections, and material specifications. If a consultant is used for engineering and/or inspection activities, the LPA must use a QBS process as required pursuant to ORC 153.65 through 153.71. Any construction contract administration or engineering costs incurred by the LPA or their consultant prior to the construction contract award date will not be eligible for reimbursement under this Agreement.

8.2 The LPA must maintain a project daily diary that is up-to-date and contains the following information: all work performed, list of equipment utilized, project personnel and hours worked, pay quantities, daily weather conditions, special notes and instructions to the contractor, and any unusual events occurring on or adjacent to the PROJECT. Additionally, the LPA is responsible for documenting measurements, calculations, material quality, quantity, and basis for payment; change orders, claims, testing and results, traffic, inspections, plan changes, prevailing wage, EEO and DBE, if applicable. The LPA is responsible for ensuring all materials incorporated into the PROJECT comply with ODOT's Construction and Material Specifications and meet the requirements of Appendix J in the LATP Manual of Procedures.

8.3 The LPA shall certify both the quantity and quality of material used, the quality of the work performed, and the amount of construction engineering cost, when applicable, incurred by the LPA for the eligible work on the PROJECT, as well as at the completion of construction. The LPA shall

certify that the construction is in accordance with the approved plans, surveys, profiles, cross sections and material specifications or approved amendments thereto.

8.4 The Federal-aid Highway Program operates on a reimbursement basis, which requires that costs actually be incurred and paid before a request is made for reimbursement. The LPA shall review and/or approve all invoices prior to payment and prior to requesting reimbursement from ODOT for work performed on the PROJECT. If the LPA is requesting reimbursement, it must provide documentation of payment for the project costs requested. The LPA shall ensure the accuracy of any invoice in both amount and in relation to the progress made on the PROJECT. The LPA must submit to ODOT a written request for either current payment or reimbursement of the Federal/State share of the expenses involved, attaching copies of all source documentation associated with pending invoices or paid costs. To assure prompt payment, the measurement of quantities and the recording for payment should be performed daily as the items of work are completed and accepted.

8.5 ODOT shall pay, or reimburse, the LPA or, at the request of the LPA and with concurrence of ODOT, pay directly to the LPA's construction contractor ("Contractor"), the eligible items of expense in accordance with the cost-sharing provisions of this Agreement. If the LPA requests to have the Contractor paid directly, Attachment 2 to this Agreement shall be completed and submitted with the project bid tabulations, and the Contractor shall be required to establish Electronic Funds Transfer with the State of Ohio (STATE). ODOT shall pay the Contractor or reimburse the LPA within 30 days of receipt of the approved Contractor's invoice from the LPA.

8.6 The LPA shall notify ODOT of the filing of any mechanic's liens against the LPA's Contractor within three (3) business days of receipt of notice of the mechanic's lien. Failure to so notify ODOT or failure to process a mechanic's lien in accordance with the provisions of ORC Chapter 1311 may result in the termination of this Agreement. Upon the receipt of notice of a mechanic's lien, ODOT reserves the right to (1) withhold an amount of money equal to the amount of the mechanic's lien that may be due and owing to either the LPA or the Contractor; (2) terminate direct payment to the affected Contractor; or (3) take both actions, until such time as the mechanic's lien is resolved.

8.7 Payment or reimbursement to the LPA shall be submitted to:

Rob Alger, Finance Director
City of Delaware
1 South Sandusky Street
Delaware, Ohio 43015

8.8 If, for any reason, the LPA contemplates suspending or terminating the contract of the Contractor, it shall first seek ODOT's written approval. Failure to timely notify ODOT of any contemplated suspension or termination, or failure to obtain written approval from ODOT prior to suspension or termination, may result in ODOT terminating this Agreement and ceasing all Federal funding commitments.

8.9 If ODOT approves any suspension or termination of the contract, ODOT reserves the right to amend its funding commitment in paragraph 3.1 and, if necessary, unilaterally modify any other term of this Agreement in order to preserve its Federal mandate. Upon request, the LPA agrees to assign all rights, title, and interests in its contract with the Contractor to ODOT to allow ODOT to direct additional or corrective work, recover damages due to errors or omissions, and to exercise all other contractual rights and remedies afforded by law or equity.

8.10 Any LPA right, claim, interest, and/or right of action, whether contingent or vested, arising out of, or related to any contract entered into by the LPA for the work to be performed by the Contractor on this PROJECT (the Claim(s)), may be subrogated to ODOT, and ODOT shall have all of the LPA's rights in/to the Claim(s) and against any other person(s) or entity(ies) against which such subrogation rights may be enforced. The LPA shall immediately notify ODOT in writing of any

Claim(s). The LPA further authorizes ODOT to sue, compromise, or settle any such Claim(s). It is the intent of the parties that ODOT be fully substituted for the LPA and subrogated to all the LPA's rights to recover under such Claim(s). The LPA agrees to cooperate with reasonable requests from ODOT for assistance in pursuing any action on the subrogated Claim(s) including requests for information and/or documents and/or to testify.

8.11 After completion of the PROJECT, and in accordance with 23 USC 116 and applicable provisions of the ORC, the LPA shall maintain the PROJECT to design standards and provide adequate maintenance activities for the PROJECT, unless otherwise agreed to by ODOT. The PROJECT must remain under public ownership and authority for 20 years unless otherwise agreed to by ODOT. If the PROJECT is not being adequately maintained, ODOT shall notify the LPA of any deficiencies, and if the maintenance deficiencies are not corrected within a reasonable amount of time, ODOT may determine that the LPA is no longer eligible for future participation in any federally funded programs.

8.12 The LPA must provide the final invoices, and final report (Appendix P located in the Construction Chapter of the LPA Manual) along with all necessary closeout documentation within six (6) months of the physical completion date of the PROJECT. All costs must be submitted within six (6) months of the established completion date. Failure to submit final invoices along with the necessary closeout documentation within the six (6)-month period may result in closeout of the PROJECT and loss of eligibility of any remaining Federal and or State funds.

8.13 The LPA shall be responsible for verifying that a C92 GoFormz has been completed by the prime contractor for each subcontractor and material supplier working on the PROJECT, prior to starting work. This requirement will be routinely monitored by the District Construction Monitor to ensure compliance.

8.14 The LPA shall be responsible for monitoring all DBE Subcontractors on the project to ensure they are performing a Commercially Useful Function (CUF) as directed in the LATP Manual of Procedures.

8.15 The LPA shall be responsible for monitoring payments made by prime contractors and Subcontractors to ensure compliance with the Prompt Payment requirements outlined in Construction and Materials Specifications (C&MS) 107.21.

9. CERTIFICATION AND RECAPTURE OF FUNDS

9.1 This Agreement is subject to the determination by ODOT that sufficient funds have been appropriated by the Ohio General Assembly to the STATE for the purpose of this Agreement and to the certification of funds by the Office of Budget and Management, as required by ORC 126.07. If ODOT determines that sufficient funds have not been appropriated for the purpose of this Agreement or if the Office of Budget and Management fails to certify the availability of funds, this Agreement or any renewal thereof will terminate on the date funding expires.

9.2 Unless otherwise directed by ODOT, if for any reason the PROJECT is not completed in its entirety or to a degree acceptable to ODOT and FHWA, the LPA shall repay to ODOT an amount equal to the total funds ODOT disbursed on behalf of the PROJECT. In turn, ODOT shall reimburse FHWA an amount equal to the total sum of Federal dollars it has received for the PROJECT. If the LPA has not repaid ODOT in full an amount equal to the total funds ODOT disbursed on behalf of the PROJECT, any funds recovered from the performance and payment bond as required under section 7.7 shall be used to offset the Federal dollars reimbursed to FHWA.

10. NONDISCRIMINATION

10.1 In carrying out this Agreement, the LPA shall not discriminate against any employee or applicant for employment because of race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability as that term is defined in the American with Disabilities Act, military status (past, present, or future), or genetic information. The LPA shall ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10.2 The LPA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and in all solicitations or advertisements for employees placed by it, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, sex (including pregnancy, gender identity and sexual orientation), national origin, ancestry, age, disability, military status, or genetic information. The LPA shall incorporate this nondiscrimination requirement within all of its contracts for any of the work on the PROJECT (other than subcontracts for standard commercial supplies or raw materials) and shall require all of its contractors to incorporate such requirements in all subcontracts for any part of such project work.

10.3 The LPA shall not discriminate on the basis of race, color, national origin, or sex in the award of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement and in the fulfillment of DBE-related requirements set forth by ODOT. The LPA shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of contracts and subcontracts financed in whole or in part with Federal funds provided in conjunction with this Agreement. ODOT's DBE Program, as required by 49 CFR Part 26 and as approved by the United States Department of Transportation ("U.S. DOT"), is incorporated by reference in this agreement. The fulfillment of DBE-related requirements by the LPA is a legal obligation and failure to do so shall be treated as a violation of this Agreement.

10.4 During the performance of this contract, the LPA, for itself, its assignees and successors in interest agrees as follows:

(a) **Compliance with Regulations:** The LPA will comply with the regulations relative to nondiscrimination in Federally assisted programs of the U.S. DOT, 49 CFR Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

In addition, the LPA will comply with the provisions of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, FHWA Guidance, and any other Federal, State, and/or local laws, rules and/or regulations (hereinafter referred to as "ADA/504").

(b) **Nondiscrimination:** The LPA, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The LPA will not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations, as well as the ADA/504 regulations.

(c) **Solicitations for Contractors or Subcontractors, including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by

the LPA for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor, subcontractor, or supplier will be notified by the LPA of the LPA's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex (including pregnancy, gender identification and sexual orientation), age, disability, low-income status or limited English proficiency.

(d) **Information and Reports:** The LPA will provide all information and reports required by the Regulations or directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the STATE or FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the LPA is in the exclusive possession of another who fails or refuses to furnish this information, the LPA will so certify to the STATE or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.

(e) **Sanctions for Noncompliance:** In the event of the LPA's noncompliance with the nondiscrimination provisions of this contract, the STATE will impose such contract sanctions as it or FHWA may determine to be appropriate, including, but not limited to:

(1) withholding of payments to the LPA under the contract until the LPA complies, and/or
(2) cancellation, termination, or suspension of the contract, in whole or in part.

(f) **Incorporation of Provisions:** The LPA will include the provisions of paragraphs 10.4 (a) through (e) above in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The LPA will take such action with respect to any contractor or subcontractor procurement as the STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the LPA becomes involved in, or is threatened with, litigation with a contractor, subcontractor, or supplier as a result of such direction, the LPA may request the STATE to enter into such litigation to protect the interests of the STATE, and, in addition, the LPA may request the United States to enter into such litigation to protect the interests of the United States.

11. DATA, PATENTS AND COPYRIGHTS - PUBLIC USE

11.1 The LPA shall ensure that any designs, specifications, processes, devices, or other intellectual properties specifically devised for the PROJECT by its consultant(s) and/or contractor(s) performing work become the property of the LPA, and that when requested, such designs, specifications, processes, devices or other intellectual properties shall become available to ODOT and FHWA with an unrestricted right to reproduce, distribute, modify, maintain, and use. The LPA's consultant(s) and/or contractor(s) shall not seek or obtain copyrights, patents, or other forms of proprietary protection for such designs, specifications, processes, devices, or other intellectual properties, and in providing them to the PROJECT, shall relinquish any such protections should they exist.

11.2 The LPA shall not allow its consultant(s) and/or contractor(s) to utilize within the development of the PROJECT any copyrighted, patented or similarly protected design, specification, process, device or other intellectual property unless the consultant(s) and/or contractor(s) has provided for such use by suitable legal agreement with the owner of such copyright, patent, or similar protection. Consultant(s) and/or contractor(s) making use of such protected items for the PROJECT shall indemnify and save harmless the LPA and any affected third party from any and all claims of infringement on such protections, including any costs, expenses, and damages which it may be obliged to pay by reason of infringement, at any time during the prosecution or after the completion of work on the PROJECT.

11.3 In the case of patented pavements or wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the LPA, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trademarked goods upon payment of such published charges, such patented pavements or wearing courses may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

12. TERMINATION; DEFAULT AND BREACH OF CONTRACT

12.1 Neglect or failure of the LPA to comply with any of the terms, conditions, or provisions of this Agreement, including misrepresentation of fact, may be an event of default, unless such neglect or failure are the result of natural disasters, strikes, lockouts, acts of public enemies, insurrections, riots, epidemics, civil disturbances, explosions, orders of any kind of governments of the United States or STATE or any of their departments or political subdivisions, or any other cause not reasonably within the LPA's control. If a default has occurred, ODOT may terminate this Agreement with 30 days written notice, except that if ODOT determines that the default can be remedied, then ODOT and the LPA shall proceed in accordance with sections 12.2 through 12.4 of this Agreement.

12.2 If notified by ODOT in writing that it is in violation of any of the terms, conditions, or provisions of this Agreement, and a default has occurred and ODOT determines that the default can be remedied, the LPA shall have 30 days from the date of such notification to remedy the default or, if the remedy will take in excess of 30 days to complete, the LPA shall have 30 days from the date of notification to satisfactorily commence a remedy of the causes preventing its compliance and curing the default situation. Expiration of the 30 days and failure by the LPA to remedy, or to satisfactorily commence the remedy of, the default whether payment of funds has been fully or partially made, shall result in ODOT, at its discretion, declining to make any further payments to the LPA, or in the termination of this Agreement by ODOT. If this Agreement is terminated, the LPA may be liable to repay to ODOT all of the Federal funds disbursed to it under this Agreement.

12.3 The LPA, upon receiving a notice of termination from ODOT for default, shall cease work on the terminated activities covered under this Agreement. If so requested by ODOT, the LPA shall assign to ODOT all its rights, title, and interest to any contracts it has with any consultants or contractors. Otherwise, the LPA shall terminate all contracts and other agreements it has entered into relating to such covered activities, take all necessary and appropriate steps to limit disbursements and minimize any remaining costs. At the request of ODOT, the LPA may be required to furnish a report describing the status of PROJECT activities as of the date of its receipt of notice of termination, including results accomplished and other matters as ODOT may require.

12.4 No remedy herein conferred upon or reserved by ODOT is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or option accruing to ODOT upon any default by the LPA shall impair any such right or option or shall be construed to be a waiver thereof, but any such right or option may be exercised from time to time and as often as may be deemed expedient by ODOT.

12.5 This Agreement and the obligation of the parties herein may be terminated by either party with 30 days written notice to the other party. Upon receipt of any notice of termination, the LPA shall immediately cease all work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as ODOT may require.

12.6 In the event of termination by either party for convenience, the LPA shall be entitled to compensation, upon submission of a proper invoice, for the work performed prior to receipt of notice of termination, less any funds previously paid by or on behalf of ODOT. ODOT shall not be liable

for any further claims, and the claims submitted by the LPA shall not exceed the total amount of consideration stated in this Agreement. In the event of termination, any payments made by ODOT in which services have not been rendered by the LPA shall be returned to ODOT.

13. THIRD PARTIES AND RESPONSIBILITIES FOR CLAIMS

13.1 Nothing in this Agreement shall be construed as conferring any legal rights, privileges, or immunities, or imposing any legal duties or obligations, on any person or persons other than the parties named in this Agreement, whether such rights, privileges, immunities, duties, or obligations be regarded as contractual, equitable, or beneficial in nature as to such other person or persons. Nothing in this Agreement shall be construed as creating any legal relations between the Director and any person performing services or supplying any equipment, materials, goods, or supplies for the PROJECT sufficient to impose upon the Director any of the obligations specified in ORC 126.30.

13.2 The LPA hereby agrees to accept responsibility for any and all damages or claims for which it is legally liable arising from the actionable negligence of its officers, employees or agents in the performance of the LPA's obligations made or agreed to herein.

14. NOTICE

14.1 Notice under this Agreement shall be directed as follows:

If to the LPA: If to ODOT:

Jonathan Owen, City Engineer	Michele Risko, LPA Manager
City of Delaware	ODOT District 6
440 East William Street	400 East William Street
Delaware, Ohio 43015	Delaware, Ohio 43015
jowen@delawareohio.net	michele.risko@dot.ohio.gov

15. GENERAL PROVISIONS

15.1 *Recovery of LPA's allocable project Direct Labor, Fringe Benefits, and/or Indirect Costs*:

To be eligible to recover any costs associated with the LPA's internal labor forces allocable to this PROJECT, the LPA shall make an appropriate selection below: [*LPA official must initial the option selected*.]

☐ **1. No cost recovery of LPA's project direct labor, fringe benefits, or overhead costs.**
(A) The LPA ***does not*** currently maintain an ODOT approved Federally compliant time-tracking system[1], ***and***
(B) The LPA ***does not*** intend to have a Federally compliant time-tracking system developed, implemented, and approved by ODOT prior to the period of performance of this PROJECT, ***and/or***
(C) The LPA ***does not*** intend to pursue recovery of these project direct labor, fringe benefits, or overhead costs during the period of performance of this PROJECT Agreement.

[1] A "federally compliant time-tracking system" is supported by a system of internal controls and record-keeping that accurately reflects the work performed; which provides reasonable assurance that the time being charged is accurate, allowable, and properly allocated; is incorporated in official records such as payroll records; reasonably reflects the employee's total activity;

☐ **2. Direct labor plus indirect costs calculated using the Federal 15% De Minimis Indirect Cost Rate.** [2]

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved Federally compliant time-tracking system, ***and***

(B) The LPA ***does not*** currently have, and ***does not*** intend to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

☐ **3. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the Federal 15% De Minimis Indirect Cost Rate.** [3]

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved Federally compliant time-tracking system, ***and***

(B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT.

☐ **4. Direct labor, plus fringe benefits costs calculated using the LPA's ODOT approved Fringe Benefits Rate, plus indirect costs calculated using the LPA's ODOT approved Indirect Cost Rate.** [4]

(A) The LPA currently maintains, or intends to develop and implement prior to the period of performance of this PROJECT, an ODOT approved Federally compliant time-tracking system, ***and***

(B) The LPA currently has, or intends to negotiate, an ODOT approved fringe benefits rate prior to the period of performance of this PROJECT, ***and***

(C) Instead of using the Federal 15% De Minimis Indirect Cost Rate, the LPA currently has, or intends to negotiate, an ODOT approved indirect cost rate prior to the period of performance of this PROJECT.

For any allocable project labor costs to be eligible for reimbursement with Federal and/or State funds, the LPA must maintain compliance with all timekeeping requirements specified in 2 CFR Part 200 and the ODOT LPA Cost Recovery Guidance, including ODOT Questions and Answers

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provides a time or percentage breakdown on all activities, both Federally funded and non-Federally funded for the employee and complies with the LPA's pre-established accounting practices and procedures.

[2] [Also be sure to read footnote # 1] The De Minimis Indirect Cost Rate is 15 %of modified total direct costs (MTDC) per 2 CFR 200.414. The definition of MTDC is provided in the regulation at 2 CFR 200.68. Regardless of whether the LPA subrecipient negotiates overhead rates with ODOT or uses the 15% de minimis rate, LPAs are required to maintain Federally-compliant time-tracking systems. Accordingly, LPAs are permitted to bill for labor costs, and then potentially associated fringe/indirect costs, only if the labor costs are accumulated, tracked, and allocated in accordance with compliant systems. Before an LPA is eligible to invoice ODOT for and recover the 15% de minimis indirect cost rate on any project, the LPA's time-tracking system and methods for tracking other project costs must be reviewed and approved by the ODOT Office of Local Programs . A non-Federal entity that elects to charge the de minimis rate must meet the requirements in 2 CFR 200 Appendix VII Section D, Part 1, paragraph b.

[3] [Also be sure to read footnotes # 1 and 2] The fringe benefits rate billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the ODOT Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rate for that fiscal year to determine which rate is applicable. Accordingly, the fringe benefits rate applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rate.

[4] [Also be sure to read footnote # 1] The fringe benefits and indirect cost rates billed to this project must be determined in accordance with the Rate Agreement periodically negotiated with and approved by the Office of External Audits. The fiscal period when the LPA's direct labor costs are paid will be matched with the ODOT approved rates for that fiscal year to determine which rates are applicable. Accordingly, the rates applicable to different fiscal years throughout the period of performance of the project may fluctuate to match changes to the ODOT approved rates.

and related supplementary guidance, as applicable. Additionally, if the LPA elects to recover fringe and/or indirect costs, the LPA shall maintain compliance with Appendix VII of 2 CFR Part 200 and the LATP Manual of Procedures.

15.2 If the LPA decides to change its indirect cost recovery option, the change shall not become effective until this Agreement is amended pursuant to section 15.12 below to reflect the indirect cost recovery option utilized by the LPA on the PROJECT.

15.3 *Financial Reporting and Audit Requirements*: One or more phases of this Agreement include a sub award of Federal funds to the LPA. Accordingly, the LPA must comply with the financial reporting and audit requirements of 2 CFR Part 200.

All non-Federal entities, including ODOT's LPA sub-recipients, that have aggregate Federal awards expenditures from all sources of $750,000 or more in the non-Federal entity's fiscal year must have a Single Audit, or program-specific audit, conducted for that year in accordance with the provisions of 2 CFR Part 200.

Federal and State funds expended to or on behalf of a subrecipient must be recorded in the accounting records of the LPA subrecipient. The LPA is responsible for tracking all project payments throughout the life of the PROJECT in order to ensure an accurate Schedule of Expenditures of Federal Awards (SEFA) is prepared annually for all *Applicable Federal Funds*. *Applicable Federal Funds* are those that are identified with the various project phases of this Agreement as a subaward. *Applicable Federal Funds* include not only those LPA project expenditures that ODOT subsequently reimburses with Federal funds, but also those Federal funds project expenditures that are disbursed directly by ODOT upon the request of the LPA.

The LPA must separately identify each ODOT PID and/or Project and the corresponding expenditures on its SEFA. LPAs are responsible for ensuring expenditures related to this PROJECT are reported when the activity related to the Federal award occurs. Further, the LPA may make this determination consistent with 2 CFR 200.502 and its established accounting method to determine expenditures including accrual, modified accrual or cash basis.

When project expenditures are not accurately reported on the SEFA, the LPA may be required to make corrections to and republish the SEFA to ensure Federal funds are accurately reported in the correct fiscal year. An ODOT request for the restatement of a previously published SEFA will be coordinated with the Ohio Auditor of State.

15.4 *Record Retention*: The LPA, when requested at reasonable times and in a reasonable manner, shall make available to the agents, officers, and auditors of ODOT and the United States government, its records and financial statements as necessary relating to the LPA's obligations under this Agreement. All such books, documents, and records shall be kept for a period of at least three (3) years after FHWA approves the LPA's final Federal voucher for reimbursement of project expenses. In the event that an audit-related dispute should arise during this retention period, any such books, documents, and records that are related to the disputed matter shall be preserved for the term of that dispute. The LPA shall require that all contracts and other agreements it enters into for the performance of the PROJECT contain the following specific language:

> As the LPA, ODOT or the United States government may legitimately request from time to time, the contractor agrees to make available for inspection and/or reproduction by the LPA, ODOT or United States government, all records, books, and documents of every kind and description that relate to this Agreement.

Nothing contained in this Agreement shall in any way modify the LPA's legal duties and obligations to maintain and/or retain its records under Ohio public records laws.

15.5 *Ethics and Conflict of Interest Laws*: LPA agrees that they are currently in compliance and will continue to adhere to the requirements of Ohio and Federal Ethics and Conflict of Interest laws as provided by ORC Sections 102.03, 102.04, 2921.42 and 2921.43 and 23 CFR 1.33.

15.6 *State Property Drug-Free Workplace Compliance*: In accordance with applicable State and Federal laws, rules, and policy, the LPA shall make a good faith effort to ensure that its employees and its contractors will not purchase, transfer, use, or possess alcohol or a controlled substance while working on State property.

15.7 *Trade:* Pursuant to the federal Export Administration Act and ORC 9.76(B), the LPA and any contractor(s) or sub-contractor(s) shall warrant that they are not boycotting any jurisdiction with whom the United States and the STATE can enjoy open trade, including Israel, and will not do so during the term of this Agreement.

The STATE does not acquire supplies or services that cannot be imported lawfully into the United States. The LPA certifies that it, its contractor(s), subcontractor(s), and any agent of the contractor(s) or its subcontractor(s), acquire any supplies or services in accordance with all trade control laws, regulations or orders of the United States, including the prohibited source regulations set forth in subpart 25.7, Prohibited Sources, of the Federal Acquisition Regulation and any sanctions administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control. A list of those sanctions by country can be found at https://www.treasury.gov/resource- center/sanctions/Programs/Pages/Programs.aspx. These sanctions generally preclude acquiring any supplies or services that originate from sources within, or that were located in or transported from or through Cuba, Iran, Libya, North Korea, Syria, or the Crimea region of Ukraine.

15.8 *Lobbying*: Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). LPA agrees that it will not use any funds for Lobbying, 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier, up to the recipient.

15.9 *Debarment.* LPA represents and warrants that it is not debarred from consideration for contract awards by the Director of the Department of Administrative Services, pursuant to either ORC 153.02 or 125.25 or by the Federal Government pursuant to 2 CFR Part 1200 and 2 CFR Part 180.

15.10 *Governing Law*: This Agreement and any claims arising out of this Agreement shall be governed by the laws of the STATE. Any provision of this Agreement prohibited by the laws of Ohio shall be deemed void and of no effect. Any litigation arising out of or relating in any way to this Agreement, or the performance thereunder shall be brought only in the courts of Ohio, and the LPA hereby irrevocably consents to such jurisdiction. To the extent that ODOT is a party to any litigation arising out of or relating in any way to this Agreement or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

15.11 *Assignment*: Neither this Agreement nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.

15.12 *Merger and Modification*: This Agreement and its attachments constitute the entire Agreement between the parties. All prior discussions and understandings between the parties are superseded by this Agreement. Unless otherwise noted herein, this Agreement shall not be altered, modified, or amended except by a written agreement signed by both parties hereto.

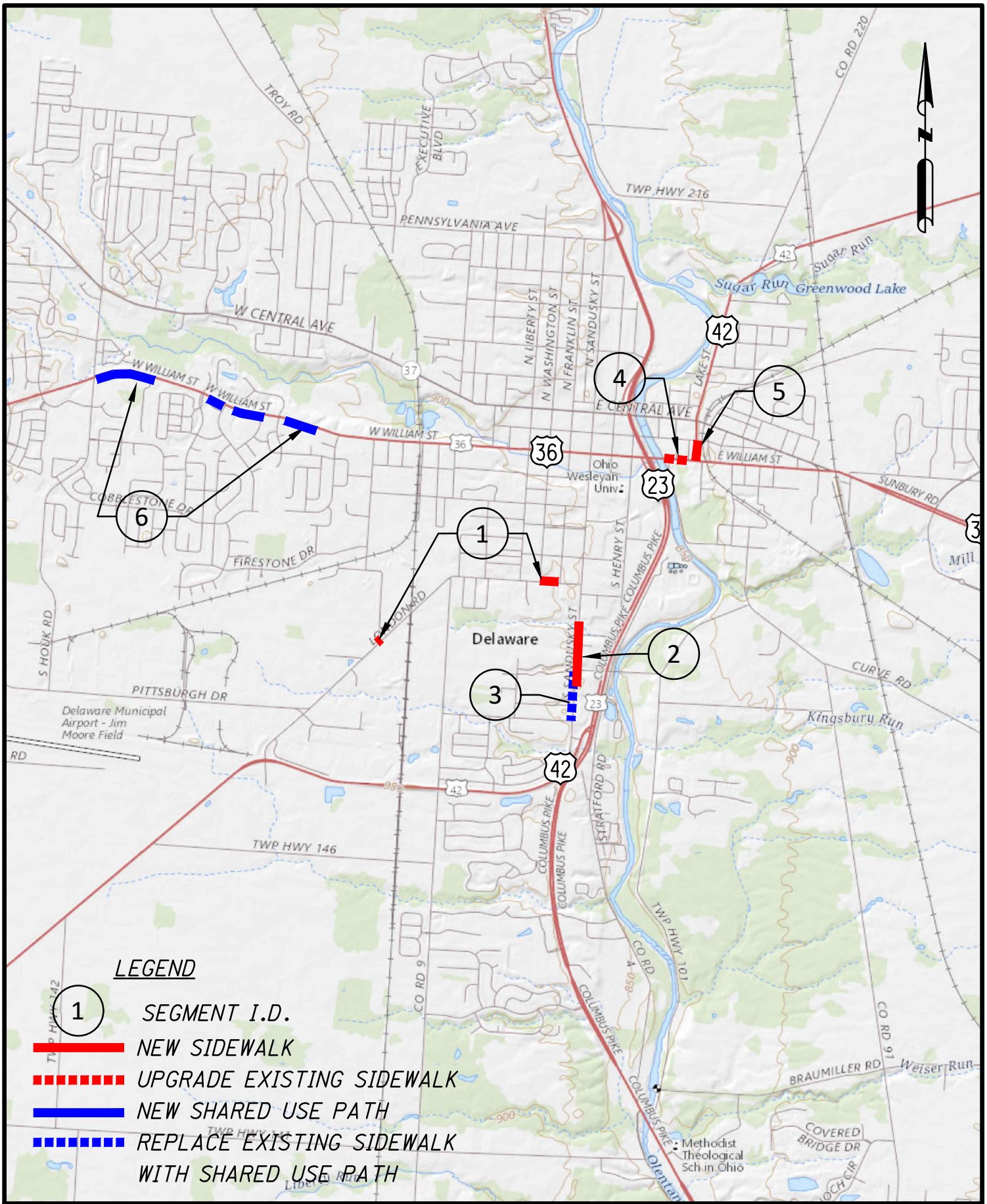
15.13 *Severability*: If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such holding shall not affect the validity or the ability to enforce the remainder of this Agreement. All provisions of this Agreement shall be deemed severable.

15.14 *Signatures*: Any person executing this Agreement in a representative capacity hereby represents that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

15.15 *Facsimile Signatures:* Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile or electronic signature on any other party delivered in such a manner as if such signature were an original.

The parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

LPA:	**STATE OF OHIO** **OHIO DEPARTMENT OF TRANSPORTATION**
By:	By:
Title:	Pamela Boratyn Director
Date:	Date:



EST 1808
CITY OF DELAWARE OHIO

PEDESTRIAN SYSTEMIC SAFETY IMPROVEMENTS PROJECT LOCATION MAP

SCALE: 1"=3,000'

1

7/9/2025

S:\ENGINEERING\ENGINEERING DEPARTMENT\CADD FILES\2023 ODOT SYSTEMIC SAFETY\LOCATION MAP.DWG - 7/9/25

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Adam Moore, Police
ITEM TYPE:	Resolutions
AGENDA SECTION:	**CONSIDERATION OF RESOLUTION NO. 25-50**
SUBJECT:	Resolution No. 25-50, a resolution adopting the City of Delaware Parking Program and Modernization Study and Recommendations.

SUGGESTED ACTION:

ATTACHMENTS:

res fact sheet Adopting City of Delaware Parking Program and Modernization Study.docx
res 25-50, Parking Program and Moderninzation Study Recommendations.docx
Parking and Safety Committee Presentation 6_24_2025.pdf

EST 1808
CITY OF
DELAWARE
OHIO

FACT SHEET

AGENDA ITEM NO: 15 | DATE: 07/14/2025

ORDINANCE NO: | RESOLUTION NO: 25-50

READING: FIRST | PUBLIC HEARING: NO

TO: Mayor and Members of City Council

FROM: Paul J. Brake, City Manager

VIA: Adam C. Moore, Chief of Police

TITLE OF PROPOSED ORDINANCE/RESOLUTION:

A RESOLUTION ADOPTING THE CITY OF DELAWARE PARKING PROGRAM AND MODERNIZATION STUDY AND RECOMMENDATIONS

BACKGROUND:

The City contracted with Kimley Horn to assist City staff with modernizing our current downtown parking program. Kimley Horn's work was divided into two phases.

In phase 1, the City moved to a different online payment application (ParkMobile,) transitioned to a "pay by plate" model, purchased and implementing automated enforcement via automated license plate reader technology, and upgraded to online parking permit sales from a manual procedure only available in the lobby of the Justice Center.

In phase 2, Kimley Horn performed an existing conditions analysis, engaged the community via an online survey and public meeting to gather information on public perceptions about parking and community desires, and based off all information obtained prepared an implementation action plan with industry best practices in mind. The implementation action plan contains multiple action

items, scheduled over the course of the next five years, to modernize our current parking program. These action items cover the following areas of focus:

Parking Supply Enhancements
Meter Rates & Restrictions
Permit Parking
Compliance Management
Technology Upgrades

REASON WHY LEGISLATION IS NEEDED:

The City is committed to the efficient, effective, and best possible use of available parking in the downtown area. Adopting the provided implementation action plan will provide staff with guidance, backed by industry best practices, to upgrade and modernize our current parking polices, procedures, practices, and infrastructure.

COMMITTEE RECOMMENDATION:

The City of Delaware Parking Program and Modernization Study, to include the implementation action plan, were presented to the Parking & Safety Committee on June 24, 2025, with the Committee endorsing the study and plan.

FISCAL IMPACT(S):

Multiple Action Items are contained in the plan. Some with limited costs and others with substantial cost, proportionate to the complexity, of the project. For example, adjusting enforcement hours comes with limited to no cost. While the addition of a parking structure downtown will have substantial cost. Projects are listed over five years, and feasibility will be controlled by availability of funding.

POLICY CHANGES:

Additional Policy Changes and Ordinance Changes will be required as the implementation action plan is implemented.

PRESENTER(S):

Adam Moore, Chief of Police

RECOMMENDATION:

Robert Ferrin gave a detailed explanation at the Parking and Safety Committee meeting on June 24, 2025, of the recommendations. Staff would recommend watching that meeting and wait for a second reading before approving.

ATTACHMENT(S)

City of Delaware Parking Program Modernization Presentation
Implementation Action Plan

RESOLUTION NO. 25-50

A RESOLUTION ADOPTING THE CITY OF DELAWARE PARKING PROGRAM AND MODERNIZATION STUDY AND RECOMMENDATIONS

WHEREAS, the City of Delaware is committed to efficient and effective use of available parking in the downtown core; and

WHEREAS, the City of Delaware contracted the Kimley Horn organization to study existing conditions, evaluate infrastructure, conduct community surveys related to parking usage, and to develop strategies to address current deficiencies and future needs; and

WHEREAS, Kimley Horn performed said study and has returned a report containing an implementation action plan; and

WHEREAS, implementation action plan identifies parking supply enhancements, meter rates and restrictions, permit parking adjustments, compliance management upgrades, and new technology to be implemented over the next five years; and

WHEREAS, the Kimley Horn representative presented the study findings and details of the implementation action plan to the Parking and Safety Committee and the Parking and Safety Committee endorsed the action plan at the June 24, 2025 meeting.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Delaware, State of Ohio that:

SECTION 1. This Council hereby adopts the City of Delaware Parking Program and Modernization Study.

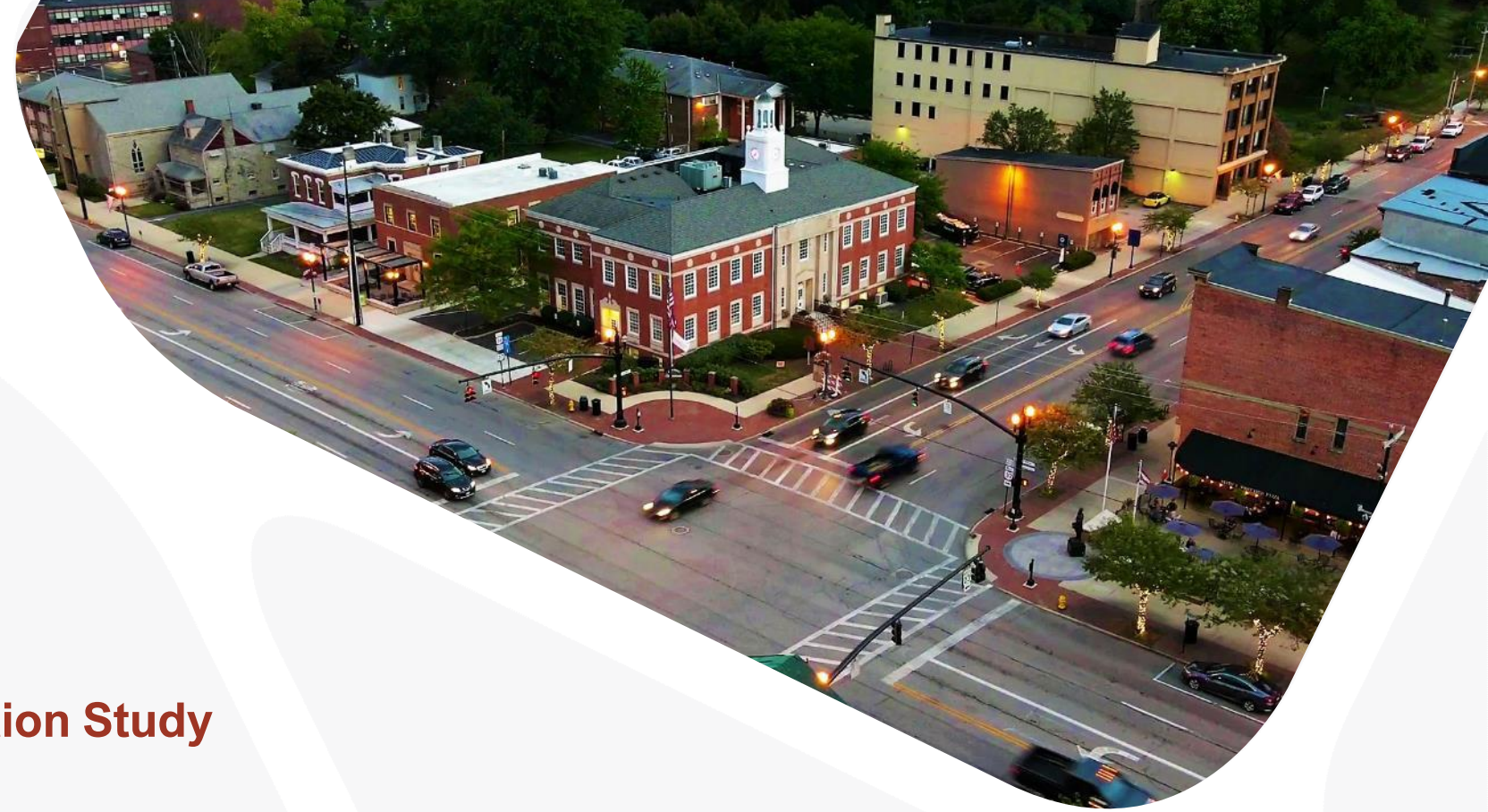
SECTION 2. This Council hereby commits to the goal of executing the implementation action plan contained in the City of Delaware Parking Program and Modernization Study.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including section 121.22 of the Revised Code.

SECTION 4. That this Resolution shall be in force and effect immediately upon its passage.

PASSED: _____, 2025 YEAS____ NAYS____
ABSTAIN ____

ATTEST: _____ _____
ACTING CLERK MAYOR



City of Delaware

Parking Program Modernization Study

Parking & Safety Committee

June 2025

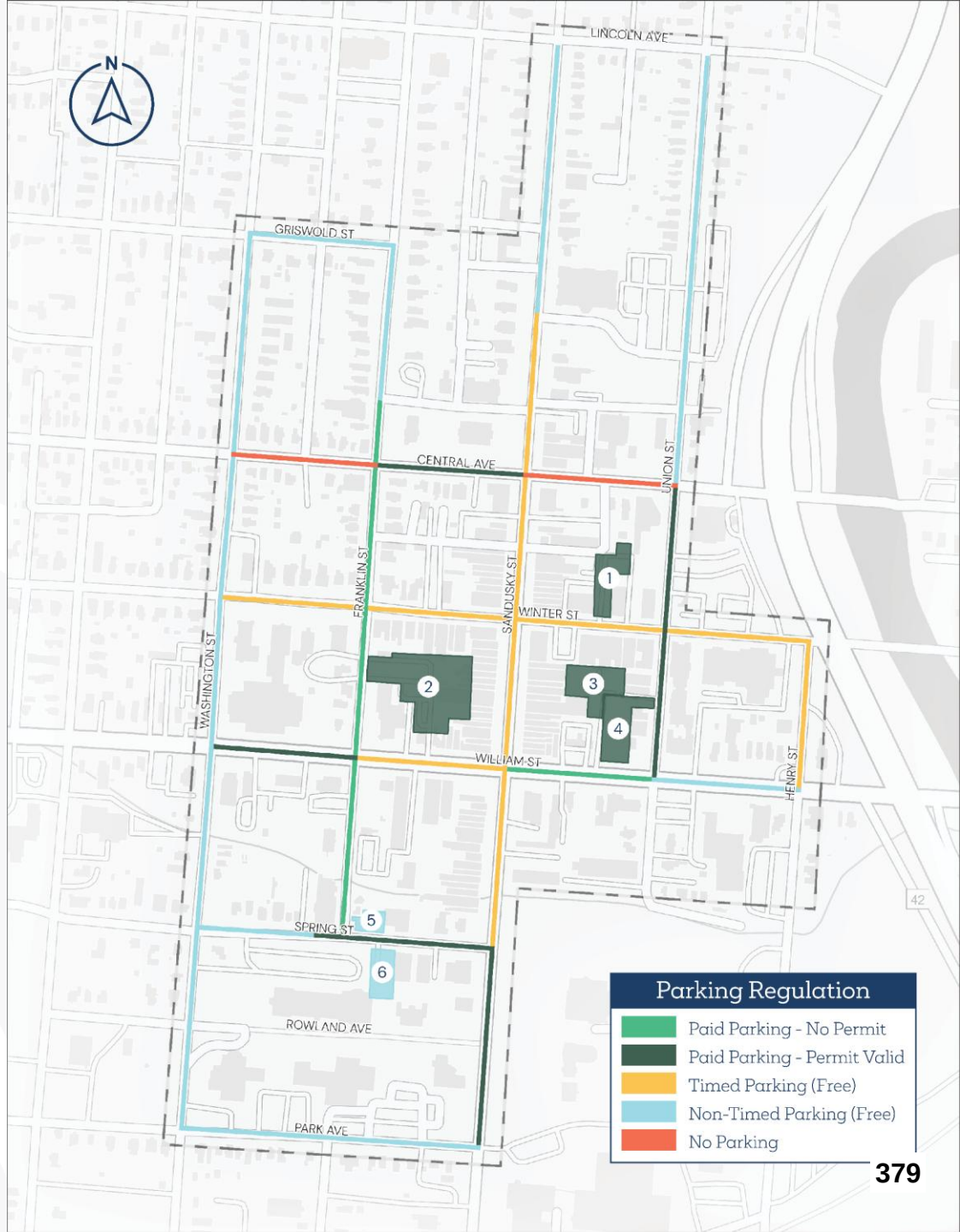
Agenda

1. Project Overview
2. Existing Conditions Analysis
3. Stakeholder Feedback
4. Implementation Action Plan
5. Next Steps

Project Overview

Project Overview

- Existing Conditions Analysis
  - Parking Utilization
  - Parking Turnover
- Community Engagement
  - Online Survey
  - Public Meeting
- Parking Strategy Development
  - Implementation Action Plan
- Financial Analysis
- Vendor Implementation Support



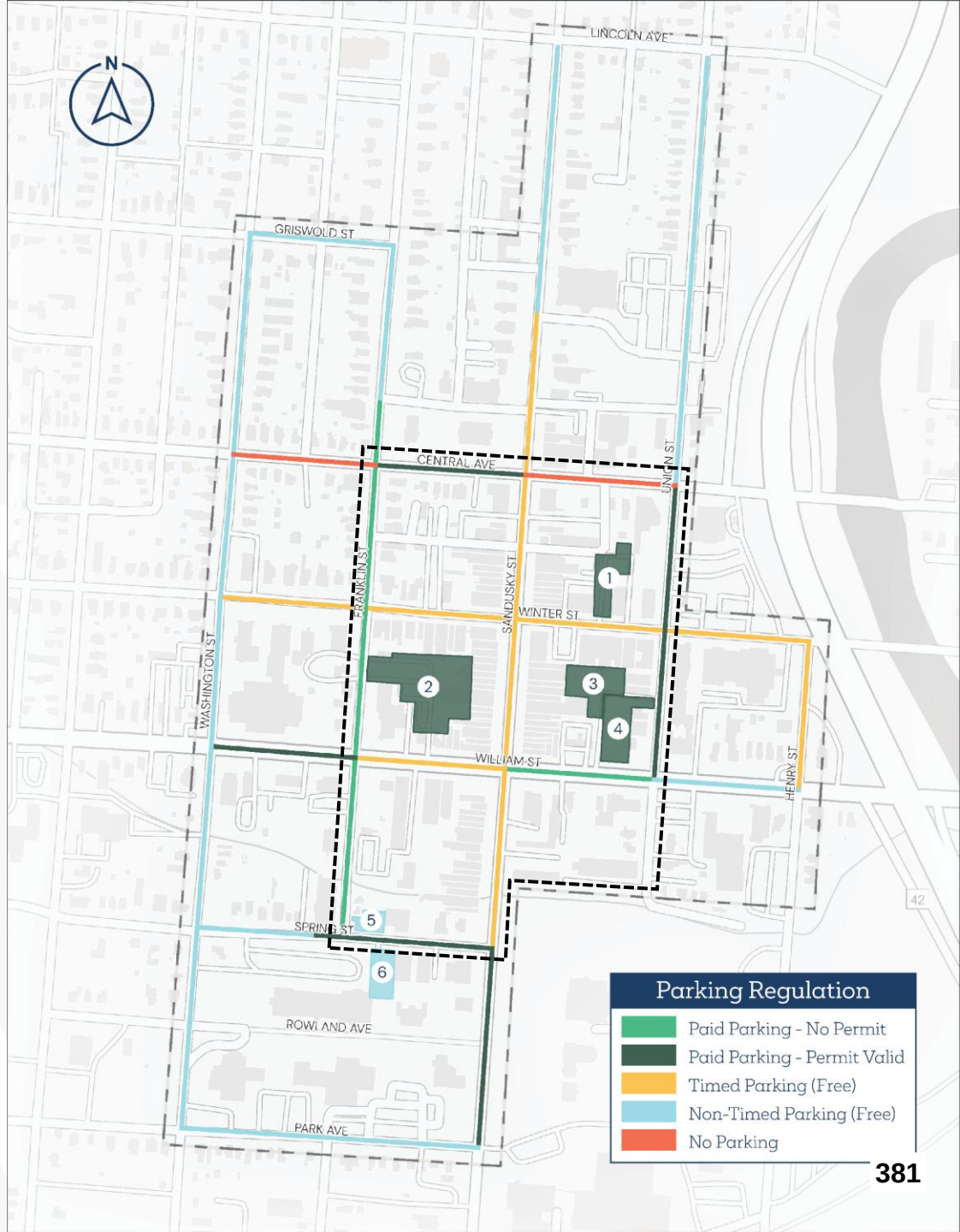
Existing Conditions Analysis

System Summary

- 0.2-mile study area (outlined in dashed grey)
  - 1,060 parking spaces (859 on-street, 201 off-street)
  - Downtown Core focus area (92% of off-street spaces)

- Parking Utilization and Turnover Analyzed
  - 11am-1pm peak parking utilization timeframe
  - Parking turnover is higher off-street than on-street

- Key Takeaways
  - Acute parking demand challenges in core
  - Adequate parking availability overall
  - Parking turnover data indicates suboptimal adherence to posted time limits in unpaid on-street spaces



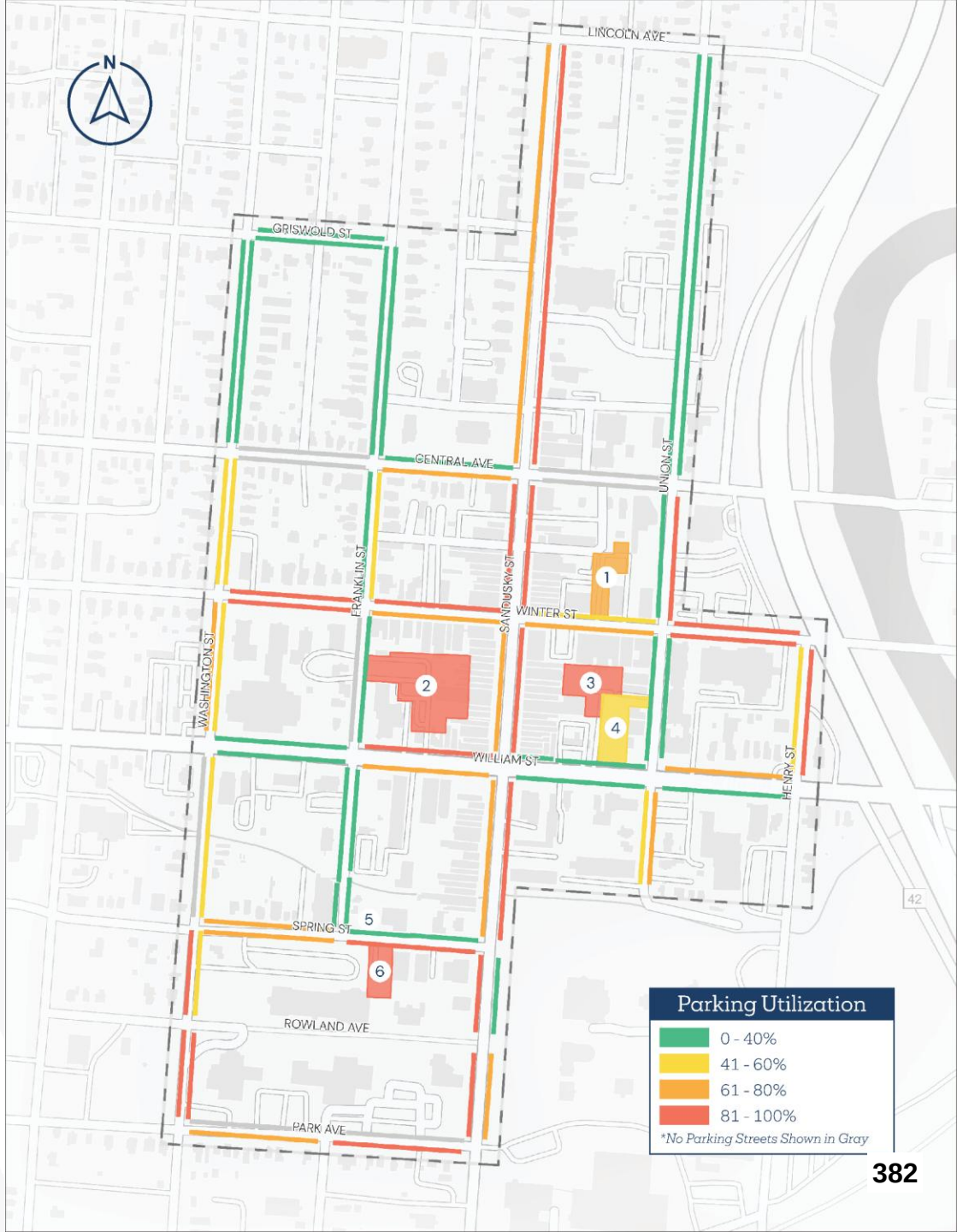
Parking Utilization

Wednesday, November 20th
11 am – 1 pm

- Peak demand period on weekday
- Off-street parking remains higher utilized than on-street

On-Street (Study Area)	53%
On-Street (Downtown Core)	56%
Off-Street (Study Area)	81%
Off-Street (Downtown Core)	77%
SYSTEM	**67%**

- Optimal off-street utilization (90% or less)
- Optimal on-street utilization (80% or less)



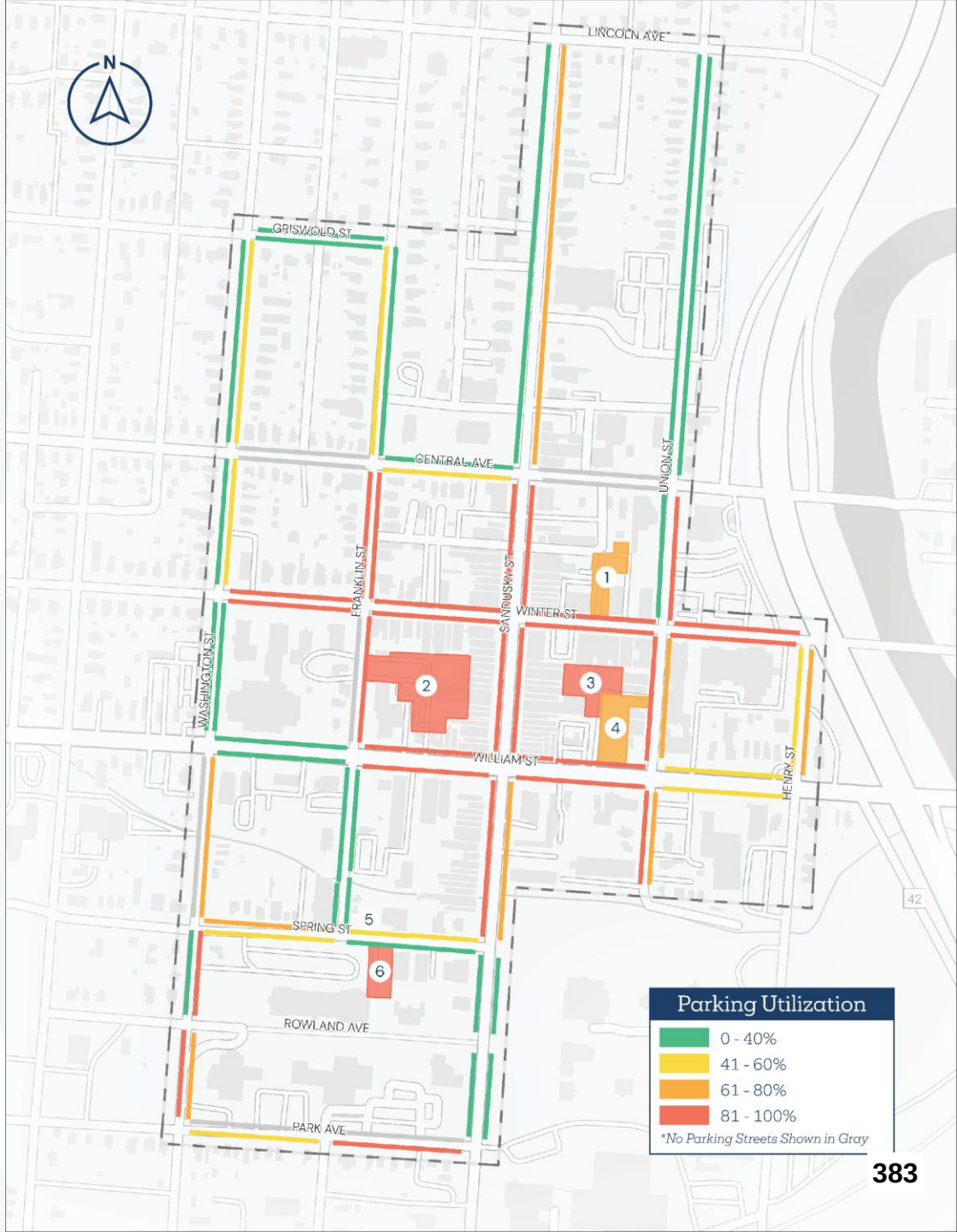
Parking Utilization

Saturday, November 16th
11 am – 1 pm

- Peak demand period during weekend
- Off-street parking remains highly utilized, above optimal utilization

On-Street (Study Area)	55%
On-Street (Downtown Core)	76%
Off-Street (Study Area)	87%
Off-Street (Downtown Core)	84%
SYSTEM	**76%**

- Optimal off-street utilization (90% or less)
- Optimal on-street utilization (80% or less)

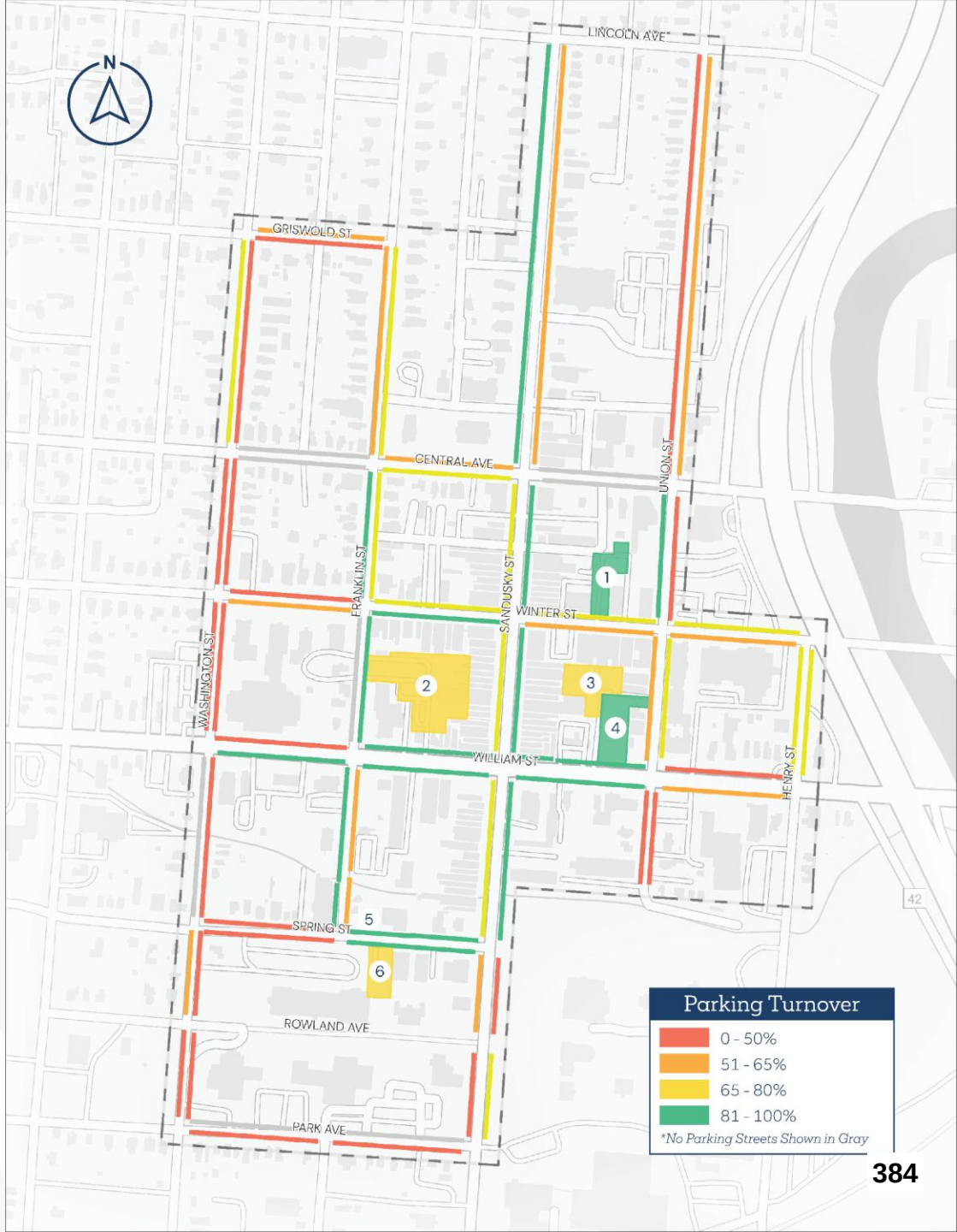


Parking Turnover

Saturday, November 16th

- On-street turnover is lower than off-street
- On-street turnover is higher in the Downtown Core
- Off-street turnover is higher than on-street

On-Street (Study Area)	54%
On-Street (Downtown Core)	69%
Off-Street (Study Area)	79%
Off-Street (Downtown Core)	80%
SYSTEM	**70%**

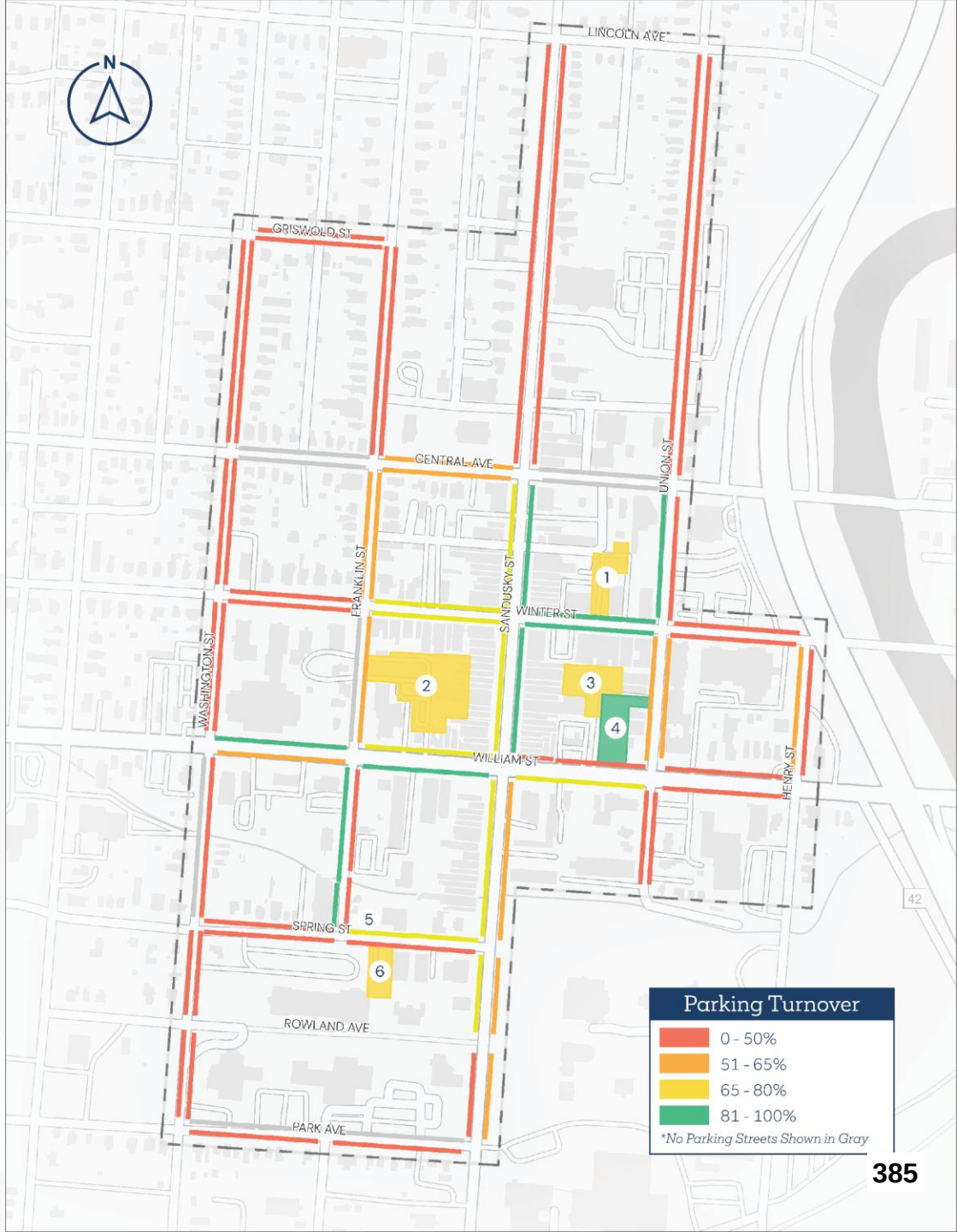


Parking Turnover

Wednesday, November 20th

- Turnover remains lower on-street than off-street
- On-street turnover remains higher in the Downtown Core, but by less of a margin than Weekend
- Off-street turnover decreases compared to Weekend

On-Street (Study Area)	50%
On-Street (Downtown Core)	55%
Off-Street (Study Area)	74%
Off-Street (Downtown Core)	77%
SYSTEM	**64%**



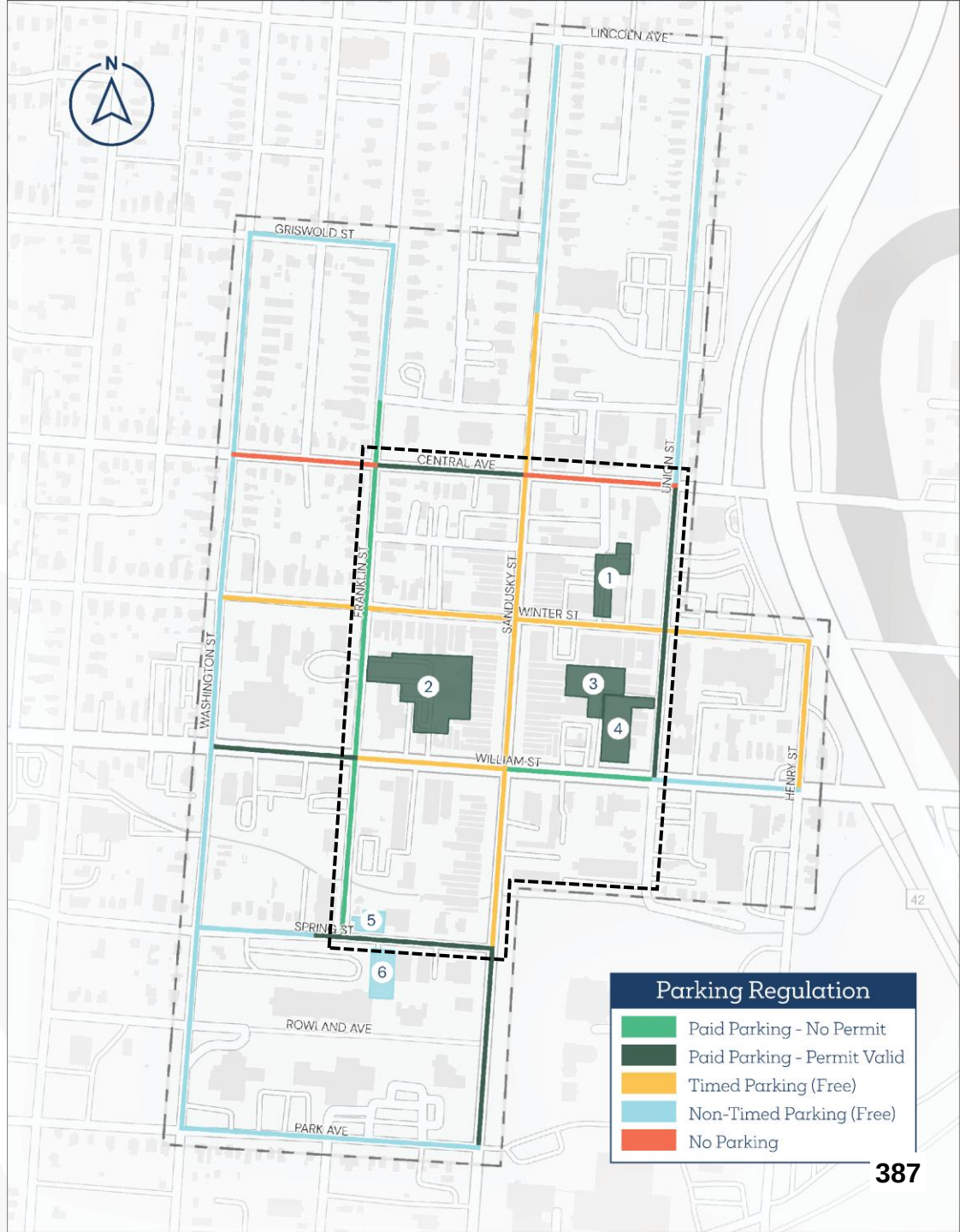
Stakeholder Feedback

Engagement Overview

- **Online Survey distributed March 2025**
  - 1,433 survey responses
  - 76% visit Downtown for leisure
  - 5% live Downtown, 4% work Downtown

- **Public Open House held March 18, 2025**
  - Issues and opportunities identification

- **Key Takeaways**
  - Majority of respondents park 1-2 hours, 2-3 hours
  - Identified issues include:
    - Difficulty finding a parking space (30%)
    - Lack of parking spaces (17%)
  - Leading suggestion included:
    - Desire for a garage (40%)



Implementation Action Plan

Strategy Focus Areas

- Parking Supply Enhancements
- Meter Rates and Restrictions
- Permit Parking
- Compliance Management (Enforcement)
- Technology

- Effort Level
  - Level 1 Minimal Resources
  - Level 2 Significant Operational Resources
  - Level 3 Significant Capital and Operational Resources
  - Level 4 Significant Capital, Operational, and Partner Resources
- Lead (Partner) Agency/Organization
- Implementation Timeline
  - Short Term (0-2 years)
  - Mid Term (2-4 years)
  - Long Term (5+ years)

Implementation Action Plan

	Strategy	Effort Level	Lead (Partner) Agency/Organization	Short Term (0-2 yr)	Mid Term (2-4 yr)	Long Term (5+ yr)
Parking Supply Enhancements	Develop a Shared Parking Program	1	Economic Dev. (Main Street, Property Owners)	X		
	Improve Parking Facility Wayfinding Signage	3	Public Works (Main Street)		X	
	Explore Structured Parking Expansion	4	Economic Dev. (Private Partner)			X
Meter Rates & Restrictions	Modify Paid Parking System	2	Public Works (Police)	X		
	Install Curbside Loading Zones	1	Public Works (Police)	X		
	Adjust Hours of Operation	2	Public Works (Police)		X	
	Adjust Time Limit Restrictions	1	Public Works (Police)		X	
	Ensure Compliance with PROWAG	3	Public Works		X	
Permit Parking	Adjust Existing Monthly Permit Program	1	Police	X		
	Explore Residential Permit Parking Program	2	Police (Public Works)		X	
Compliance Management	Streamline Citation Aging Process	1	Police (Legal Dept)	X		
	Increase Enforcement Staffing Levels	2	Police	X		
Technology	Upgrade Parking Meters	3	Public Works (Police)	X		

Develop a Shared Parking Program

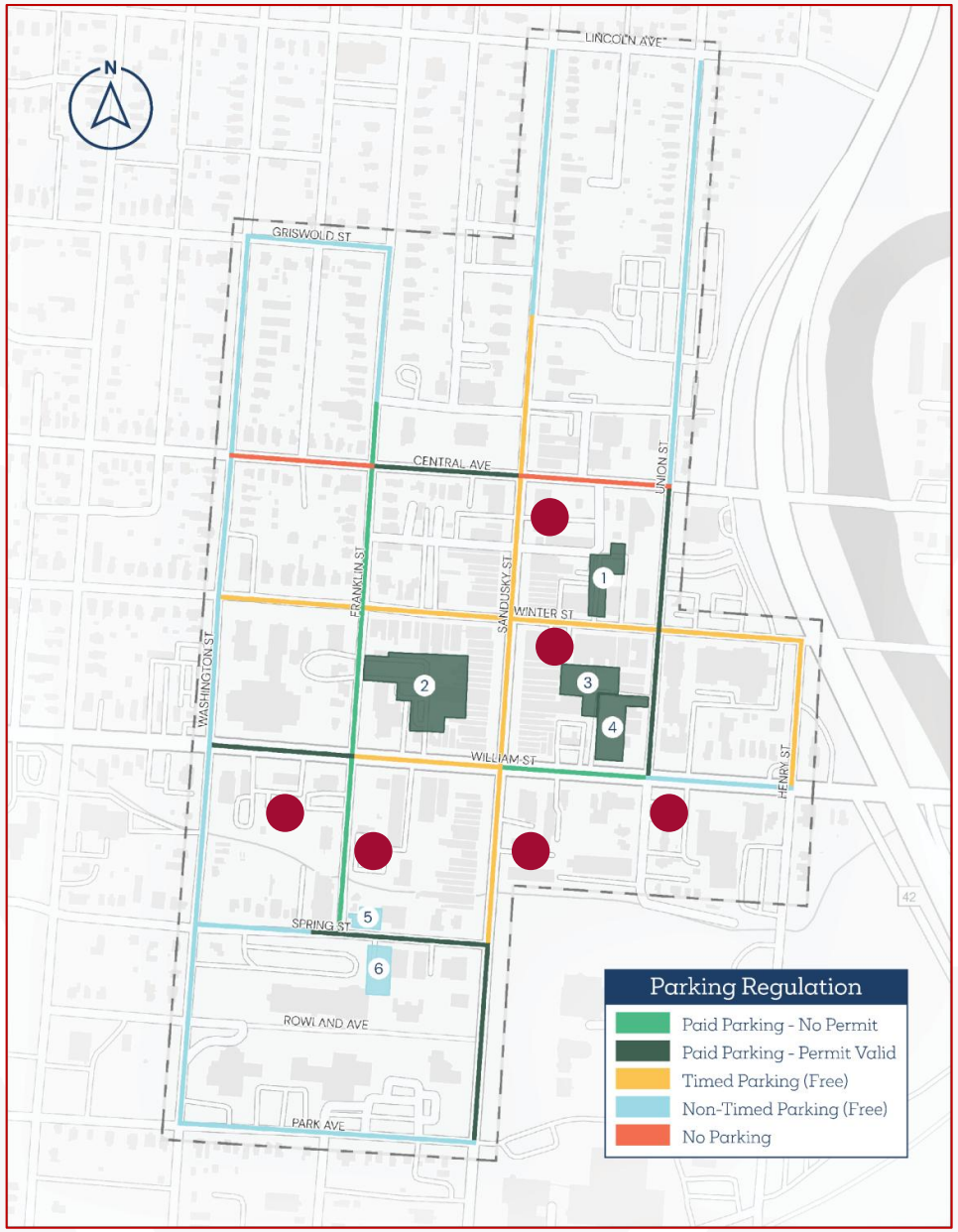
Short Term (0-2 years)

Objective

- Maximize utilization of existing parking assets to increase public parking supply options

Implementation Steps

1. Establish a Working Group
   - Identify locations
2. Establish Minimum Requirements
3. Determine City Involvement
4. Develop a Standard Agreement



Modify Paid Parking System

Short Term (0-2 years)

Objective

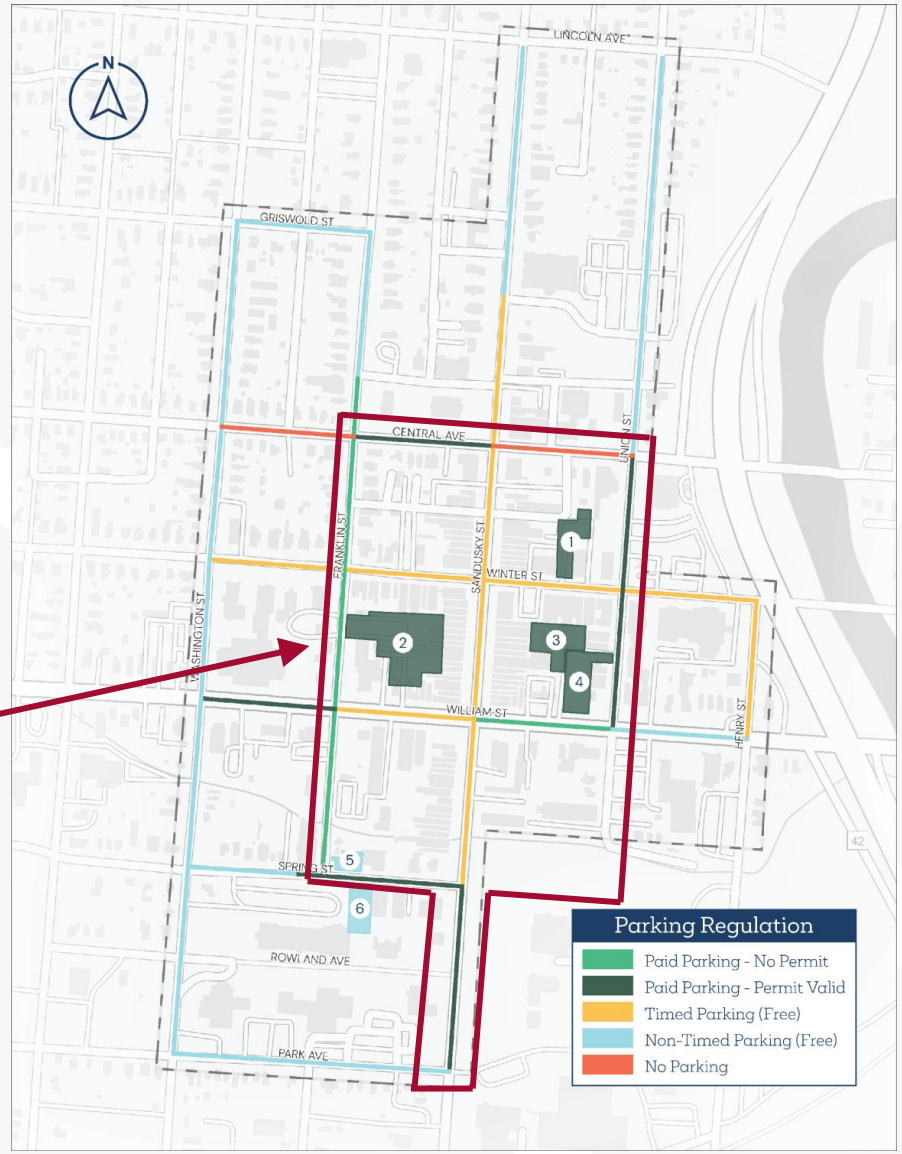
- Increase parking turnover and decrease acute high parking demand in Downtown Core to create predictable parking availability for customers

Implementation Steps

1. Amend City Code to allow administration to modify parking restrictions and rates

2. Add paid parking to Downtown Core based on parking study findings, remove west of Franklin and north of Central

3. Perform an annual parking occupancy and turnover study
    - Annually adjust rates per table



Modify Paid Parking System

Short Term (0-2 years)

Objective

- Increase parking turnover and decrease acute high parking demand in Downtown Core to create predictable parking availability for customers

Implementation Steps

1. Amend City Code to allow administration to modify parking restrictions and rates

2. Add paid parking to Downtown Core based on parking study findings

3. Perform an annual parking occupancy and turnover study
    - Annually adjust rates per table

Observed Peak Demand	Hourly Price Adjustment*	Notes
90-100+%	+ $0.50	
80-90%	+ $0.25	
60-80%	No action taken	
30-60%	- $0.25	Establish $1.00/hr floor
< 30%	- $0.50	May warrant metered parking removal

** Adjust rates no more than once per year, as part of annual budget process*

Install Curbside Loading Zones

Short Term (0-2 years)

Objective

- Safely and effectively facilitate loading activity for goods, services, and passengers

Implementation Steps

1. Identify demand-based loading zone locations
    - Work with businesses, delivery services to obtain information
2. Perform a business delivery schedule survey
    - Understand specific times of day loading occurs
3. Install loading zones at the ends of the block based on demand



Upgrade Parking Meters

Short Term (0-2 years)

Objective

- Enhance the customer experience
- Increase payment compliance
- Expand customer payment options

Implementation Steps

1. Issue a Request for Proposals (RFP)
    - Select meter vendor
2. Determine Meter Locations
    - Take asset light approach
3. Install Parking Meters in a Phased Approach
    - Phase 1: New Paid Parking Areas
    - Phase 2: City Off-Street Lots
    - Phase 3: Existing Paid Parking Areas





Adjust Existing Monthly Permit Program

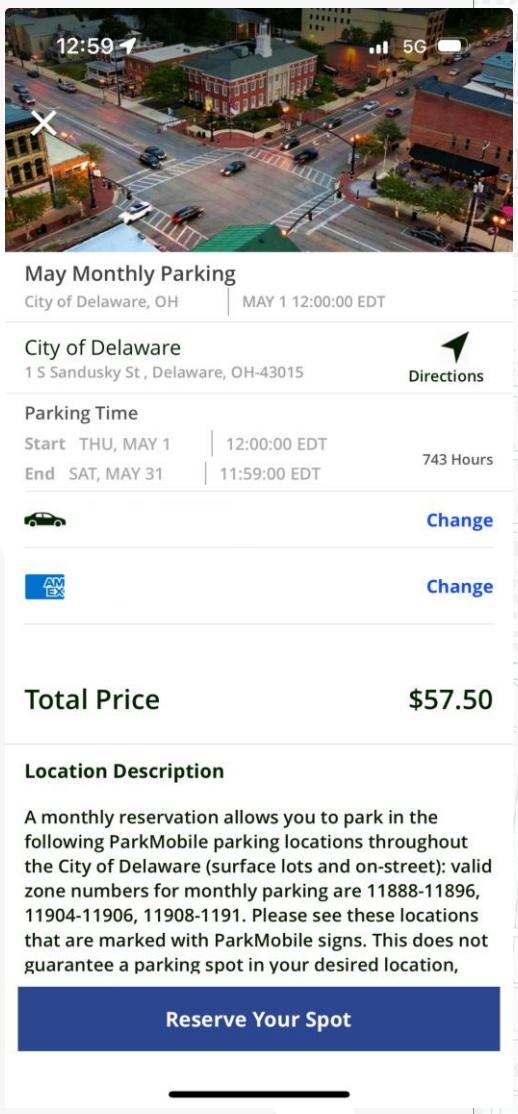
Short Term (0-2 years)

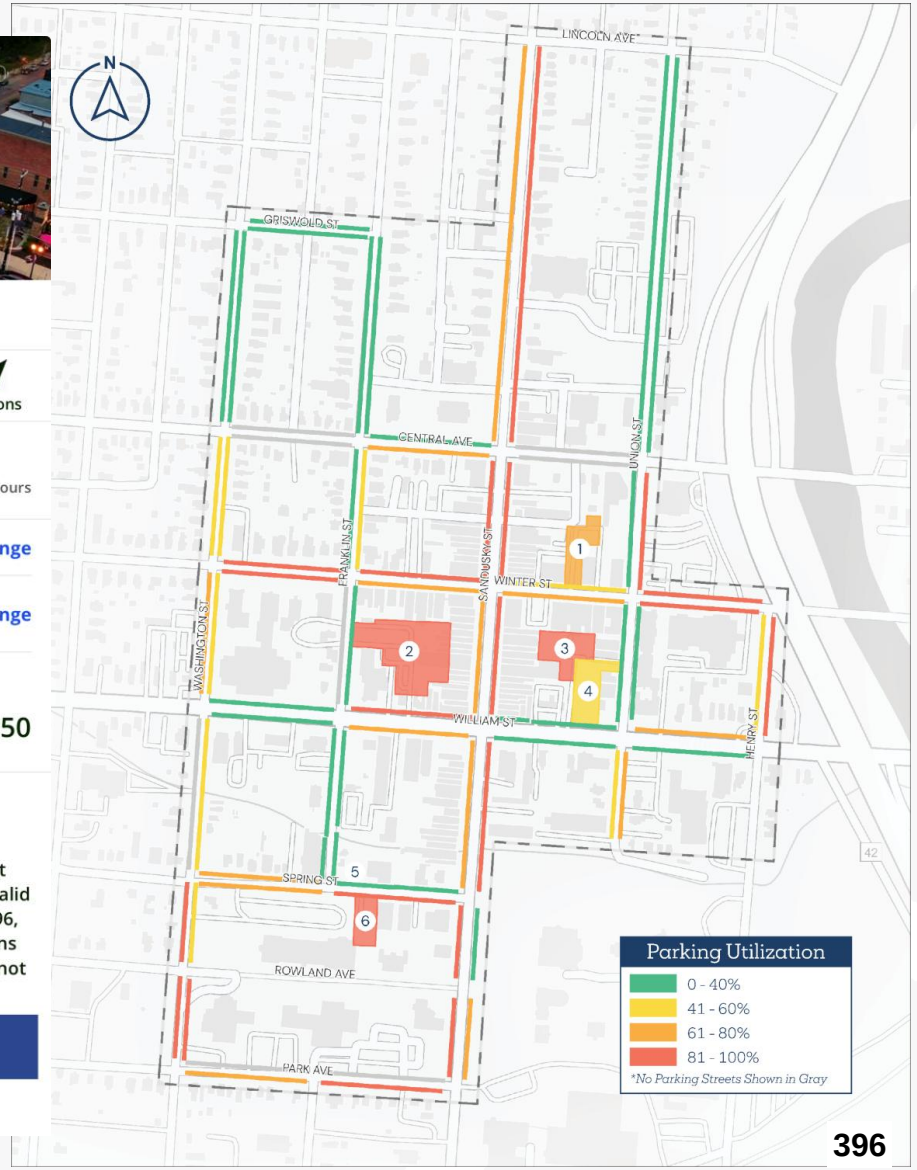
Objective

- Provide monthly parking options to support Downtown businesses and residents
- Create predictable parking availability for permit holders

Implementation Steps

1. Revise where permits are valid for use
   - Focus on outer areas of Downtown
2. Explore tiered pricing structure
   - Rates based on proximity to Sandusky corridor
3. Monitor utilization by location
   - Make additional adjustments based on data





Streamline Citation Aging Process

Short Term (0-2 years)

Objective

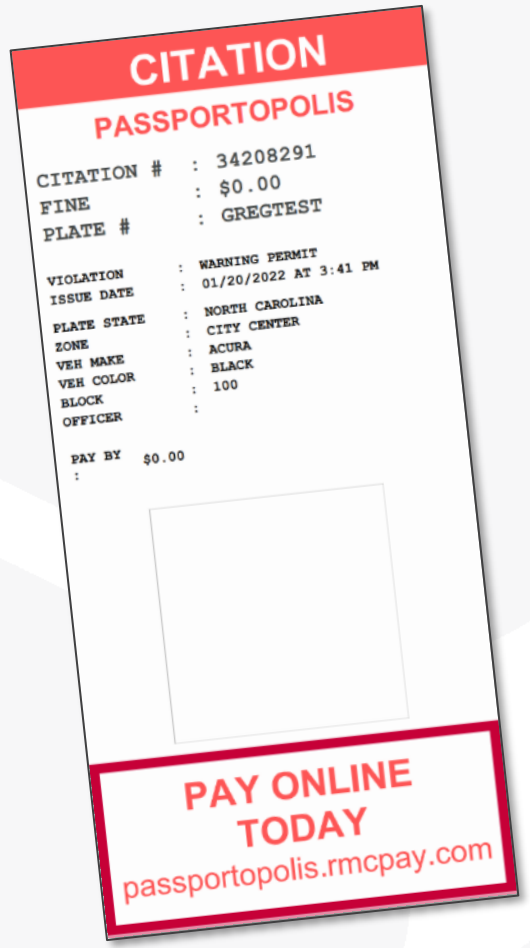
- Provide consistent customer experience regardless of location
- Embrace industry best practices

Implementation Steps

1. Develop a New Citation Aging Process

2. Draft Legislation to Amend City Code

3. Modify Business Rules with City's Citation Management Vendor



Increase Enforcement Staffing Levels

Short Term (0-2 years)

Objective

- Increase compliance and safety through properly resourcing parking enforcement staff

	Monday	Tuesday	Wednesday	Thursday	Friday	Lunch
PEO 1	8:30a-3p	8:30a-3p	8:30a-3p	8:30a-3p	8:30a-3p	11:30a-noon
PEO 2	11:30a-6p	11:30a-6p	11:30a-6p	11:30a-6p	11:30a-6p	2:30p-3p

Implementation Steps

1. Recruit and Retain Parking Enforcement Staff

2. Monitor Staff Productivity
   - LPR reads
   - Voided/Dismissed Citations

3. Measure Customer Compliance
   - Payment and time limits



Improve Parking Facility Wayfinding Signage

Mid Term (2-4 years)

Objective

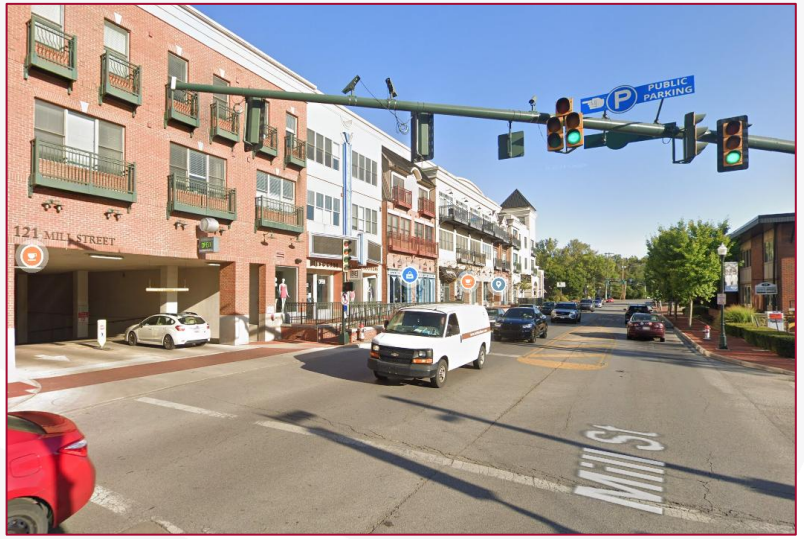
- Navigate customers to available public parking
- Reduce congestion and increase safety
- Enhance the visitor experience

Implementation Steps

1. Inventory Existing Parking Wayfinding Signage

2. Fill Signage Gaps
    - Additional “breadcrumbing” to facilities

3. Complement Physical Signage with Digital Wayfinding





Adjust Hours of Operation

Mid Term (2-4 years)

Objective

- Utilize parking management strategies to increase parking turnover and decrease acute high parking demand

Implementation Steps

1. Perform an annual parking occupancy and turnover study
    - Specifically, outside current hours of operation, days of week

2. Expand or contract hours of operation based on observed demand
    - 60% + observed average parking utilization necessitates adjustment to parking management hours of operation



Adjust Time Limit Restrictions

Mid Term (2-4 years)

Objective

- Ensure time limit restrictions are promoting optimal parking turnover to create predictable parking availability for customers

Implementation Steps

1. Perform an annual parking occupancy and turnover study
    - Specifically, within current hours of operation, days of week

2. Adjust time limit restrictions based on observed demand
    - Less than 80% observed parking turnover necessitates adjustment to time limits



Ensure Compliance with PROWAG Requirements

Mid Term (2-4 years)

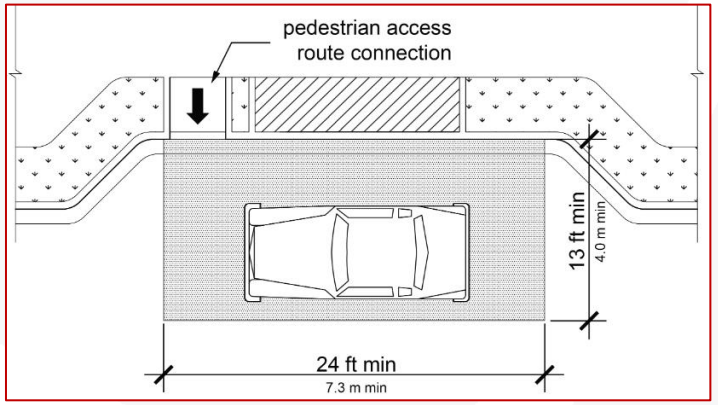
Objective

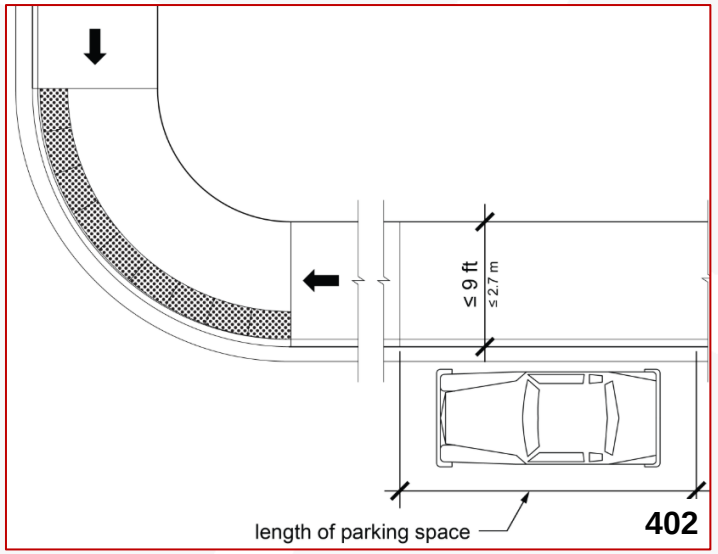
- Increase curbside accessibility for all users

Implementation Steps

1. Define a PROWAG analysis zone
   - Downtown Core (305 spaces)
2. Inventory existing on-street ADA spaces
   - Approximately 10 (all non-compliant)
3. Calculate required space need to reach 4% requirement
   - Approximately 13 spaces (about 1 per block)
4. Prioritize on-street ADA parking space installation based on adjacent land uses

Public Right of Way Accessibility Guidelines (PROWAG) on-street parallel ADA parking space design *(US Access Board)*





Explore Residential Permit Parking (RPP) Program

Mid Term (2-4 years)

Objective

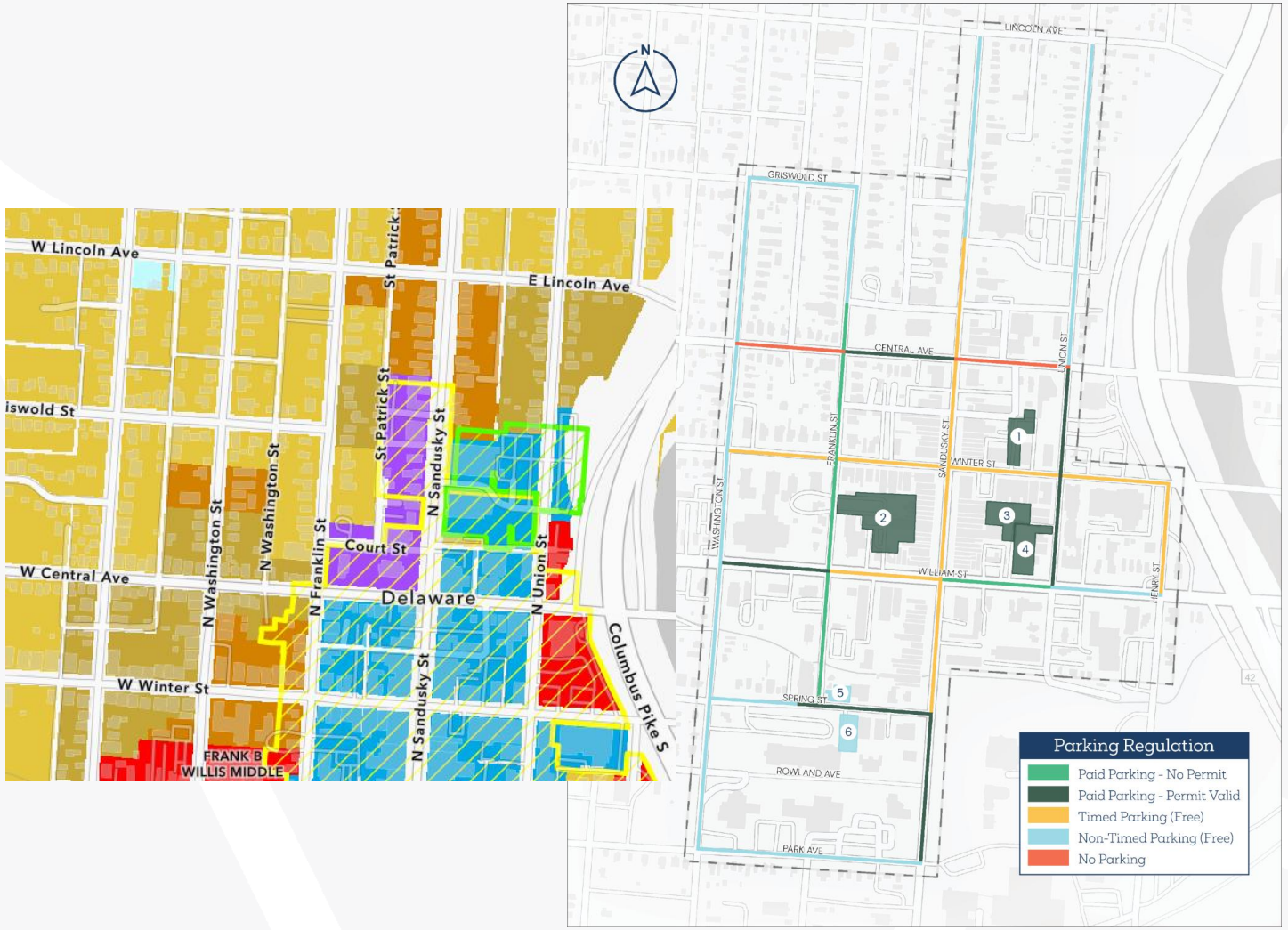
- Prioritize resident parking on neighborhood streets impacted by Downtown parking demand spillover

Implementation Steps

1. Engage with resident stakeholders to understand parking needs

2. Assess Current Conditions
   - Quantify resident parking demand and Downtown parking demand spillover

3. Develop RPP Program based on need and current conditions



Explore Structured Parking Expansion

Long Term (5+ years)

Objective

- Support economic development opportunities and increase public parking availability

Implementation Steps

1. Develop a City Public-Private Partnership (P3) Policy
2. Utilize an Off-Street Parking Investment Scorecard for Decision Making
3. Engage with Private-Sector Community Partners

Factor	Low Score (0 points)	Medium Score (1 point)	High Score (2 points)	Total Score
Location	More than ¼ mile (3-4 blocks) from high demand parking area*	Between 1/8 mile (1-2 blocks) and 1/4 mile (3-4 blocks) from high demand parking area*	Less than 1/8 mile (1-2 blocks) from high demand parking area*	
Multiple Users	Supports demand from associated development only during one-time period (weekday, weekday night, weekend)	Supports demand during two time periods (weekday, weekday night, weekend)	Supports demand during three time periods (weekday, weekday night, weekend)	
Revenue Potential	Does not cover operational costs**	Covers operational costs with little to no excess net revenues**	Covers operational costs plus surplus net revenues**	
Community/Economic Benefit	Does not meet City development goals	Only meets some City development goals	Meets all City development goals	
Cost Drivers	Significant aesthetic and functional design requirements	Moderate aesthetic and functional design requirements	No aesthetic and functional design requirements	
Public-Private Partnership	Does not include a public/private component	Small number of public spaces in largely private facility	Full shared parking facility in public-private facility	
Management Covenants	Rate and space allocation restrictions	Either rate or space restrictions	No rate and space allocation restrictions	

* high demand parking area defined as a block or blocks with 60-80+% average parking demand

** costs include debt service, operations and maintenance, management

Next Steps

Next Steps

- Parking Strategy Development
  - Confirm strategies
  - Complete documentation

- Financial Analysis
  - Based on recommended strategies
  - 10-year financial proforma development
  - Inform upcoming operating and 5-year capital plan

- Vendor Implementation Support
  - Procurement Guidance
  - Vendor Onboarding

Kimley»Horn

Expect More. Experience Better.

Thank You!

Item Cover Page

CITY COUNCIL AGENDA ITEM REPORT

DATE:	July 14, 2025
SUBMITTED BY:	Paul Brake, City Manager Office
ITEM TYPE:	Discussion Item
AGENDA SECTION:	**CITY MANAGER'S REPORT**
SUBJECT:	June 2025 Contract Approvals
SUGGESTED ACTION:	

ATTACHMENTS:
Contract Approvals June 2025.pdf

CONTRACT APPROVALS - June 2025				
VENDOR	**EXPLANATION OF AGREEMENT**	**2025 Amount**	**DEPARTMENT**	**DATE**
White & Smith, LLC	Transportation Impact Fee Code	$20,000.00	Budget Mgt.	6/2/2025
Grail	Cancer Screening for FD Wellness Program	$60,000.00	Fire Dept.	6/2/2025
Securitas	Genetec Software Maintenance	$4,169.19	IT	6/3/2025
CTL Engineering	Main Agreement Amendment 1	N/A	Public Works	6/11/2025
Delaware County	Intergovernmental Agmt Sandusky St. Pedestrian Crossing	N/A	Public Works	6/13/2025
Gannett Fleming	Merrick Blvd Design Amendment 2	$30,810.00	Public Works	6/24/2025
PRADCO	2025 MDP Cohort	$48,630.00	DAS	6/30/2025