

## **City of Oberlin, Ohio**

### **ORDINANCE No. 11-22 AC CMS**

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTERS 140, 151, 157, 303, 339, 521, 785, 791, 905, 1115, 1141, 1151, 1173, 1187, AND 1191, AND OF PART 13 OF THE CODIFIED ORDINANCES OF THE CITY OF OBERLIN, OHIO, TO UPDATE AND CORRECT JOB TITLES AND DEPARTMENT NAMES AND TO MAKE OTHER MINOR CORRECTIONS AND DECLARING AN EMERGENCY**

WHEREAS, job titles and responsibilities of city officials have changed over time and there are numerous references in the Codified Ordinances to the Code Administrator position that no longer exists and to other job titles that have been changed; and

WHEREAS, department names have been revised in the past and there are remaining references in the Codified Ordinances to the Community Services Department which no longer exists; and

WHEREAS, current practices or policies already previously approved by City Council have not fully been reconciled and incorporated into all sections of the Codified Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. That various Sections of chapters 140, 151, 157, 303, 339, 521, 785, 791, 905, 1115, 1141, 1151, 1173, 1187, and 1191, and of Part 13 of the Oberlin Codified Ordinances are hereby amended to read as set forth in the **Exhibit** which is on file in the City Clerk's Office due to its length and is incorporated herein by reference, to replace the references to "Code Administrator" with applicable titles of City of Oberlin officials responsible for those particular duties, to revise department names with current terminology, and to make minor changes incorporating current practice or policy already previously approved by City Council.

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, or to provide for the usual daily operation of a municipal department, to wit:

*"to enact amendments to the Codified Ordinances as soon as possible in order to reflect current municipal practices and to ensure the efficient operation of the municipal government ",*

And shall take effect immediately upon passage.

PASSED: 1st Reading - April 4, 2011  
2nd Reading – April 18, 2011 (S, E)  
3rd Reading -

ATTEST:



BELINDA B. ANDERSON, CMC  
CLERK OF COUNCIL

POSTED: 04/19/2011



KENNETH SLOANE  
PRESIDENT OF COUNCIL

EFFECTIVE DATE: 04/18/2011

## CODIFIED ORDINANCES OF OBERLIN

### PART ONE - ADMINISTRATIVE CODE

#### TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 103. Official Standards.
- Chap. 105. Wards and Boundaries.
- Chap. 107. Public Records Policy.

#### TITLE THREE - Legislative

- Chap. 111. Council.
- Chap. 112. Election Financing.
- Chap. 113. Ordinances and Resolutions.

#### TITLE FIVE - Administrative

- Chap. 121. City Manager.
- Chap. 123. Clerk.
- Chap. 125. Finance Director.
- Chap. 127. Treasurer.
- Chap. 128. Treasury Investment Board.
- Chap. 129. Law Director.
- Chap. 130. Department of Public Works.
- Chap. 131. Public Utilities Commission.
- Chap. 133. Recreation Commission.
- Chap. 135. Civil Service Commission.
- Chap. 137. Health Services.
- Chap. 139. City Engineer.
- Chap. 140. ~~Code Administrator.~~ Building Division.
- Chap. 141. Police Department.
- Chap. 143. Fire Department.
- Chap. 144. Department of Community Development.
- Chap. 145. Employees Generally.
- Chap. 147. Committee on Visual Environment. (Repealed)
- Chap. 149. Human Relations Commission.
- Chap. 151. Employee Grievance Procedure.
- Chap. 153. Five-Year Capital Improvement Plan and Annual Review of Proposed Capital Expenditures.
- Chap. 155. Open Space and Visual Environment Commission.
- Chap. 156. Resource Conservation and Recovery Commission.
- Chap. 157. Equal Employment Opportunities.
- Chap. 158. Minority Business Enterprise Program.
- Chap. 159. Records Commission.
- Chap. 160. Downtown Advisory Commission. (Repealed)
- Chap. 161. Human Resources Department.

#### TITLE SEVEN - Judicial

- Chap. 171. Municipal Court.

#### TITLE FIVE - Administrative

- Chap. 121. City Manager.
- Chap. 123. Clerk.
- Chap. 125. Finance Director.
- Chap. 127. Treasurer.
- Chap. 128. Treasury Investment Board.
- Chap. 129. Law Director.
- Chap. 130. Department of Public Works.

Chap. 131.	Public Utilities Commission.
Chap. 133.	Recreation Commission.
Chap. 135.	Civil Service Commission.
Chap. 137.	Health Services.
Chap. 139.	City Engineer.
Chap. 140.	<del>Building Division.</del> Code Administrator.
Chap. 141.	Police Department.
Chap. 143.	Fire Department.
Chap. 144.	Department of Community Development.
Chap. 145.	Employees Generally.
Chap. 147.	Committee on Visual Environment. (Repealed)
Chap. 149.	Human Relations Commission.
Chap. 151.	Employee Grievance Procedure.
Chap. 153.	Five-Year Capital Improvement Plan and Annual Review of Proposed Capital Expenditures.
Chap. 155.	Open Space and Visual Environment Commission.
Chap. 156.	Resource Conservation and Recovery Commission.
Chap. 157.	Equal Employment Opportunities.
Chap. 158.	Minority Business Enterprise Program.
Chap. 159.	Records Commission.
Chap. 160.	Downtown Advisory Commission. (Repealed)
Chap. 161.	Human Resources Department.

## CHAPTER 121 City Manager

121.01	City Manager to sign checks in absence of Finance Director or Treasurer.	121.03	Disposition of surplus Municipal personal property.
121.02	Mutual aid, electric systems.	121.04	Free living quarters.
		121.05	Economic Development Business Incentive Program.

## CHAPTER 140 ~~Code Administrator~~ Building Division

140.01 Creation; powers and duties.	140.02 Appointment and qualifications.
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### 140.01 CREATION; POWERS AND DUTIES.

(a) There is herewith created the permanent position of ~~Code Administrator~~ Chief Building Official and Residential Building Official for the City with the following duties and job description. ~~The Chief Building Official and Residential Building Official may be City employees or contracted employees.~~

(b) Under the direction and supervision of the City Manager, the ~~Code Administrator~~ Residential Building Official or designee will be responsible for performing all housing inspections. These inspections will be performed under the following conditions:

- (1) At the time of any new housing construction or rehabilitation.
- (2) At the time of any existing houses being resold.
- (3) At the time of any ~~change in occupancy~~:
  - A. Change of occupancy for rented unit.
  - B. Conversion of a single-family home to multi-family dwelling.
- (4) At any time for vacant units.
- (5) At any time upon the request from a renter occupying a housing unit.
- (6) At any time at the request of the City Manager ~~with the concurrence of Council.~~

(c) ~~The City Manager shall designate employee(s) or contract employee(s) to Code Administrator will be responsible for the enforcement and/or coordination of all the following~~ Codes, Ordinances and Regulations:

Building Code  
Housing Code  
Junked Car Ordinance  
Fair Housing Ordinance

Zoning Ordinance  
Weed Control Ordinance  
Sign Control Ordinance  
Rooming House Regulations

~~(d) It is not the intent of this chapter to allow during the enforcement of the above rules and regulations a condemnation order to be placed upon a dwelling unit which is occupied at the time of the order.~~

(ed) ~~The Chief Building Official and Residential Building Official Code Administrator~~ shall be the staff member(s) responsible to the Housing Renewal Commission. He/she shall also act as staff support on specific matters to the Planning Commission and Zoning Board of Appeals.

~~(f) The Code Administrator will be responsible for the implementation of the City's affirmative action plan for equal opportunity in housing and employment.~~

#### 140.02 APPOINTMENT AND QUALIFICATIONS.

~~The Chief Building Official and Residential Building Official Code Administrator shall be appointed by the City Manager. Either may be City employees or contracted employees. If City employees, the Chief Building Official and/or the Residential Building Official and shall be~~ in the classified civil service, noncompetitive, due to the qualifications of the position. The qualifications for the position shall include a knowledge of building layout and design and some engineering experience. It is further expected that a demonstrated sensitivity to the special needs of low-income and minority groups be a criteria to be considered during the selection process for this position.

- (5) The Employee Peer Review Committee shall hold a hearing on the grievance within seven working days of the selection of the Peer Review Committee hearing the grievance. The Committee shall review the record and receive testimony from both parties and issue a recommendation to the City Manager within three days of the hearing. The City Manager shall consider the recommendation and make a final decision concerning the grievance within five working days thereafter.

(b) This section shall not apply to the Civil Service Rules and Regulations, the Official Pay Plan and the dismissal of employees during their probationary period.

#### 151.04 LEVELS OF SUPERVISION.

For the purposes of this regulation, the following positions are considered as supervisory, by department:

- (a) Director of Public Works.

~~Superintendent of Street, et. al.,~~ Water and Waste Water Plant, Buildings and Grounds, and —  
Collection System General Maintenance Division.

- (b) Director of Municipal Light and Power.

Superintendents of Distribution and Generation, Supervisor of Technical Services.

- (c) Director of ~~Community Services~~ Planning and Development.

~~Chief Caretaker/Supervisor~~ Recreation Superintendent.

- (d) Chief of Police Department.

~~Captain of Police~~ Lieutenants.  
Sergeants.

- (e) Chief of Fire Department.

- (f) ~~Code Administrator~~ Assistant City Manager/Human Resources Administrator.

CHAPTER 157  
Equal Employment Opportunities

157.01	Definitions.	157.06	Project site reports.
157.02	Contract compliance procedures.	157.07	Intergovernmental cooperation.
157.03	Equal employment opportunity clause.	157.08	Contract disposition.
157.04	Contract compliance requirements.	157.09	Severability.
157.05	Pre-award conference.	157.10	Equal Employment Opportunity Program.

157.01 DEFINITIONS.

As used in this chapter:

- (a) "Discriminate," "discriminates," and "discrimination" mean distinguish, differentiate, separate or segregate solely on the basis of race, religion, color, sex or national origin.
- (b) "Contractor" means any person, partnership, corporation, association or joint venture which has been awarded a public contract and includes every subcontractor on such a contract.
- (c) "Subcontractor" means any person, partnership, corporation, association or joint venture which supplies any of the work, labor, services, supplies, equipment, materials or any combination of the foregoing under a contract with the contractor on a public contract.
- (d) "Public contract" means any contract awarded by the City whereby the City is committed to expend or does expend its funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing, or any lease, lease by way of concession, concession agreement permit or permit agreement whereby the City leases, grants, or demises property of the City or otherwise grants a right or privilege to occupy or use property of the City.
- (e) "Bidder" means any person, partnership, corporation, association or joint venture seeking to be awarded a public contract.
- (f) "Construction contract" means any public contract for the construction, rehabilitation, alteration, conversion, extension or repair of buildings, streets or other improvements to real property.

157.02 CONTRACT COMPLIANCE PROCEDURES.

There is hereby created the function of contract compliance review. The City Manager will designate an Equal Employment Opportunity Officer ~~The Code Administrator shall to~~ administer and enforce the City's Equal Employment Opportunity Program established by Sections 157.01 to 157.10 inclusive, establish procedures to effectuate such sections, make all determinations as to compliance with the program, and shall meet with the contracting parties for the aforesaid purposes. He/she shall have at his/her disposal the resources of the City's several departments and the Human Relations Commission.

157.03 EQUAL EMPLOYMENT OPPORTUNITY CLAUSE.

All public contracts hereinafter entered into by the City shall incorporate an Equal Employment Opportunity Clause, which shall read as follows:

- (a) The contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, sex or national origin. As used herein the word "treated" means and includes without limitation, the following: recruited, whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off, and terminated. The contractor agrees to and shall post in conspicuous places, available to employees



and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of this nondiscrimination clause.

- (b) The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.
- (c) The contractor shall send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or worker's representative of the contractor's commitments under the Equal Employment Opportunity Clause of the City and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) The contractor shall furnish all information and reports required by the Equal Employment Opportunity Officer Code Administrator pursuant to Sections 157.01 to 157.10 inclusive, and shall permit access to his/her books, records and accounts by the contracting agency and by the Equal Employment Opportunity Officer Code Administrator for purposes of investigation to ascertain compliance with the program.
- (e) The contractor shall take such action with respect to any subcontractor as the City may direct as a means of enforcing the provisions of subsections (a) through (h) hereof, including penalties and sanctions for noncompliance. However, in the event the contractor becomes involved in or is threatened with litigation as the result of such direction by the City, the City will enter into such litigation as is necessary to protect the interests of the City and to effectuate the City's Equal Employment Opportunity Program and in the case of contracts receiving Federal assistance, the contractor or the City may request the United States to enter into such litigation to protect the interests of the United States.
- (f) The contractor shall file and shall cause his/her subcontractors, if any, to file compliance reports with the City in the form and to the extent prescribed by the Equal Employment Opportunity Officer Code Administrator. Compliance reports filed at such times as directed shall contain information as to the employment practices, policies, programs, and statistics of the contractor and his subcontractors.
- (g) The contractor shall include the provisions of subsections (a) through (h) hereof, of this Equal Employment Opportunity Clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.
- (h) Refusal by the contractor or subcontractor to comply with any portion of this program as herein stated and described will subject the offending party to any or all of the following penalties:
  - (1) Withholding of all future payments under the involved public contract to the contractor in violation until it is determined that the contractor or subcontractor is in compliance with the provisions of the contract.
  - (2) Refusal of all future bids for any public contract with the City or any of its departments or divisions until such time as the contractor or subcontractor demonstrates that he/she has established and shall carry out the policies of the program as herein outlined;
  - (3) Cancellation of the public contract and declaration of forfeiture of the performance bond;
  - (4) In cases in which there is substantial or material violation or the threat of substantial or material violation of the compliance procedure or as may be provided for by contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of contractors, subcontractors or other organizations, individuals or groups who prevent directly, indirectly, or seek to prevent directly or indirectly, compliance with the policy, as herein outlined.



#### 157.04 CONTRACT COMPLIANCE REQUIREMENTS.

All notices to prospective bidders published on behalf of the City shall include as a part of the contract specifications the condition that all bidders shall be required to comply with the Oberlin Equal Employment Opportunity Program.

Each bidder shall file as part of bid documents, contract employment reports with the Equal Employment Opportunity Officer Code Administrator. Such contract employment reports shall include such information as to the employment practices, policies, programs and statistics of the contractor, and shall be in such form as the Equal Employment Opportunity Officer Code Administrator may prescribe. Subcontractors shall also submit such contract employment reports to the City before approval by the City as subcontractor.

#### 157.05 PRE-AWARD CONFERENCE.

Following receipt and review of the employment information submitted by the bidders, and prior to award of a contract, the apparent successful bidder and his/her known major subcontractors shall be required to attend a pre-award conference if called by the Equal Employment Opportunity Officer Code Administrator, at which time such bidder and major subcontractors shall submit affirmative action programs to promote equal opportunity in employment.

The Equal Employment Opportunity Officer Code Administrator shall determine whether or not the apparent successful bidder has complied with Sections 157.04 and 157.05, and shall submit his/her determination and recommendation thereon to the City Manager.

After receiving the recommendation of the Equal Employment Opportunity Officer Code Administrator, the City Manager shall process the award recommendation to Council.

#### 157.06 PROJECT SITE REPORTS.

Where a construction contract exceeds ten thousand dollars (\$10,000), a project site report shall be completed and submitted by the contractor and any subcontractor not more than ninety days from the beginning of work on the site. Such project site report shall include such information as to employment practices and statistics of the contractor and each subcontractor, and shall be in such form as the Equal Employment Opportunity Officer Code Administrator may prescribe. Where the term of the contract exceeds ninety days, such project site report shall be submitted once each ninety days, or more frequently if the Equal Employment Opportunity Officer Code Administrator determines that such submittal is deemed necessary for a continuing evaluation of the work force composition. Subcontractors shall complete and submit such project site reports to the contractor for transmittal to the City.

Post award reports shall be reviewed as one means of determining contract compliance.

#### 157.07 INTERGOVERNMENTAL COOPERATION.

In the event specific discriminatory practices are found to exist in the administration and enforcement of Sections 157.01 to 157.10 inclusive, in addition to the sanctions that may be imposed as provided for by the terms of the contract, the City shall forward all pertinent information to the appropriate Federal and State agencies.

#### 157.08 CONTRACT DISPOSITION.

(a) In the event a contractor fails to cooperate in reaching mutually satisfactory solutions or to implement contract compliance agreements previously made, the Equal Employment Opportunity Officer Code Administrator shall review such cases to determine:

- (1) Whether further efforts or alternative approaches are desirable. Depending upon the nature of the problem, such alternatives may involve contact with industry, related labor unions, or requesting the assistance of the Ohio Civil Right Commission or the Office of Federal Contract Compliance and the particular Federal agency involved for further negotiations; or
- (2) Whether any of the penalties set forth in Section 157.03(h) is appropriate to the case.

| (b) In the event the Equal Employment Opportunity Officer Code Administrator determines that the contractor has violated or has failed to comply with the equal employment opportunity requirements of the contract after affording such contractor a reasonable time to correct his/her situation and where negotiations have been of no avail, he/she shall make a finding under subparagraph (a)(1) or (a)(2) of this section and shall transmit such finding and recommendation thereon to the City Manager.

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For purposes of this subsection, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment. Nothing contained in this section shall invalidate the provisions of other ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the Municipality. (ORC 4513.64)

(f) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor and shall be subject to the penalty provided in Section 303.99(b) and shall also be assessed any costs incurred by the Municipality in disposing of a vehicle or abandoned junk motor vehicle, less any money accruing to the Municipality from such disposal. (ORC 4513.99(D))

### **303.10 LEAVING JUNK VEHICLES ON PRIVATE PROPERTY WITH PERMISSION OF OWNER.**

(a) Definitions. As used in this section:

- (1) "Completely enclosed building" means any building with a solid roof and at least three solid walls. For purposes of this chapter, a carport is not a "completely enclosed building".
- (2) "Junked motor vehicle" means any motor vehicle meeting all of the following requirements:
  - A. Extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, missing wheels, tires, motor or transmission.
  - B. Apparently inoperable.
  - C. Unable to meet all requirements necessary in order to be driven on the streets of the City.

(b) Junked Motor Vehicle Complaint. Upon complaint of a junked motor vehicle within the City boundaries the ~~Code Administrator~~ Community Services Officer shall send a copy of this section by certified mail to the owner of the vehicle and the owner of the land on which the vehicle is located. The Community Services Officer ~~Code Administrator~~ shall advise at the same time by letter that the junked motor vehicle in question must be moved as provided for in subsection (d) hereof within thirty days.

(c) Nuisance Declared. Unsheltered storage of junked motor vehicles for a period of more than thirty days within the corporate limits, is hereby declared to be a nuisance and dangerous to the public safety.

(d) Abatement of Nuisance by Owners. The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits upon which a junked motor vehicle is located, and also the owner, owners and/or lessees of the junked motor vehicle, shall jointly or severally abate the nuisance by the prompt removal of the junked motor vehicle into a completely enclosed building, or otherwise remove it to a location outside the corporate limits.

(e) Abatement by the City. Whenever the owners fail to abate the nuisance, the City shall remove the junked motor vehicle to a location of its selection, the expenses therefor to be billed to the owners, jointly and severally, the bill to be recoverable in a suit of law.

When the junked vehicle has been removed and placed in storage by the City, as provided for herein, the vehicle shall be sold by the City after the lapse of sixty days. If the proceeds of such sale are insufficient to pay the costs of abatement the owners shall be liable to the City for the balance of the costs, jointly and severally, to be receivable in a suit of law. If the proceeds are in excess of costs, the balance shall be paid to the owners, or deposited in the City Treasury for their use.

### **303.11 PROVIDING FALSE INFORMATION TO POLICE OFFICER.**

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.  
(ORC 4513.361)

### **303.99 GENERAL TRAFFIC CODE PENALTIES.**

(a) General Misdemeanor Classifications. Whoever violates any provision of this Traffic Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.  
(ORC 4513.99)

(b) Penalties. Whoever is convicted of or pleads guilty to a violation of this Traffic Code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor	No imprisonment	150.00

**339.08 LOADS DROPPING OR LEAKING; REMOVAL REQUIRED; TRACKING MUD.**

(a) No vehicle shall be driven or moved on any street, highway or other public place unless such vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any street, highway or other public place unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the street, highway or other public place.

(c) No person shall operate any vehicle so as to track or drop mud, stones, gravel or other similar material on any street, highway or other public place, and no contractor in charge of a construction site shall maintain such property or construction site so that the vehicles upon such property or construction site pick up mud, dirt or debris on their wheels or other parts and deposit or track the mud, dirt or debris onto the street or sidewalk.

(d) It shall be the duty of the contractor in charge of the construction site or the driver of a vehicle who unlawfully drops or deposits mud, stones, gravel, or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be moved.

(e) Whoever violates this section is guilty of a minor misdemeanor on a first offense. On a second offense within one year after the first offense, the offender is guilty of a misdemeanor of the fourth degree. On each subsequent offense within one year after the first offense, the offender is guilty of a misdemeanor of the third degree.

(f) In addition, the ~~Code Administrator or Chief~~ Building Official or Residential Building Official, as the case may be, shall, upon notice ~~form from~~ the Police Department of a violation of this Section, suspend any permit theretofore issued to such offender and order all work to cease in connection with such permit until any and all violations of the provisions of this chapter are cured or removed.

**339.09 SHIFTING LOAD; LOOSE LOADS.**

(a) In addition to any other lawful requirements of load distribution, no person shall operate any vehicle upon a street or highway unless such vehicle is so laden as to prevent its contents from shifting or otherwise unbalancing the vehicle to such an extent as to interfere with the safe operation of the same.

(b) No motor vehicle or trailer shall be driven unless the tailboard or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles, and the like, or any part of the load, are securely fastened to prevent dangling, flapping, swinging or falling from the side, end or top of the load or body. All projecting cargo shall be properly guarded by a red flag or cloth or a red light or lantern as required by Section 337.08.



(f) Enforcement. The prohibitions in this section apply to corporations, partnerships and natural persons.

Each officer and member of the Board of Directors of any corporation who violates this section shall be held criminally liable under this section if such officer or director knowingly or intentionally participated in or contributed to the prohibited activity.

Each violation of this section shall be punishable by six months' imprisonment and/or five hundred dollars (\$500.00) fine. Each day such prohibited activity continues shall constitute a separate violation.

Any natural person, corporation or the City may enforce this section by appropriate civil action for declaratory or injunctive relief. Reasonable attorney fees and costs shall be awarded to a prevailing party.

If all or part of this section is held by a court of law to be inconsistent with any part of the City Charter, this ordinance or portion thereof shall prevail over the inconsistent part of the City Charter.

(g) Notification. Upon adoption of this section and annually thereafter, Council shall present a true copy of this section to the President of the United States, to the Premier of the Union of Soviet Socialist Republics, to the ambassadors of all nations at that time possessing nuclear weapons, to the Secretary General of the United Nations and to the Director of the International Atomic Energy Agency.

In addition, true copies of this section shall be sent to the Governor of the State of Ohio, to the United States Senators from Ohio, to the United States Representative representing the Thirteenth District and to our State Delegates.

#### 521.12 PUBLIC NUISANCES.

(a) Notice to Abate; Compliance. No person shall suffer, permit or allow to exist within the City any act, thing or condition of a kind which has been or may hereafter be defined by ordinance as a public nuisance.

Whenever a public nuisance exists, the Community Services Officer ~~Code Administrator~~ shall cause the owner, tenant or person in charge of such property upon which such public nuisance exists to be served with a notice to abate the public nuisance on or before fifteen days after receipt of such notice. Notice, as described herein, shall consist of the mailing of such notice to the owner, tenant or person in charge of the property by registered or certified mail, return receipt requested, or by personal service or by posting the notice in a conspicuous place upon such property for a period of five days.

Whoever fails to comply with such notice shall be deemed guilty of a minor misdemeanor and each day of such noncompliance shall constitute a separate offense.

(b) Public Nuisance Defined. The following shall be deemed to constitute a public nuisance within the City:

- (1) The erection, continuance, use or maintenance of a building, structure or place for the exercise of a trade, employment or business, either upon public or private property, or the keeping or feeding of any animal which, by causing noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public;
- (2) The storage of a motor vehicle in an inoperative or ~~unlicensed~~ unlicensed condition upon public or private property for more than fifteen days without being obscured from public view;



- (3) The storage of garbage and/or offal, which means and includes all refuse and waste of animals, fish, fowl, fruit and vegetable matter or accumulations in the use and preparation of food for the table, or which has been discarded and abandoned and is of no future use or value to the owner for domestic consumption, contrary to the rules and regulations of the Lorain County Board of Health;
- (4) The suffering, permitting, allowing to remain or maintaining of rubbish, refuse or junk, which includes but is not limited to wire, chips, shavings, bottles, broken glass, crockery, tin, cast or wooden ware, boxes, rags, weeds, paper, circulars, handbills, boots, shoes or ashes, or discarded or abandoned iceboxes, refrigerators, washing machines or other airtight or semi-airtight containers or any other waste material upon public or private property contrary to these Codified Ordinances or regulations of the Board of Health; and
- (5) The maintenance or allowance of building materials upon public or private property constitutes a public nuisance if such building materials, which include all residue from building construction and new building materials, are not removed or utilized in construction within thirty days after such materials are placed upon a premises. However, if construction is initiated upon such premises and such building materials are to be used in the construction, then such building materials shall be allowed to remain upon such premises for a period of time not to exceed thirty days after the completion of the construction. For the purpose of the prevention of rodents and other unsanitary conditions, any storage of building materials or deposit of the same upon any property shall consist of building materials being placed at least six inches off the ground at any time.

(c) Enforcement. Whenever any public nuisance exists, at the request of Council, the Law Director shall institute proceedings, either legal or equitable, that may be appropriate or necessary for the enforcement or abatement of the public nuisance. This section shall not relieve any person from criminal prosecution or punishment under these Codified Ordinances or any other criminal law enforced in the City.

(d) Remedy of City. If the owner or person having charge of any premises within the City upon which exists a public nuisance fails to comply with any notice established herein or fails to prohibit the existence of such public nuisance, the City has the authority to take whatever action is necessary to abate the public nuisance, including, but not limited to, entering upon any public or private property, and expending or furnishing labor and materials necessary to abate the public nuisance. All such expenses and costs shall be paid out of City funds appropriated therefor, and the City shall thereafter certify such expenses to the County Auditor. Such amounts shall thereupon be entered upon the tax duplicate and be a lien upon such lands from and after the date of entry thereon, to be collected as other taxes and remitted to the City upon collection.

521.99 PENALTY.

## CHAPTER 785 Garage Sales

785.01	Definitions.	785.05	Permit display.
785.02	Permit required.	785.06	Sale hours.
785.03	Permit application; issuance.	785.07	Permit revocation.
785.04	Permit period.	785.99	Penalty.

### 785.01 DEFINITIONS.

For the purposes of this chapter, certain words are defined as follows:

- (a) "Person" means individuals, associations of individuals, partnerships or corporations who or which conduct sales for a commission or other remuneration.
- (b) "Public sale" means any sale and delivery or offer of sale and delivery of any household furniture, furnishings, equipment, goods, wares or merchandise from, in, about or upon any premises, property or residence zoned for or utilized for residential purposes within this City to which the general public is invited pursuant to any advertisement or notice by newspaper, mail, individual flyer or otherwise.
- (c) "Garage sale" means a sale of household goods, equipment, utensils, appliances, personal clothing or effects, or other similar personal property including such sales commonly termed "basement sales", "house sales" or "lawn sales".

### 785.02 PERMIT REQUIRED.

No person shall conduct, hold or permit a public sale or garage sale without having a valid permit from the City for such purpose, in effect at the time, and issued pursuant to the provisions of this chapter.

### 785.03 PERMIT APPLICATION; ISSUANCE.

A permit for a public sale or garage sale shall be issued by the ~~Code Administrator~~City Manager or a person acting and authorized to act on his/her behalf upon the applicant's complying with the following provisions:

- (a) Giving his/her name and permanent address;
- (b) Obtaining the permit required by this chapter;
- (c) Giving the name and address of the party for whom the sale is being held; and
- (d) Giving the date of sales and number of sales in a calendar year.

### 785.04 PERMIT PERIOD.

(a) A permit for a public sale or garage sale shall be valid only for the period of the sale indicated thereon, not to exceed three consecutive days.

(b) No more than three sales per year shall be permitted at the same location.

### 785.05 PERMIT DISPLAY.

Every person receiving a permit under this chapter shall have his/her permit in his/her possession at all times when conducting a public sale or garage sale and shall display the same upon demand of any police officer and/or ~~the City Manager or designee~~ ~~Code Administrator~~ of the City and upon demand of any person who attends such public sale.

### 785.06 SALE HOURS.

No person shall conduct a public sale or garage sale, before 9:00 a.m. of any day or after 7:00 p.m. of any day.

### 785.07 PERMIT REVOCATION.

A permit for a public sale or garage sale applied for or issued pursuant to this chapter may be denied or revoked by the ~~City Manager or designee~~ ~~Code Administrator~~ for any of the following reasons:

- (a) Fraud, misrepresentation or any false statement made on the application in furnishing the information required therein.
- (b) A conviction of the permittee for violation of any provisions of this chapter.
- (c) Conviction of the permittee of any felony or crime involving moral turpitude.
- (d) Placement of signs advertising the garage sale that are not on the property of the garage sale.
- ~~(de)~~ Conducting a public sale in any unlawful manner or in such manner as to constitute a breach of the peace.

**785.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. A separate offense shall be deemed committed upon each day during or on which the violation occurs or continues.

(d) If the Sexually Oriented Business employee license is denied, the temporary license previously issued is immediately deemed null and void. The Chief of Police shall advise the applicant in writing of the reason(s) for any such denial.

#### 791.10 FEES.

(a) Every application for a new Sexually Oriented Business license shall be accompanied by a one hundred dollars (\$100.00) non-refundable application and investigation fee.

(b) Every application for renewal of a Sexually Oriented Business license shall be accompanied by a fifty dollars (\$50.00) non-refundable application and investigation fee.

(c) In addition to the application and investigation fee required in subparagraph (a) or (b) above, every applicant that is granted a Sexually Oriented Business license (new or renewal) shall pay to the City an annual, non-refundable license fee of three hundred sixty dollars (\$360.00) within thirty (30) days of license issuance or renewal.

(d) Every application for a new Sexually Oriented Business employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee of fifty dollars (\$50.00).

(e) Every application for renewal of a Sexually Oriented Business employee license shall be accompanied by an annual, nonrefundable application, investigation, and license fee of twenty-five dollars (\$25.00).

#### 791.11 INSPECTION.

(a) The Police Department shall, from time to time, but no more than four times in a calendar year, inspect that portion of each Sexually Oriented Business or adult motel licensed under the provisions of this chapter that is open to the public, at any time that it is occupied or open for business, in order to assess compliance with the provisions of this chapter.

(b) The Chief of Police may, from time to time, but not more than two times a calendar year, request that the Health Commissioner and/or the City of Oberlin Chief Building Official ~~and/or Code Administrator~~ inspect that portion of each Sexually Oriented Business or adult motel licensed under the provisions of this chapter that is open to the public in order to assess compliance with the provisions of this chapter.

(c) An applicant or licensee shall permit the City of Oberlin Chief Building Official ~~or Code Administrator~~ and representatives of the City of Oberlin Police Department, Fire Division, or other City departments or agencies, or the Health Commissioner, to inspect that portion of the premises of a Sexually Oriented Business or adult motel that is open to the public for the purpose of insuring compliance with the law, at any time that it is occupied or open for business.

(d) A person who operates a Sexually Oriented Business or his agent or employee commits a misdemeanor of the fourth degree if he refuses to permit such lawful inspection of the premises.

## CHAPTER 905 Sidewalks

905.01	Property owners to repair or construct sidewalks.	905.04	Assessment payable in lumpsum or installments.
905.02	Duty of City Manager; notice to owner.	905.05	Compliance with City specifications.
905.03	Assessment by City.	905.06	Additional remedies of City.

### 905.01 PROPERTY OWNERS TO REPAIR OR CONSTRUCT SIDEWALKS.

(a) It shall be the responsibility of the property owner to construct, maintain and repair public sidewalks within the City. Once installed, the owner of the lot or land abutting the public sidewalk shall keep the sidewalk in good repair and free from nuisance conditions. Further, once installed, no public sidewalk or part thereof shall be removed without the consent of the City.

(b) When any new dwelling or other principal building is constructed or located on any property and said lot or property is not subject to Section 1315.07 of the Planning and Zoning Code, the property owner shall construct a concrete sidewalk in the public right of way and parallel to the street frontage. On corner lots, the property owner shall install sidewalks on both frontages and handicap accessible crossing ramps. All new sidewalks and handicap accessible crossing ramps shall be constructed in accordance with the most recent edition of the Public Works Standards. The Chief Building Official or Residential Building Official Code Administrator shall not issue a certificate of occupancy for the newly constructed dwelling or principal building until the sidewalk is completed or the owner posts a cash bond within the City sufficient to cover the cost of constructing the sidewalk.

### 905.02 DUTY OF CITY MANAGER; NOTICE TO OWNER.

(a) The City Manager or designee shall periodically inspect all public sidewalks within the City. If an existing public sidewalk is deemed in need of maintenance, repair or replacement, the City Manager shall cause notice to be served upon the owner of the abutting property by certified mail at the owner's last known address. If the address is unknown, or the certified mail notice is returned undelivered, a copy of the notice shall be conspicuously posted on the property to which it relates and a copy of the notice shall be published once in a newspaper of general circulation in the City.

## CHAPTER 1115 Contractor Registration

1115.01	Registration required.	1115.06	Suspension of registration.
1115.02	Definitions.	1115.07	Appeal of <del>Code Administrator</del>
1115.03	Registration application and renewal.		suspension.
1115.04	Fee for registration.	1115.08	Persons exempt from registration.
1115.05	Waiver.	1115.99	Penalty.

### 1115.01 REGISTRATION REQUIRED.

All persons, firms, corporations, partnerships or any combination thereof, engaged as a contractor as hereinafter defined, shall be required to register for all trades engaged within the City before performing any work within the City and shall be subject to all the provisions of this chapter.

### 1115.02 DEFINITIONS.

(a) "Contractor" means a person, firm, corporation, partnership or any combination thereof, who engages for hire in construction or improvements within the City in one or more trade categories, whether acting for themselves or others, and whether such trade is being performed by themselves, their employees or under subcontract. In the event that the one trade category is under subcontract, no work shall be performed until the subcontractor is registered by the City.

(b) "Trade" means field of work requiring special skill or involving the use of specialized building crafts, and includes the following:

- (1) Masonry, which includes, but is not limited to, brick laying, block laying, concrete and cement, asphalt work and paving.
- (2) Carpentry, which includes, but is not limited to, woodworking, siding, roofing and windows.
- (3) Heating, tinning, central air conditioning and sheet metal work.
- (4) Wall covering, which includes, but is not limited to plastering, dry wall, taping, insulating and lath work.
- (5) Excavation, which includes, but is not limited to, sanitary sewer work, storm sewer work and general excavating, earth moving and grading.
- (6) Structural iron work for new construction.
- (7) Sign erection.
- (8) Swimming pool installation for all pools installed below grade.

### 1115.03 REGISTRATION APPLICATION AND RENEWAL.

(a) Application. Application for registration shall be made to the Chief Building Official or Residential Building Official ~~Code Administrator~~ on forms provided therefore.

(b) Qualifications for Registration.

- (1) The applicant for trades (1) through (6) and (8) specified in Section 1115.02(b) shall have a minimum of two years practical experience; an affidavit to this effect shall be provided. In lieu of the experience required, the applicant may qualify with two years technical training in an accredited school; proof of the same shall be furnished at time of registration.
- (2) The applicant shall provide any and all references as may be requested on the application form in the manner provided.
- (3) All registrations shall expire on December 31 of the year in which they are in force. Renewal of registration may be commenced thirty days prior to the expiration date. For renewal of registration, the final date will be January 31 within the year that the registration is to be renewed.



- (4) Every applicant for registration shall, upon the approval of this application, furnish and file with the Building Division—Code Administrator, proof of public liability insurance in a minimum sum of one hundred thousand dollars (\$100,000) and property damage insurance in a minimum sum of fifty thousand dollars (\$50,000).

#### 1115.04 FEE FOR REGISTRATION.

Upon the approval of the application for registration and before a certificate is issued, the following fees shall apply:

Initial fee	\$25.00
Annual renewal fee	25.00

#### 1115.05 WAIVER.

The Chief Building Official or Residential Building Official—Code Administrator, with the concurrence of the City Manager, may waive any or all of the above requirements in cases of hardship.

#### 1115.06 SUSPENSION OF REGISTRATION.

Registration may be suspended by the Chief Building Official or Residential Building Official—Code Administrator upon giving written notice to that effect to the contractor for the following reasons:

- (a) Violation of any provision of this chapter and any law of the Building Code;
- (b) Misrepresentation of material fact in order to become registered, or in the renewal of registration;
- (c) Failure to secure permits, inspections and approvals required by the Building Code and regulations of the Building Department;
- (d) Use of registration to obtain a permit for another;
- (e) Failure or refusal to correct a violation of the Building Code within a prescribed period of time or to correct incompetent work as ordered by the Chief Building Official or Residential Building Official—Code Administrator; or
- (f) For any other reason that is determined to be adverse to the health, safety and welfare of the citizens of the City.

#### 1115.07 APPEAL OF ~~CODE ADMINISTRATOR~~ SUSPENSION.

(a) The Housing Renewal Commission shall hear all appeals of a decision to suspend registration by the Chief Building Official or Residential Building Official—Code Administrator.

(b) Persons, firms or corporations aggrieved by the decision of the Chief Building Official or Residential Building Official—Code Administrator, may within five working days of the date of receipt of notice of suspension appeal to the Housing Renewal Commission by filing with the Chief Building Official or Residential Building Official—Code Administrator written notice of appeal, specifying the reasons therefor.

(c) The Housing Renewal Commission, within three working days of the date of receipt of the appeal by the Chief Building Official or Residential Building Official—Code Administrator shall afford a public meeting upon such appeal. The Commission shall at that meeting affirm or reverse the decision of the Chief Building Official or Residential Building Official—Code Administrator.

(d) The Commission shall affirm the decision of the Chief Building Official or Residential Building Official—Code Administrator unless it finds:

- (1) That the Chief Building Official or Residential Building Official—Code Administrator erred as a matter of law; or
- (2) That the decision is not supported by reliable or probative evidence.

(e) Three members of the Commission shall constitute a quorum. In the event there is no quorum, the public meeting may be continued one time for no longer than three working days.

The affirmative votes of three members shall be required to reverse a decision of the Chief Building Official or Residential Building Official ~~Code Administrator~~. No member of the Commission shall pass on any question in which he/her has a financial or personal interest.

(f) Any party aggrieved by the decision of the Housing Renewal Commission may appeal to Council for final judgment by filing written notice thereof to the Clerk of City Council within thirty days of the date of the decision by the Housing Renewal Commission. Council shall make a decision within thirty days.

(g) No person shall do any work authorized by a certificate of registration when the same is suspended or revoked.

#### 1115.08 PERSONS EXEMPT FROM REGISTRATION.

(a) Home Owners. No provision or provisions of this chapter shall be construed to require that a bona fide owner of a one, two or three-family dwelling to be registered, who personally will perform work upon his/her premises. Home owners, however, shall be required to obtain all necessary permits. Such work shall be performed in accordance with the Building Code and according to plans and specifications filed with the application for permit.

(b) Government Agencies; Public Utilities; Private Organizations. Provisions of registration shall not apply to federal, State, county or municipal governmental agencies or public utilities furnishing services to the City under municipal-utilities franchise agreement, to industrial, commercial or institutional organizations. A maintenance department, doing work within the provisions of the Building Code, is provided for except that should work covered by the Building Code be contracted to outside concerns, then such contractors shall be registered with the City as provided therein.

#### 1115.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Each day such violation continues shall constitute a separate offense.

TITLE NINE - Housing and Property Maintenance  
Chap. 1151. International Property Maintenance Code.  
Chap. 1173. Housing Renewal Commission.

CHAPTER 1151  
International Property Maintenance Code

- |         |             |         |                               |
|---------|-------------|---------|-------------------------------|
| 1151.01 | Adoption.   | 1151.03 | Code provisions to be minimum |
| 1151.02 | Amendments. |         | regulations; additional       |
|         |             |         | requirements.                 |

1151.01 ADOPTION.

A certain document, three copies of which are on file in the office of the Building Division ~~Code Administrator~~ of the City, being marked and designated as the International Property Maintenance Code, 2009~~3~~ Edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the City, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Building Division ~~Code Administrator~~ are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in Section 1151.02.

CHAPTER 1173  
Housing Renewal Commission

- |         |                                       |         |   |
|---------|---------------------------------------|---------|---|
| 1173.01 | Composition, appointment and terms.   | 1173.04 | Jurisdiction; variances.                    |
| 1173.02 | Hearings, officers, quorum and rules. | 1173.05 | Appeal of Commission's decision to Council. |
| 1173.03 | Appeals; hearing procedure.           | 1173.06 | Further Commission powers.                  |

1173.01 COMPOSITION, APPOINTMENT AND TERMS.

The Housing Renewal Commission shall consist of five members appointed by Council for terms of five years each with preference given to those with experience in the building trades.

1173.02 HEARINGS, OFFICERS, QUORUM AND RULES.

The hearings of the Housing Renewal Commission shall be public and held at the call of the chairman and at such times as the Commission may determine. The Commission shall organize annually and elect a chairman, vice-chairman and secretary. The Commission shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of the Building Code, and keep a record of its proceedings showing the action of the Commission and the vote of each member upon each question considered. The presence of three members shall be necessary to hold a meeting. Concurrence of three members of the Commission shall be necessary to reverse any ruling of the Chief Building Official or Residential Building Official-Code Administrator. The Commission shall hear an appeal of any owner of property or building contractor adversely effected by a decision of the Chief Building Official or Residential Building Official-Code Administrator. The chairman or acting chairman of the Commission shall have the power to administer oaths during any public hearing.

1173.03 APPEALS; HEARING PROCEDURE.

Appeals may be taken to and before the Housing Renewal Commission by any person aggrieved by an order of any officer, department, board or bureau of the City in the enforcement of Housing Codes. The appeal shall be taken within ten days from the date of the decision by filing the following with the office of the Chief Building Official and Residential Building Official-Code Administrator of the City:

- (a) A notice of appeal specifying the grounds thereof;
- (b) The name and address of the appellant or his/her agent; and
- (c) A detailed plan and description of the proposed building, addition or remodeling question.

The Chief Building Official or Residential Building Official-Code Administrator, when the foregoing have been filed with him/her, shall immediately transmit the same to the Chairman of the Commission together with the other papers constituting the records, plus a concise written statement of the reasons for his/her actions citing a specific ordinance or ordinances justifying his/her action.

The Commission shall fix a reasonable time for a hearing to be held on the appeal and give notice of the hearing by certified mail, return receipt requested, upon those property owners or contractors named in the appeal, process an additional notice by a legal ad published once in two newspapers having a general circulation in the City, all of such notices to be sent and/or published at least two weeks before the date set for the hearing. Notice of the hearing shall also be sent to Council.

Any party to the appeal may present such witnesses as they may desire. Any persons so testifying shall do so under oath and both the appellant and appellee shall not only have the right to present testimony, but also have the right of cross examination.

The entire record of the proceedings shall be taken by tape recorder and upon payment of the costs by the party desiring a transcript, the record shall be transcribed into typewritten form.

Upon the conclusion of all testimony, the Commission may go into executive session for discussion. The Commission shall render its decision within fifteen days from the date of the

hearing. Upon failure to render a decision, the order of the Chief Building Official or Residential Building Official ~~Code Administrator~~ shall be deemed to be upheld.

Each party receiving notice of the Commission meeting shall also receive notice of its decision.

#### 1173.04 JURISDICTION; VARIANCES.

(a) Authority. Upon hearing an appeal, the Housing Renewal Commission shall have the following authority provided the appeal has been perfected in accordance with the provisions of Section 1173.03:

- (1) To review the actions of the administrative officer from which the appeal is taken and render a determination as to whether the actions of the officer are in accordance with the ordinances of the City. If the Commission finds that the actions are not in accordance with City ordinances, it shall reverse the actions and render findings and judgment in accordance with such ordinances.
- (2) If the Commission determines that the actions of the administrative officials are in accordance with the ordinances of the City, it shall hear evidence on the questions of permitting exceptions and variances to such ordinances.

(b) Variances. The Housing Renewal Commission shall vary any provision of Part Eleven, Building Code of the Codified Ordinances, excluding Chapters 1185 and 1187 in any particular case, when, in its opinion:

- (1) Enforcement, thereof, would do manifest injustice, or
- (2) Enforcement, thereof, would be contrary to the spirit and the purpose of the Building Code or the public interest.

(c) Findings of Commission. In granting any of the exceptions and/or variances, the Commission shall make the following findings:

- (1) That the appeal is upon one of the foregoing grounds, subsections (b)(1) or (2), and specify the same;
- (2) That the proposed appeal:
  - A. Is reasonable and necessary;
  - B. Will not be contrary to the public interest;
  - C. Will not increase the danger of fire or endanger the public safety;
  - D. Will not unreasonably diminish or impair established property values in the surrounding areas; and
  - E. Will not, in any respect, impair the public health, safety, morals or welfare of the inhabitants of the City.
- (3) In addition, under hardship appeals, the Commission shall define the specific practice or hardship found by the Commission.
- (4) In the event the foregoing findings of fact are not made, the Commission shall disapprove the appeal.

#### 1173.05 APPEAL OF COMMISSION'S DECISION TO COUNCIL.

(a) Appeal Notice. Any party aggrieved by the decision of the Housing Renewal Commission may, within thirty days of the decision of the Commission, appeal to Council by filing a notice of appeal with the Commission and with the Clerk of Council.

(b) Transcript to Council. Within twenty days from the date of filing the notice of appeal, the person appealing shall, at his/her expense, file a transcript of the testimony presented at the hearing before the Housing Renewal Commission, to Council, and Council shall hear and decide the appeal within thirty days from the filing of the transcript and may hear any additional evidence presented. Council shall have the right to consider any additional evidence.

(c) Council Decision. Council shall affirm the decision of the Housing Renewal Commission unless it finds:

- (1) That the Commission erred as a matter of law; or



(2) That the decision is not supported by reliable and probative evidence.

(d) Transcript Cost Reimbursement. If Council reverses the decision of the Housing Renewal Commission and decides in favor of the appellant, the person appealing shall be reimbursed the costs of filing the transcript of testimony.

(e) Further Appeal Action. The property owner, after the decision of Council has been made, shall have the right to further appeal to the Court of Common Pleas as provided in the Administrative Appeals Act of the State Legislature.  
(Ord 1333AC. Passed 12-19-77.)

#### 1173.06 FURTHER COMMISSION POWERS.

It shall further be the power of the Housing Renewal Commission to:

- (a) Annually review with the Chief Building Official and Residential Building Official ~~Code Administrator~~ the Building Code of the City, and
- (b) Report and recommend to Council any amendment, deletion or addition to the Building Code the Commission deems necessary.



**CHAPTER 1187**  
**Historic Landmarks and Buildings**

1187.01	Statement of purpose.	1187.09	Procedures for review of proposed alterations to historic landmarks and properties within historic districts.
1187.02	Oberlin Historic Preservation Commission.	1187.99	Penalty.
1187.03	Duties of the Commission.	Appendix A	The Secretary of the Interior's Standards for Rehabilitation.
1187.04	Definitions.	Appendix B	The National Register of Historic Places and The Ohio Historic Inventory Defined.
1187.05	Standards for designating a landmark.		
1187.06	Standards for designating a historic district.		
1187.07	Procedures for designation of individual landmarks.		
1187.08	Procedures for designation of historic districts.		

**1187.01 STATEMENT OF PURPOSE.**

(a) The purpose of this chapter is to preserve Oberlin's distinctive character and its cultural, social, residential, commercial, industrial, educational, political or architectural heritage for the enjoyment, enrichment and benefit of the citizens of Oberlin.

(b) To foster economic vitality by publicly encouraging both private and public investment in Oberlin's older buildings, neighborhoods and districts.

(c) To foster civic pride in the beauty and notable accomplishments of the past.

(d) To provide guidance for preservation and enhancement of existing historical structures and new structures in historic districts.

(e) To act as liaison on behalf of the City of Oberlin to individuals and groups concerned with historic preservation, and help property owners to make judicious and historically correct decisions relating to proposed modifications and/or repairs to historic structures.

(f) To provide available preservation, restoration, and rehabilitation information to the citizens of Oberlin.

**1187.02 OBERLIN HISTORIC PRESERVATION COMMISSION.**

(a) The Oberlin Historic Preservation Commission is hereby created and shall consist of five (5) residents of Oberlin. Members shall be appointed in accordance with Section XIX of the Charter of the City.

(b) Commission members shall each serve five-year staggered terms. Any vacancy during the unexpired term of any appointed member shall be filled, within sixty (60) days if possible, by Council for the remainder of the term.

(c) All Commission members shall have a demonstrated special interest, experience, or knowledge of historic preservation, history, architecture or related disciplines. At least two members of the Commission shall be preservation related professionals in a field such as architecture, architectural history, history, archeology, planning or a related area, if such are available in Oberlin.

However, no more than two members shall be employees of or policy makers for any one non-governmental organization.

(d) Upon appointment, the Commission shall convene and select a chair and vice chair. The Commission may establish its own rules and regulations, subject to City Council approval.

(e) The Commission shall establish its schedule of meeting times and places, and shall meet at least four (4) times a year.

(f) All Commission meetings shall comply with federal, state, and local laws dealing with public meetings and shall provide adequate advance notice of meetings. Written minutes of Commission meetings shall be kept and made available for public inspection.

(g) Commission members shall be subject to Oberlin ordinances regarding conflict of interest and ethics as well as provisions on these subjects in the Ohio Revised Code.

(h) At least once a year the Commission shall submit a written report to City Council that summarizes its activities, cases, special projects, recommendations, and the qualifications of its members. Such reports shall be available for public inspection.

(i) All Commission documents and materials shall be available for public inspection in compliance with federal, state, and local "Freedom of Information" laws and policies.

#### 1187.03 DUTIES OF THE COMMISSION.

The Oberlin Historic Preservation Commission shall have the following responsibilities:

- (a) It will promote interest in historic preservation and educate Oberlin citizens about historic preservation by holding workshops and preparing informational material, as appropriate.
- (b) The Commission shall recommend to City Council the designation of landmarks and historic districts according to the procedures set forth for such matters in Sections 1187.07 and 1187.08. It shall keep a list of designated landmarks and historic districts; furnish the list to the Oberlin ~~City Manager-Code Administrator~~, the City Clerk, and pertinent City Commissions; and make it available to the public.
- (c) It shall issue Certificates of Appropriateness in response to applications for construction, preservation, restoration, reconstruction, rehabilitation, and/or demolition of any building, object or feature within any historic district, or of any designated landmark, according to the procedures set forth for such matters in Section 1187.09.
- (d) It shall use the Secretary of Interior's Standards for Rehabilitation (See Appendix A) and apply them within the City of Oberlin as deemed appropriate by the Commission.
- (e) It shall work with property owners to designate eligible Oberlin landmarks, buildings or structures on the National Register and to participate in the Ohio Historic Inventory (See Appendix B).
- (f) It shall review all proposed National Register nominations for properties within its jurisdiction.
- (g) It shall advise other officials and departments in Oberlin's city government regarding the protection of local cultural resources.
- (h) It shall act as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation.
- (i) When the Commission considers a National Register nomination, or other action, which is normally evaluated by a professional in a specific discipline, and that discipline is not represented on the Commission, the Commission may, upon authorization of City Council, seek expertise in this area before rendering its decision. It may be advised by technical consultants, under contract executed by the City Manager, as City finances permit, to assist it in performing its functions.
- (j) It shall encourage its members to attend workshops, seminars, and other educational programs on historic preservation.

- (k) It shall be responsible for maintaining a system for the survey and inventory of historic properties and cultural resources. All inventory material shall be recorded according to Ohio Historic Preservation Office guidelines, maintained securely and made accessible to the public. The inventory shall be updated periodically to reflect alterations and demolitions.

#### 1187.04 DEFINITIONS.

(a) "Alteration" means any material change in the external architectural features of any designated landmark. Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of any designated property provided such work involves no change in material, design, texture or exterior appearance; nor shall anything in this chapter be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which in the view of the Chief Building Official, Residential Building Official-Code Administrator or Fire Chief is required for the public safety because of an unsafe, insecure or dangerous condition.

(b) "Certificate of Appropriateness " means a certificate issued by the Oberlin Historic Preservation Commission indicating that a proposed alteration or demolition of a designated landmark or of a building or structure within a historic district is in accordance with the provisions of this chapter.

(c) "Cultural Resources" means the building, sites, objects, and districts that embody or convey Oberlin's history.

(d) "Demolition" means the removal or destruction in whole or in part of any designated landmark, building or structure, including those in historic districts.

#### 1187.05 STANDARDS FOR DESIGNATING A LANDMARK.

(a) A Designated Landmark is any real property that has been designated as a historic landmark under the provisions of this chapter.

(b) To qualify as a designated landmark real property must have integrity of design, material, and workmanship, and have historic or cultural significance. Historically or culturally significant real property:

- (1) Is associated with an event(s) that has (have) made a significant contribution to the broad patterns of history; or
- (2) Is associated with the life of a person(s) significant in the past; or
- (3) Embodies the distinctive characteristics of a type, period or method of construction; or which embodies the distinguishing characteristics of an architectural style, or a work of a noted architect or builder;
- (4) Has yielded or is likely to yield information important to prehistory or history.

(c) Cemeteries, birthplaces or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty (50) years shall not be considered to be of historic significance unless they are integral parts of districts that meet the above criteria or unless they fall within the following categories:

- (1) A religious property which is primarily significant for its architecture or secular history; or
- (2) A relocated building which has a high degree of architectural significance or which is the primary building or structure associated with an individual or an event; or
- (3) The birthplace site or grave site of a historical figure if no other built feature survives which is directly associated with his or her productive life; or

- (4) A cemetery primarily important because of its age, distinctive design features, association with the graves of persons of transcendent importance, or which is associated with historic events; or
- (5) A reconstructed building or structure when accurately represented in a suitable environment as part of a restoration master plan and when no other building or structure with the same association has survived; or
- (6) A property primarily commemorative in intent if design, age, tradition or symbolic value have given it significance; or
- (7) A property achieving significance within the past fifty (50) years if it is of exceptional importance or is unique in the City of Oberlin.

#### 1187.06 STANDARDS FOR DESIGNATING A HISTORIC DISTRICT.

(a) A Historic District is any area which has been designated a historic district under the provisions of this chapter.

(b) In addition to meeting at least one of the above criteria for historic landmarks, proposed historic districts must also meet the following criteria:

- (1) The proposed area must be defined by boundaries that set the area off in relation to its surroundings;
- (2) The area within the proposed boundaries must have a high degree of historic integrity, without excessive loss of architectural or historic character;
- (3) The area within the proposed boundaries must have an internal historic cohesiveness in the sense of a shared common history of its inhabitants, historical development according to a master plan, shared architectural styles or designs, or a body of architecture illustrating the evolution of architectural styles over a period of time.

#### 1187.07 PROCEDURES FOR DESIGNATION OF INDIVIDUAL LANDMARKS.

(a) When a proposal to designate an individual property as a landmark is received from a property owner or initiated by the Commission, the Commission shall consider the proposal in terms of the criteria defined in Section 1187.05 and make a recommendation to City Council.

(b) For proposed individual landmarks the following procedure shall be followed:

- (1) The owner(s) shall be notified by certified mail that the property is being considered for designation by the Commission. The notice shall include the date, time, and place of a public hearing relative to the proposed designation. The owner(s) shall be invited to comment in writing. The general public shall also be notified through the local newspaper.
- (2) No sooner than thirty (30) days after sending its notice to the owners and publishing a legal notice in the newspaper, the Commission shall conduct a public hearing and review any written comments received. The hearing shall be open for public comment. At the close of the hearing, and if there is no objection by the property owner, the Commission shall forward a copy of the minutes of the hearing, along with its recommendation for designation to City Council.
- (3) At the next regular City Council meeting occurring subsequent to the receipt of a recommendation from the Historic Preservation Commission to designate an individual landmark, Council shall vote by motion on the designation of the property(ies).
- (4) If Council does not approve the nomination(s), and if there is no objection from the property owner, then the Commission may revise and/or resubmit the nomination(s) to Council with any additional supportive information. The property owner shall be notified as to the date that City Council will be acting on the renomination.

(c) Immediately after the approval of the individual landmark by City Council, the Clerk of Council shall notify all affected property owner(s) of the decision in writing, add the individual landmark designation to the list of same, and forward a copy of the information to the City Manager, the Planning and Development Director and Code Administrator and all pertinent City Commissions.

(d) The Commission may recommend that Council remove from the landmarks list properties that no longer meet the criteria of this chapter.

#### 1187.08 PROCEDURES FOR DESIGNATION OF HISTORIC DISTRICTS.

(a) When a proposal to create a historic district is received or initiated by the Commission, the Commission shall consider the proposal in terms of the criteria defined in Section 1187.06 and make a recommendation to City Council.

(b) For proposed historic districts, the following procedures shall be followed:

- (1) All property owners within the proposed historic district shall be notified by certified mail that the property is being considered for designation within an historic district. The notice shall include the date, time, and place of a public hearing relative to the proposed designation. The owners shall be invited to comment in writing. The general public shall also be notified through the local newspaper.
- (2) No sooner than thirty (30) days after sending its notice to the owners and publishing a legal notice in the newspaper, the Commission shall conduct a public hearing and review any written comments received. The hearing shall be open for public comment. The Commission shall explain the effects of designation, why landmark status is being sought, and record the comments of persons in attendance. At the close of the hearing, and if there is no objection by fifty-one percent (51%) or more of the property owners, the Commission shall forward a copy of the minutes of the hearing, along with its recommendation for designation to City Council.
- (3) At the next regular City Council meeting occurring subsequent to the receipt of a recommendation from the Historic Preservation Commission to designate an historic district, Council shall vote by motion on the designation of the district.
- (4) If Council does not approve the nomination, and if owners pose no objections, then the Commission may revise and/or resubmit the nomination to Council with any additional supportive information. The property owners shall be notified as to the date that City Council will be acting on the renomination.

(c) Immediately after the approval of the historic district by City Council, the Clerk of Council shall notify all property owners in the district of the decision in writing, add the historic district designation to the list of same, and forward a copy of the information to the City Manager, Code Administrator the Planning and Development Director and all pertinent City Commissions. The Clerk shall keep a copy of the list on file for public inspection.

#### 1187.09 PROCEDURES FOR REVIEW OF PROPOSED ALTERATIONS TO HISTORIC LANDMARKS AND PROPERTIES WITHIN HISTORIC DISTRICTS.

(a) The Commission, assisted by City personnel, shall be available to applicants as a source of information and assistance before an application is made. Applicants are encouraged to make use of this service.

(b) No person shall make any exterior alteration to or demolish any historic structure or part thereof which is a designated City landmark or lies within a local historic district without first obtaining a Certificate of Appropriateness. A Certificate of Appropriateness must be obtained for new construction on vacant sites within historic districts.

(c) Application(s) for a Certificate of Appropriateness shall be filed with the Planning and Development Director-Code Administrator in such form as may be prescribed by the Commission and approved by the City Manager. The Planning and Development Director-Code Administrator is responsible for ensuring that any construction to be undertaken is in accordance with the Certificate of Appropriateness.

(d) The Commission shall approve or reject an application for a Certificate of Appropriateness within forty-five (45) days of the filing of a complete application. If the Commission fails to act within the time period, the application for a Certificate of Appropriateness shall be deemed approved.

(e) Each case will require careful consideration of all relevant factors, including earlier changes, existing conditions and surrounding properties. Some flexibility is often necessary to accommodate the property owner. The Commission shall approve, or approve with conditions, the Certificate of Appropriateness if it finds that the proposal conforms to the Secretary of the Interior's Standards for Rehabilitation.

(f) In the case of the denial of a Certificate of Appropriateness, the Commission shall state the reasons for denial in writing and include findings of fact in support of the decision. Copies of the decision shall be mailed to the applicant. The Commission may suggest changes which can result in approval, and offer to continue to meet with the owner to achieve a mutually satisfactory compromise.

The property owner may, within ten (10) days of receipt of the decision of the Historic Preservation Commission, appeal to City Council by filing a written notice of appeal with the Commission and the Clerk of Council. City Council shall hear the appeal and render a decision within thirty (30) days of the filing of the notice of appeal. City Council may affirm, reverse, or modify the decision of the Historic Preservation Commission. The property owner shall receive written notification of Council's decision.

#### 1187.99 PENALTY.

Any person, firm or corporation who violates any of the provisions of this chapter shall, upon conviction thereof in a court of competent jurisdiction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) for each violation. Each and every day that a violation continues shall constitute a separate offense, up to a period of one year.

In addition, the City may institute a civil action in a court of competent jurisdiction to enjoin any violations of this chapter.



(d) Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(e) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes. Where a provision of this chapter may be in conflict with a State law, such State law shall take precedence over the chapter.

(f) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

#### **1191.04 ADMINISTRATION.**

(a) Establishment of Development Permit. A development permit shall be obtained from the City ~~Manager or designee~~ ~~Code Administrator~~ before construction or development begins within any area of special flood hazard established in Section 1191.03(b). Application for a development permit shall be made on forms furnished by the ~~City Code Administrator~~ and may include but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structure, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures;
- (2) Elevation in relation to mean sea level to which any proposed nonresidential structure will be flood-proofed;
- (3) Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 1191.08(b); and
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.
- (5) Certification by a registered professional engineer, architect, or surveyor of the structure's as-built lowest floor or flood-proofed elevation.

(b) Exemption From Filing a Development Permit. An application for a development permit shall not be required for maintenance work such as roofing, painting and basement sealing, or for small development activities (except for filling and grading) valued at less than one thousand dollars (\$1,000).

#### **1191.05 FLOOD DAMAGE PREVENTION ADMINISTRATOR DESIGNATED; DUTIES.**

(a) The City Manager or designee ~~Code Administrator~~ is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(b) The duties and responsibilities of the City Manager or designee ~~Code Administrator~~ shall include but are not limited to:

(1) Permit review.

- A. Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- B. Review all development permits to assure that all necessary permits have been received from those federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required. The applicant shall be responsible for obtaining such permits as required including permits issued by the Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.
- C. Review all development permits to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section 1191.09(a) is met.
- D. Inspect all development projects before, during, and after construction to ensure proper elevation of the structure and to ensure compliance with all provisions of this chapter.
- E. Fee schedule: As provided by ordinance.

(2) Use of other base flood elevation and floodway data. Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section 1191.03(b) are designated as Zone A on the community's Flood Insurance Rate Map. Within these areas, the City Manager or designee ~~Code Administrator~~ shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source, in order to administer Sections 1191.03(b), 1191.08(a) and (b) and Section 1191.09.

(3) Information to be obtained and maintained. Where base flood elevation data are utilized within areas of special flood hazard on a community's Flood Hazard Boundary Map or Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:

- A. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not such structures contain an enclosure below the lowest floor;
- B. For all new or substantially improved floodproofed nonresidential structures:
  - 1. Verify and record the actual elevation (in relation to mean seal level) to which the structure was floodproofed; and,
  - 2. Maintain the floodproofing certifications required in Section 1191.04(a)(3).
- C. Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) Alteration of watercourses.

- A. Notify adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any changes occur within its banks.
  - B. Maintain engineering documentation required in Section 1191.04 (a)(4) that the flood-carrying capacity of the altered or relocated portion of said watercourse will not be diminished.
  - C. Require that necessary maintenance will be provided for by the applicant for the altered or relocated portion of such watercourse so that the flood-carrying capacity will not be diminished.
- (5) Interpretation of flood boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). Where a map boundary and elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1191.06.
- (6) Alteration of community boundaries. Upon occurrence, notify FEMA in writing whenever the boundaries of the City have been modified or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City's Flood Insurance Rate Map accurately represents the City's boundaries, include within such notification a copy of a map of the City suitable for reproduction, clearly delineating the new corporate limits or the new area for which the City has assumed or relinquished floodplain management regulatory authority.

#### **1191.06 VARIANCE PROCEDURE.**

(a) Appeal Board.

- (1) The Zoning Board of Appeals as established by the City shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Board shall hear and decide appeals when it is alleged there is an error in any requirements, decision, or determination made by the City Code Administrator in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Board or any inhabitant of the City may appeal such decision to Council.
- (4) In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
  - A. The danger that materials may be swept onto other lands to the injury of others;
  - B. The danger to life and property due to flooding or erosion damage;
  - C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - D. The importance of the services provided by the proposed facility to the community;
  - E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - F. The necessity to the facility of a waterfront location, where applicable;
  - G. The compatibility of the proposed use with existing and anticipated development;

- H. The relationship of the proposed use to the comprehensive plan and flood plan management program for that area;
  - I. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - J. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
  - K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) Upon consideration of the factors of subsection (a)(4) hereof and the purposes of this chapter the Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
  - (6) The City Manager or designee ~~Code Administrator~~ shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (b) Conditions for Variances.
- (1) Variances may only be issued where due to physical characteristics of the property, compliance with the requirements of this chapter creates an exceptional hardship. Increased cost or inconvenience of meeting the requirements of this chapter do not constitute an exceptional hardship.
  - (2) Variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (4) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (5) Variances shall only be issued upon:
    - A. A showing of good and sufficient cause;
    - B. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (a)(4) hereof or conflict with existing local laws or ordinances.
    - D. A determination that the structure or other development is protected by methods to minimize flood damages.
  - (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### **1191.07 GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION.**

In all areas of special flood hazards the following standards are required:

(a) Anchoring.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (2) All manufactured homes not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including buoyancy. Methods of anchoring may include, but are not to be limited to use of over-the-top or frame ties to ground anchors.



- (1) Be certified by a registered professional engineer or architect; or,
  - (2) Shall meet or exceed the following criteria:
    - A. A minimum of two openings having a total net area of not less than one square inch for every foot of enclosed area shall be provided;
    - B. The bottom of all openings shall be no higher than one foot above grade; and,
    - C. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - (3) Any enclosure which meets these criteria shall be considered as having met the requirements of Section 1191.07(a).
- (f) Subdivisions and Large Developments. In all areas of a special flood hazard where base flood elevation data have not been provided in accordance with 1191.03(b), Basis for establishing the areas of a special flood hazard or Section 1191.05(b)(2), Use of other base flood elevation data, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or 5 acres (whichever is less):
- (1) The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;
  - (2) If Section 1197.08(f) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 1191.07, GENERAL STANDARDS, and Section 1191.08, SPECIFIC STANDARDS.

#### **1191.09 FLOODWAYS.**

(a) Areas with Floodways. The Flood insurance Study referenced in Section 1191.03(b) identified a segment within areas of special flood hazard known as a floodway. Floodways may also be delineated in other sources of flood information as specified in Section 1191.05(b)(2). The floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential. The following provisions apply within all delineated floodway areas:

- (1) Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation by a registered professional engineer or architect demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) If subsection (a) hereof is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 1191.07, 1191.08 and this section.
- (3) Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval by the Federal Emergency Management Agency. Such requests must be submitted by the City Manager or designee ~~Code Administrator~~ to the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program.



- (4) Permitted uses, if subsection (a) hereof is satisfied shall be as follows:
- A. Agriculture nurseries and truck gardening;
  - B. Recreation facilities of a primarily open nature such as parks and playgrounds, picnic areas, golf courses, sporting areas, fishing and hunting areas, nature and woodland preserves and wildlife sanctuaries;
  - C. Foot paths, bicycle paths and foot bridges;
  - D. Residential uses such as flower or vegetable gardens and lawns;
  - E. Sanitary and storm water sewage mains.

(b) Areas without Floodways. In all areas of special flood hazard where the Flood Insurance Study provides base flood elevation data as set forth in Section 1191.03(b), but no floodways have been designated, the following provisions apply:

- (1) New construction, substantial improvements, or other development (including fill) shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 1.0 (one) foot at any point.
- (2) If subsection (a) hereof is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 1191.07, 1191.08 and this section.

#### **1191.99 PENALTY.**

Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Whoever violates any provision of this chapter or fails to comply with any of its requirements (including violations of conditions of and safeguards established in connection with conditions) shall be fined or imprisoned as provided by the laws of the City. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violations.

## **TITLE FIVE - Zoning Ordinance**

- Chap. 1321. Definitions.
- Chap. 1323. Permits, Enforcement, and Penalty.
- Chap. 1325. Zoning Board of Appeals.
- Chap. 1327. Amendments.
- Chap. 1329. Zoning District and Map; Compliance.
- Chap. 1331. "R-1A" Single-Family Dwelling District.
- Chap. 1333. "R-1B" Single-Family Dwelling District.
- Chap. 1335. "R-1" Single-Family Dwelling District.
- Chap. 1337. "R-2" Dwelling District.
- Chap. 1338. "PD" Planned Development District.
- Chap. 1339. "P-1" Public Park and Recreation District.
- Chap. 1340. "C-3" Planned Highway Commercial District.
- Chap. 1341. "C-1" Central Business District.
- Chap. 1342. "C-2" General Business District.
- Chap. 1343. "M-1" Light Industrial District.
- Chap. 1344. "CDD" Conservation Development District.
- Chap. 1345. Exemptions and Modifications.
- Chap. 1346. "O" Office District.
- Chap. 1347. Nonconforming Uses.
- Chap. 1349. Off-Street Parking and Loading.
- Chap. 1351. Signs.
- Chap. 1353. Rooming Houses.
- Chap. 1354. Temporary Shelters.
- Chap. 1355. Conditional Use Permits.
- Chap. 1357. Site Plan Review.
- Chap. 1359. Locational Criteria for Sexually Oriented Businesses.

## **CHAPTER 1321 Definitions**

1321.01	General provisions.	1321.14	Building setback line.		
1321.02	Alley.	1321.141	Business or commerce.		
1321.03	Apartment.	1321.15	Carport.		
1321.04	Apartment, garden.	1321.16	City.		
1321.05	Basement.	1321.17	City Council.		
1321.06	Bed and breakfast inn.	1321.18	City Engineer.		
1321.07	Buffer.	1321.19	City Manager.		
1321.08	Building.	1321.20	City Law Director.		
1321.09	Building, accessory.	1321.21	Clinic.		
1321.10	Building, community.	1321.22	Club.		
1321.11	Building, height of.	1321.23	<u>Building</u> <u>Division</u> <u>Code</u>		
1321.12	Building, line of.		<del>Administrator.</del>		
1321.13	Building, professional office.	1321.24	Comprehensive Plan.		

**1321.18 CITY ENGINEER.**

"City Engineer" means the City Engineer or Consulting Engineer of the City of Oberlin or a Consulting Engineer engaged by the City to perform the duties of the City Engineer.

**1321.19 CITY MANAGER.**

"City Manager" means the Chief Executive Officer of the City of Oberlin.

**1321.20 CITY LAW DIRECTOR.**

"City Law Director" means the City Law Director of the City of Oberlin.

**1321.21 CLINIC.**

"Clinic" means an establishment where patients who are not lodged overnight are admitted for examination and treatment.

**1321.22 CLUB.**

"Club" means buildings and facilities owned or operated by a corporation, association, person or persons for social, educational or recreational purposes, but not primarily for profit or to render a service which is customarily carried on as a business.

**1321.23 ~~CODE ADMINISTRATOR~~ BUILDING DIVISION.**

~~"Code Administrator"~~ Building Division means the Chief Building Official and/or Residential Building Official ~~Code Administrator~~ of the City of Oberlin or such other city official designated by the City Manager to perform the duties ascribed to the Building Division ~~Code Administrator~~ in this Zoning Ordinance.

**1321.24 COMPREHENSIVE PLAN.**

"Comprehensive Plan" means the plan or plans made and adopted by the Planning Commission indicating the intended location, extent, purpose, features or characteristics of public and private development, including land use, structures, roads and other transportation, community facilities, housing, utilities, drainage facilities, services, and other aspects of the goals, objectives, and recommendations therefor.

**1321.25 CONDITIONAL USE OR CONDITIONALLY PERMITTED USE.**

"Conditional use" or "conditionally permitted use" means a use which is listed in one or more districts as being a use which is eligible to be established in such district subject to a conditional use permit; and a use of a lot approved and maintained in conformance with a conditional use permit.

**1325.03 FEE FOR FILING APPEAL.**

An appeal filed under this chapter shall be accompanied by a fee in such amount as provided for by ordinance.

**1325.04 APPEALS; HEARING PROCEDURE.**

Appeals may be taken to and before the Zoning Board of Appeals by any person aggrieved as a result of a formal action taken, in writing, by the ~~Code Administrator~~, Chief Building Official, Residential Building Official or any administrative officer in matters related to this Zoning Code, unless a specific appeal procedure is otherwise provided for either in or by the Zoning Code. An appeal shall be taken within ten (10) days from the date of the action by filing the following:

- (a) A notice of appeal specifying the grounds thereof;
- (b) A list of the names and addresses of all property owners within a 200-foot radius of the property for which the appeal is taken;
- (c) The name and address of the appellant or his/her agent;
- (d) A detailed plot plan, specifications and description of the proposed building, addition or remodeling, where applicable; and

- (e) Payment of the filing fee as specified by Section 1325.03 of this Zoning Ordinance.

The Director of Planning and Zoning, when the foregoing have been filed with him/her, shall arrange a public hearing with the Board and he/she shall immediately transmit the information filed and a copy of the decision on which the appeal is based to the members of the Board.

The Board shall fix a reasonable time for a hearing to be held on the appeal and shall give notice of the hearing by certified mail, return receipt requested, upon the appellant and those property owners within a 200-foot radius of the property for which the appeal is taken, and shall process an additional notice by a legal ad published once in a newspaper having a general circulation in the City, all of such notices to be sent and published at least two weeks before the date set for the hearing.

At the hearing any person may appear and testify. All persons wishing to testify shall do so under oath. Both the appellant and the person/body whose decision is being appealed shall not only have the right to present testimony, but shall also have the right of cross-examination.

The entire record of the proceedings shall be taken either by tape recorder or by shorthand or stenotype recording. Tapes that are transcribed need not be preserved beyond the appeal period under Section 1325.06.

The Board shall render its decision within ten (10) days from the conclusion of the hearing. Upon failure to render a decision within ten (10) days of the hearing, it shall be deemed that the appeal has been decided adversely to the appellant.

Notice of the Board's decision shall be sent by certified mail to the appellant. Each party receiving notice of the Board meeting shall also receive notice of its decision, but such notice need not be by certified mail.

#### **1325.05 JURISDICTION; VARIANCES.**

(a) Authority. Upon hearing an appeal, the Zoning Board of Appeals shall have the following authority provided the appeal has been perfected in accordance with the provisions of Section 1325.04:

**CHAPTER 1338**  
**"PD" Planned Development District**

<b>1338.01 Purpose.</b>	<b>1338.05 Additional procedures and requirements.</b>
<b>1338.02 Development plan requirements and review procedures.</b>	<b>1338.06 Fees.</b>
<b>1338.03 Use regulations and development standards.</b>	
<b>1338.04 Standards for development plan review.</b>	

**1338.01 PURPOSE.**

The purpose of the Planned Development District is to permit comprehensively planned developments approved by City Council and the Planning Commission under more flexible zoning guidelines and site design criteria than permitted in traditional districts.

The suspension of traditional zoning provisions is intended to: encourage creative, high quality site design practices in the development of residential and commercial areas; promote harmony and integration with existing developments; protect adjoining properties from adverse impacts; promote safe and efficient pedestrian, bicycle, and vehicular movement; promote efficient layout of infrastructure; and to promote protection or enhancement of natural and historic resources.

In place of enforcing the traditional zoning provisions, City Council and the Planning Commission may exercise control through approval, denial, or amendment of the Development Plan and by requiring standards, design criteria, conditions, and agreements appropriate for the particular site, its surrounds, and for the proposed use or uses. While certain modifications to the requirements of the Subdivision Ordinance may be permitted in a Planned Development, careful coordination of the design and review of the proposed platting and improvements is encouraged.

**1338.02 DEVELOPMENT PLAN REQUIREMENTS AND REVIEW PROCEDURES.**

The owner of a lot or lots desiring to obtain approval of a Planned Development District shall initiate such proposal according to the provisions for zoning amendments established in this Zoning Ordinance.

When City Council refers to the Planning Commission the ordinance proposing such amendment, i.e., the ordinance for change to the districts established on the Zoning Map, the owner shall submit development plans to the Planning Commission containing the information required by this chapter.

The following requirements and procedures shall apply to the submittal, review, and approval of plans for Planning Commission review and recommendation of a Planned Development District.

(a) **Preliminary Development Plan**

(1) **Required Content of Preliminary Development Plan**

The applicant proposing a Planned Development District shall submit the information described in all items below which, together with any other information, agreements, statements, or commitments approved by the Planning Commission, shall constitute the Preliminary Development Plan for the proposed Planned Development District.

- (a) Completed application form.
- (b) Name, address, and phone number of the owner of the lot or lots and, if applicable, of the owner's designated agent.
- (c) Legal description of the property, including a survey of the lot or lots to be included in the Planned Development District.
- (d) Current zoning district of the subject lot or lots.
- (e) Description of the existing use of the subject lot or lots.

- (f) A list of the owners of record of all lots located within 200 feet of the property, including the addresses of all such owners as obtained from the County Auditor's current tax list or the County Treasurer's mailing list.
- (g) A statement of the specific use or uses proposed to be established in the Planned Development District, including the number of dwellings, the number of residential buildings by type and number of dwellings per building, all non-residential uses and buildings and the amount of floor area dedicated to each, the amount of acreage proposed for each use, and any planned accessory uses such as outbuildings, pools, recreation shelters, or parking structures.

For all non-residential uses, the applicant shall also provide a description of the activities proposed on the site, including the goods or services, hours of operation, anticipated number of employees, nature and volume of delivery activity, and other information which will enable the Planning Commission to clearly understand the nature of the proposed use and its potential impacts.
- (h) A plan of the proposed site and improvements showing the proposed location of all buildings, parking and loading areas, streets and traffic accesses, open spaces, refuse and service areas, utilities, signs, yards, landscaping features, existing and proposed topography, and other relevant features.
- (i) A narrative statement discussing the compatibility of the proposed use with the existing uses of adjacent lots, with the zoning districts of adjacent lots, and with the Comprehensive Plan and other plans of the City, including an evaluation of the effects on adjoining lots of such elements as traffic circulation, noise, glare, odor, fumes, vibration, and stormwater.
- (j) A narrative addressing each of the provisions set forth in 1338.03 Use Regulations and Development Standards.
- (k) Such other information as the Planning Commission shall deem necessary to make a determination of the compliance of the proposed development and uses with the applicable standards and regulations. Such additional information may include, but shall not be limited to:
  - (1) traffic analysis
  - (2) drainage analysis
  - (3) evidence of financial capability
  - (4) construction schedule
- (l) A narrative text, proposed legal devices, illustrations, tables, material samples, and other materials and information as determined necessary by the Planning Commission to describe the design criteria proposed for the development, including standard street signs, permanent development signs, fences, maintenance agreements, covenants and restrictions.
- (m) Sketch or draft elevations of the proposed building or buildings indicating maximum heights. Locations of existing buildings and structures on abutting properties, including approximate setbacks from property lines.
- (n) A plan of the vehicular, pedestrian, and bicycle facilities, showing how these facilities relate to the existing and planned facilities surrounding the site and providing traffic impact studies and projections.
- (o) Anticipated time schedule for construction of the improvements and buildings, including any anticipated phases of development.
- (p) The locations and approximate acreage of common open space, recreation areas, and reserves.



- (2) Submittal. The owner shall submit twelve (12) copies of the Preliminary Development Plan to the Planning and Development Director of Community Services at least twelve (12) days prior to the Planning Commission meeting at which it is to be reviewed.
  - (3) City Staff Review. The Community Services Planning and Development Director shall distribute the materials to the Public Works Director, Code Administrator, Fire Chief, and Oberlin Municipal Light and Power System Director of Municipal Electric for review for compliance with all applicable requirements and for comments with regard to the Standards for Development Plan Review.
  - (4) Planning Commission Review and Action. The Planning Commission shall review the Preliminary Development Plan and take action within 90 days after the regularly scheduled meeting at which the Plan is first reviewed.

The Planning Commission may approve the Preliminary Development Plan as submitted or modified, or conditionally approve the Plan and stipulate the conditions of such approval, or disapprove the Plan and express the reasons therefor. The action of the Planning Commission shall be noted on a copy of the Preliminary Development Plan which shall be retained in the file by the Planning and Development Community Services Director.

If the Planning Commission determines to disapprove the Preliminary Development Plan, the Commission shall make a recommendation to City Council that the proposed Planned Development District be disapproved.
  - (5) Effect of Approval. Approval by the Planning Commission of a Preliminary Development Plan shall not constitute a recommendation for zoning amendment or for approval of the proposed District, but shall be deemed an expression of approval of the general content and form of the Preliminary Plan for the proposed development as a guide to preparation of the Final Development Plan. Approval of the Preliminary Development Plan shall be effective for six (6) months.
  - (6) Effect of Disapproval and Council Action. If the Planning Commission makes a recommendation to City Council that the proposed Planned Development be disapproved based on disapproval of the Preliminary Development Plan, then Council may either disapprove the ordinance for the zoning amendment or, on its own initiative, approve or approve with modifications the Preliminary Development Plan. Subsequent to such approval, the owner may submit a Final Development Plan to the Planning Commission for review in accordance with the provisions of this ordinance. Approval of a Preliminary Development Plan by City Council shall not constitute a recommendation for zoning amendment or for approval of the proposed District, but shall be deemed an expression of approval of the general content and form of the Preliminary Plan for the proposed development as a guide to preparation of the Final Development Plan. Approval of the Preliminary Development Plan shall be effective for six (6) months.
- (b) Final Development Plan
- (1) Required Content of Final Development Plan

The applicant proposing a Planned Development District shall submit the information described in all items below which, together with any other information, agreements, statements, or commitments approved by the Planning Commission, shall constitute the Final Development Plan for the proposed Planned Development District.

    - (A) Final Development plan consistent with the contents of the approved Preliminary Development Plan and with any conditions of such approval.
    - (B) Site plan of the development including a survey of the outer boundaries of the property, the locations of areas to be subdivided

into lots and the general dimensions of such lots, off-street parking areas, pedestrian walkways, vehicular circulation, dimensions of the rights-of-way of public and private streets, location and acreage of land to be devoted to all uses including common open space.

- (C) Building locations, preliminary building plans, proposed types of units, density level, area and setback requirements.
- (D) Landscaping plans showing the locations and general types of landscaping material to be installed.
- (E) Engineering plans, showing street locations and typical sections, general provisions for drainage and utility improvements and extensions, and treatment of general topography and common open space.

- (2) Submittal. The owner shall submit twelve (12) copies of the Final Development Plan to the Planning and Development Director ~~of Community Services~~ at least twelve (12) days prior to the Planning Commission meeting at which it is to be reviewed.
- (3) City Staff Review. The Community Planning and Development Services Director shall distribute the Final Development Plan to the Public Works Director, ~~Code Administrator~~, Fire Chief, and ~~Director of Municipal Electric~~ Director for review for compliance with all applicable requirements and for comments with regard to the Standards for Preliminary Development Plan Review and any significant changes made between the Preliminary Development Plan and the Final Development Plan.
- (4) Planning Commission Review and Recommendation to City Council. The Planning Commission shall review the Final Development Plan and shall make a recommendation to City Council within 90 days after the regularly scheduled meeting at which the Final Development Plan is first reviewed.

### **1338.03 USE REGULATIONS AND DEVELOPMENT STANDARDS.**

The following shall be the minimum standards required for development in a Planned Development District.

Additional requirements and conditions may be established by the Planning Commission and by City Council for approval of the District. Such requirements and conditions may include but are not limited to: width, height, yard requirements; development density; arrangement and spacing of buildings; signs; parking; vehicular, pedestrian and bicycle circulation; landscaping; and preservation of natural features.

#### **(a) Permitted Uses**

The following uses may be permitted, as approved in the Final Development Plan, in a Planned Development District:

- (1) Single family dwellings.
- (2) Two-family dwellings.
- (3) Multiple dwellings including condominiums.
- (4) The uses identified in this ordinance as permitted uses and conditional uses (with a conditional use permit) in the "R-1A" Single Family Dwelling District.
- (5) The uses identified in this ordinance as permitted uses and conditional uses (with a conditional use permit) in the "C-1" Central Business District and in the "C-2" General Business District.
- (6) Recreational uses, structures, and facilities, such as pools, tennis courts, playgrounds, and other similar uses provided for the use of residents of the development or for general public use.

The Planning Commission shall determine the appropriateness of each proposed use in reviewing the Development Plan, giving consideration to the Standards for Review established in this Chapter and any other considerations deemed by the Commission to be significant in determining the appropriate use or uses for the proposed District. The Commission shall have the authority to deny approval for any proposed use which it determines to be inappropriate due to potential impacts, incompatibility with the surrounds, or other reasons.

## **CHAPTER 1343**

### **"M-1" Light Industrial District**

<b>1343.01</b>	<b>Regulations established.</b>	<b>1343.07</b>	<b>Height regulations.</b>
<b>1343.02</b>	<b>District purpose.</b>	<b>1343.08</b>	<b>Area regulations.</b>
<b>1343.03</b>	<b>Permitted uses.</b>	<b>1343.09</b>	<b>Intensity of use.</b>
<b>1343.04</b>	<b>Conditional uses.</b>	<b>1343.10</b>	<b>Residential conversions.</b>
<b>1343.05</b>	<b>Performance standards.</b>		
<b>1343.06</b>	<b>Procedures for determining compliance with performance standards.</b>		

#### **1343.01 REGULATIONS ESTABLISHED.**

The regulations set forth in this chapter, or set forth elsewhere in this Zoning Ordinance, when referred to in this chapter, are the district regulations in the M-1 Light Industrial District.

#### **1343.02 DISTRICT PURPOSE.**

The purpose of the M-1 District shall be to provide locations for activities generally understood to be manufacturing, repair, storage, wholesaling, and distribution activities, and locations for certain other activities considered to have impacts most compatible with or appropriate to industrial areas, all such activities conforming to minimum performance standards. Further, the purpose of the M-1 District shall be to provide, for these activities, locations which: minimize impacts on other districts; provide access to materials, transportation, services, labor and other resources required by such activities; and encourage the creation and retention of employment opportunities.

#### **1343.03 PERMITTED USES.**

The uses permitted in the M-1 District shall be those generally understood to be manufacturing, assembling, transformation of materials, blending, packaging, processing, repair, storage, wholesaling, distribution, the shops of contractors and tradesmen, and related research and testing activities conforming to the performance standards established in this ordinance.

The Planning and Development Director ~~Code Administrator~~ shall evaluate the information submitted by the applicant and shall consider if the proposed use is a permitted use and if it will comply with the Performance Standards and other provisions of the Ordinances of the City. If the Planning and Development Director ~~Code Administrator~~ deems that the proposed use is permitted, he or she shall make a report to the Planning Commission which shall make a determination of whether or nor the proposed use: (1) is a permitted use and (2) complies with the Performance Standards and other provisions of this Ordinance.

If the Planning and Development Director ~~Code Administrator~~ determines that a proposed use is not a permitted use, the property owner who has submitted an application for a zoning permit may request a determination by the Planning Commission.

The determination of the Planning Commission shall be final and shall be stated in writing on the zoning permit.

#### **1343.04 CONDITIONAL USES.**

The following uses may be established in the M-1 District if approved by the Planning Commission according to the procedures and standards for a Conditional Use Permit:

- (a) Outdoor sales, storage, display or outdoor operations accessory to a permitted or conditionally permitted main use.
- (b) Self-service storage facilities.
- (c) Wireless or cellular communications facilities.
- (d) Veterinary clinic, animal hospital.
- (e) General professional, administrative, or business office.

- (f) Indoor recreation or entertainment use including but not limited to a health spa, sports clubs/facilities, party centers.
- (g) Newspaper or magazine printing, publishing.
- (h) Research laboratories.
- (i) Other uses determined by City Council to be similar uses.

#### **1343.05 PERFORMANCE STANDARDS.**

Every use permitted or conditionally permitted in the "M-1" Light Industrial District shall conform to the performance standards in this section and to the laws and regulations of the State of Ohio and of the federal government.

The purposes of these performance standards are: to prohibit the establishment of uses which engage in activities or use materials which are excessively hazardous or have significant negative impacts on surrounding properties; to ensure that all uses in the district will provide methods to protect the community from hazards and other negative impacts and effects which can be prevented by processes of control and nuisance elimination; and to protect uses from arbitrary exclusion or persecution based solely on the impacts and effects produced by any particular type of industry or activity in the past.

Compliance with these standards shall be required during all times of operation of the approved activity or use.

An existing use that does not conform with these performance standards shall not be enlarged or remodeled if the enlargement or remodeling will cause greater noncompliance with the performance standards than exist at the time the use becomes nonconforming.

The following are the performance standards for uses in the "M-1" Light Industrial District:

- (a) Air Pollution.
  - (1) Odor. No use shall be permitted to produce any odor which is discernible beyond any lot line of the lot upon which the use is located. The owner of the property shall submit a written statement with the application for a zoning permit describing any material or process which has the potential to create an odor. The applicant may make a statement that the proposed use will not produce any odor which is discernible at any lot line of the property.
  - (2) Smoke. No activity, operation, or use shall, during normal operations, emit smoke of a visible density to the exterior of the building in which the use is located. The owner of the property shall submit a written statement with the application for a zoning permit describing any process which has the potential to create smoke. The applicant may make a statement that the proposed use will not produce any smoke which is discernible at any lot line of the property.
  - (3) Heat and Humidity. No use, operation, or activity shall produce intense heat or excessive humidity in the form of steam or moist air which has a perceptible, objectionable impact beyond the lot lines of the property. The owner of the property shall submit a written statement with the application for a zoning permit describing any process which has the potential to create heat or humidity. The applicant may make a statement that the proposed use will not produce any heat or humidity which is discernible at any lot line of the property.
  - (4) Dust and Particulate Matter. No use, operation, or activity shall exhaust or discharge into the air, outside of the building in which the use, operation, or activity is contained, any quantity of fly ash, dust, dirt, or other particulate matter except in conformance with the current air pollution standards of the Ohio Environmental Protection Agency (OEPA) and pursuant to a valid discharge permit issued by OEPA. The owner of the property shall submit a written statement with the application for a zoning permit describing any process which has the potential to create dust or other particulate matter, either created within or outside of the building in which the use is located, the nature of such materials, and the means by

which such materials will be collected, stored, and disposed. If dust or particulate matter will be created, the applicant shall state if a discharge permit is required from OEPA and shall explain the status of such permit. The applicant may make a statement that the proposed use will not produce any dust or particulate matter or that such matter will be completely contained within the building.

- (b) Erosion. No erosion, either by wind or water or other natural forces, shall be permitted which will carry objectionable substances onto neighboring properties. The owner of the property shall submit a written statement with the application for a zoning permit describing any process, method of storage, design of site improvements, or other characteristics of the proposed use which has the potential to cause, permit, or allow objectionable substances to be carried by natural forces onto neighboring properties. The applicant may make a statement that the proposed use will not result in any form of erosion not in compliance with this standard.

- (c) Water Pollution. No use, operation, or activity shall emit solids, liquids, or other matter into or onto any body of water, streams, or the ground except in conformance with the water pollution control standards established by OEPA and pursuant to a valid discharge permit issued by OEPA. The owner of the property shall submit a written statement with the application for a zoning permit describing any process, method of storage, design of site improvements, or other characteristics of the proposed use which has the potential to cause, permit, or allow solids, liquids, or other matter to be emitted into or onto any body of water, streams or onto the ground. The applicant may make a statement that the proposed use will not result in any form of water pollution not in compliance with this standard.

Disposal of Waste in Sanitary Sewers. No use, operation, or activity shall dispose of any solid or liquid waste or other matter into the sanitary sewer system of the City of Oberlin unless such disposal is approved by the City Manager and is conducted in conformance with the rules and regulations established by the City and by OEPA for such disposal.

The owner of the property shall submit a written statement with the application for a zoning permit describing any disposal into the sanitary sewer system which will occur as a result of the proposed activity or use.

- (d) Vibration. No use, activity or operation shall cause or create earthborne vibrations perceptible beyond the property line of the lot on which the use is located, especially to a degree of frequency, duration, or displacement which is objectionable or destructive to health or property. The owner of the property shall submit a written statement with the application for a zoning permit describing any activity which has the potential to cause vibrations, either within or outside of the building in which the use will be located, and shall submit evidence that such vibrations will not be perceptible beyond any property line. The applicant may make a statement that the proposed use will not cause or create earthborne vibrations perceptible beyond the property line.

Vibrations from temporary construction and vehicles which leave the lot (such as trucks) are excluded from compliance with this standard.

- (e) Electric or Electronic Disturbance. Production of electrical or electronic disturbances perceptible beyond the property line of the establishment, especially in such manner as to endanger human health or to interfere with the normal operation of equipment or instruments, shall not be permitted. The owner of the property shall submit a written statement with the application for a zoning permit describing any activity which will or has the potential to produce electrical or electronic disturbances outside of the building in which the use will be located and shall submit evidence that such electrical or electronic disturbances will not be perceptible beyond any property line. The applicant may make a statement that the proposed use will not produce electrical or electronic disturbances.

- (f) Noise. Proposed uses shall be so designed and operated as to minimize the creation of noise, especially noise which may be periodically or constantly



perceptible outside of the building in which the use is located and which is perceptible in residential areas. The sound pressure level resulting from any use, operation, or activity shall not exceed the following maximum permitted sound levels at or beyond any lot line of the property on which the use is located:

<u>Center Frequency Cycles per Second</u>	<u>Maximum Permitted Sound Pressure Level in Decibels</u>
31.5	74
63	72
125	66
250	60
500	54
1200	50
2000	43
4000	35
8000	26

The owner of the property shall submit a written statement with the application for a zoning permit describing any activity which will produce noise which will be or has the potential to be perceptible outside of the building (including during such times as loading bay doors, windows, or other openings in the building may be open) in which the use will be located and shall submit evidence that such noise will comply with the noise standard. The applicant may make a statement that the proposed use will not produce noise perceptible outside of the building.

- (g) Glare and Exterior Lighting. Any operation producing intense glare shall be conducted within an enclosed building or with other effective screening in such a manner as to make such glare completely imperceptible from any point along the property line of the lot on which the use is located. Exterior lighting shall be so constructed and directed as to shield residential properties from direct glare.

The owner of the property shall submit a written statement with the application for a zoning permit describing any activity which will produce glare, whether inside of or outside of the building and shall submit an exterior lighting plan which identifies all proposed exterior lights. The applicant may make a statement that the proposed use will not produce glare perceptible outside of the building.

- (h) Enclosure of Operations and Stored Materials, Outdoor Storage, Waste Disposal. Except as authorized by Conditional Use Permit:

- (1) All operations shall be conducted within an enclosed building; and
- (2) All materials and equipment shall be used and stored within an enclosed building. The temporary storage of waste materials in conformance with these regulations and the daily parking of the personal vehicles of employees shall be permitted.

No materials or wastes shall be deposited upon a property in such form or manner that they may be transferred off the property by natural causes or forces such as wind, water, or evaporation, cause fumes or dust, constitute a fire hazard, be edible by or otherwise attractive to rodents or insects.

The owner of the property shall submit a written statement with the application for a zoning permit describing any operations or activities which will or may be conducted outside of the building or buildings, describing the manner of storage of all materials (including those brought to the site for use, those stored for distribution or delivery off site, and all waste materials), and describing the manner of storage of all equipment and vehicles. The owner shall submit a statement describing any activity which will produce waste and the nature of such waste or which requires outside storage of any materials, vehicles, or equipment and the nature of such items. The owner shall also submit a plan which identifies the locations of all such storage and waste disposal, including any construction intended to screen such storage from view from outside of the property.

The applicant may make a statement that the proposed use will not involve or result in any operations or storage outside of the enclosed building(s) with the exception of the temporary storage of waste materials and the parking of the personal vehicles of employees.

- (i) Radiation Hazards. The use of radioactive materials shall not be permitted except as specifically permitted in the zoning certificate and subsequent to approval by the Planning Commission. It is the general intent of this ordinance to not permit activities which require the use of significant amounts of radioactive materials, frequent transport of such materials into or through the community, or use in a manner with potential to cause harm to human health or to the environment. It is the general intent of this ordinance to permit the use of the amounts and types of radioactive materials required for certain types of low level equipment testing, laboratory research, medical testing and research, and similar uses.

The owner of the property shall submit a written statement with the application for a zoning permit describing any activity which will utilize radioactive materials, the nature and amounts of such materials, the methods and routes of transporting such materials, and the planned safety facilities and procedures related to the use, storage, and disposal of such materials. The applicant may make a statement that the proposed use will not involve the use of any radioactive materials.

- (j) Fire and Explosion Hazards. The storage, use or manufacture of materials in the M-1 District shall be regulated with the intent of protecting human life, protecting the natural environment, and protecting property while recognizing that certain fire and explosion hazards may be inherent in activities permitted in this district. Provisions for proper storage, use, and disposal of materials having fire hazard or explosive characteristics, as determined by the Fire Chief, shall conform to the standards and requirements for such materials as established by the Codified Ordinances of the City of Oberlin and shall be implemented in consultation with the Oberlin Fire Chief.

- (1) The storage, use, and/or manufacture of solid materials or products ranging from free or active burning to moderate burning is permitted.
- (2) The storage, use, and/or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted provided that such material is stored, used, or manufactured within a completely enclosed building having incombustible exterior walls and protected throughout by an automatic fire extinguishing system.
- (3) The storage or use of pyrophoric or explosive powders or dusts is permitted with approval of the Planning Commission and the Fire Chief of the City of Oberlin and subject to such conditions as they shall require for such activity and provided that such storage or use is required for the primary product, service, or activity of the permitted use. The manufacture of such materials, as either a byproduct or waste product is not permitted unless approved by the Planning Commission and the Fire Chief of the City of Oberlin and subject to such conditions as they shall require for such activity. The manufacture of such materials as a primary or secondary product of the use or activity is not permitted.
- (4) The storage or use of flammable liquids or materials which produce flammable or explosive vapors or gases is permitted with approval of the Planning Commission and the Fire Chief of the City of Oberlin and subject to such conditions as they shall require for such activity and provided that such storage or use is required for the primary product, service, or activity of the permitted use. The manufacture of such materials, as either a byproduct or waste product is not permitted unless approved by the Planning Commission and the Fire Chief of the City of Oberlin and subject to such conditions as they shall require for such activity. The manufacture of such materials as a primary or secondary product of the use or activity is not permitted.

The owner of the property shall submit a written statement with the application for a zoning permit stating if any of the materials described in (1), (2), (3), or (4) above will be stored, used, or manufactured on the property. The owner shall describe the materials, the amounts which will be present on the site, the nature of their use, the manner of storage, any safety hazards inherent in their use, and any other information required by the Planning and Development Director-Code Administrator, the Fire Chief, or the Planning Commission. The applicant may make a statement that the proposed use will not involve the use of any of the materials described in this section.

- (k) Toxic or Noxious Matter. No use, operation, or activity shall emit or discharge toxic or noxious matter in any form, particularly as identified on the USEPA Extremely Hazardous Substances List, which may be detrimental to the public health, safety, or general welfare or which may endanger the natural environment. Provisions for proper storage, use, and disposal of hazardous and/or toxic materials shall conform to the standards and requirements for such materials as established by the USEPA and OEPA and shall be implemented in consultation with the Oberlin Fire Chief.

The owner of the property shall submit a written statement with the application for a zoning permit stating if any toxic or noxious materials (that is, any solid, liquid, or gaseous matter, including but not limited to gases, vapors, dusts, fumes, and mists containing properties which by chemical means are inherently harmful and likely to destroy life or impair health or are capable of causing injury to the well-being of persons or damage to property and any matter identified on the USEPA Extremely Hazardous Substances List) will be stored, used, or manufactured on the property. The owner shall describe the materials, the amounts which will be present on the site, the nature of their use, the manner of storage, any safety hazards inherent in their use, and any other information required by the Planning and Development Director-Code Administrator, the Fire Chief, or the Planning Commission. The applicant may make a statement that the proposed use will not involve the use of any such toxic or noxious materials described in this section.

- (l) Other Hazards or Impacts. Other hazards or potential hazards, potential nuisances, or other off-site effects of the proposed activity or use which are not common to uses permitted in the M-1 District or are not specifically addressed by the foregoing sections, (a) through (k) inclusive, shall be made known to the Planning and Development Director-Code Administrator by the owner of the property proposing to establish the activity or use in the "M-1" Light Industrial District. The owner of the property shall submit a written statement with the application for a zoning permit describing any such other hazards or potential hazards or other off-site effects of the proposed activity or use. The applicant may make a statement that the proposed use will not involve or result in any such other hazards or impacts.

The Planning and Development Director-Code Administrator may determine to refer such hazards or impacts to the Planning Commission for determination. The Planning and Development Director-Code Administrator may refer an application for zoning permit to the Planning Commission if the Planning and Development Director-Code Administrator determines that a proposed use may or will have impacts which are not consistent with these performance standards, conflict with the characteristics of the district as intended in this Chapter, or damage or impair property or property values in the district or in surrounding districts. Regulation or prohibition of such hazards or impacts shall be as determined by the Planning Commission.

The ~~Planning and Development Director Code Administrator~~ of the City of Oberlin shall be responsible for administering and enforcing the provisions of this Chapter.

Every applicant desiring to establish an activity or use, or to significantly change or expand an existing activity or use, in the "M-1" Light Industrial District shall submit to the ~~Planning and Development Director Code Administrator~~, with the application for a zoning certificate, statements, information, and evidence describing the proposed use and compliance with each of the performance standards. Such submittal shall be in a form as required by the ~~Planning and Development Director Code Administrator~~ and shall be reviewed and approved by the ~~Planning and Development Director Code Administrator~~ prior to issuance of a zoning certificate.

When the submittal does not satisfy the ~~Planning and Development Director Code Administrator~~ that the proposed activity or use will comply with the performance standards, the applicant or the ~~Planning and Development Director Code Administrator~~ may request that the Planning Commission make a determination of compliance. In making such determination, the Planning Commission may require that the applicant provide additional information regarding the nature of the proposed use, the design of the site, the nature of materials and processes, the effect of such designs, materials and processes on human health and the environment, and other information as the Commission deems necessary to make a determination. In making a determination of compliance, the Commission may establish conditions for issuance of the zoning certificate which will promote or ensure compliance. The determination of the Planning Commission shall be final.

The Planning Commission may authorize a proposed use which causes impacts or effects in excess of these performance standards. Such authorization may be granted upon making findings that:

- (a) the location or configuration of the proposed use is such that its effects or impacts in excess of the performance standards will be compatible with and acceptable to surrounding existing or planned uses which will be impacted; and
- (b) the nature of the anticipated impacts is such that the performance standards are inapplicable or inappropriate and the anticipated impacts can be appropriately controlled by conditions of the zoning certificate or other means.

The ~~Planning and Development Director or designee Code Administrator~~ may, from time to time, undertake tests, evaluations, or investigations to determine if an approved use or activity complies or does not comply with these standards. The ~~Planning and Development Director or designee Code Administrator~~ shall have the authority to investigate complaints alleging non-compliance with these standards. The ~~Planning and Development Director Code Administrator~~ may take appropriate action as deemed necessary to protect the public health, safety, and general welfare and to compel compliance with these standards.

Methods and procedures for the determination of the existence of any violation of these performance standards shall conform to either applicable methodologies prescribed by this ordinance or to applicable standard measurement procedures published by the American Standards Association, Inc., the Chemical Manufacturers Association, Inc., the United States Bureau of Mines, the National Fire Protection Association, the Ohio Environmental Protection Agency, and other recognized organizations whose standards are acceptable to the ~~Planning and Development Director Code Administrator~~.

When the ~~Planning and Development Director Code Administrator~~ or the Planning Commission determines that:

- (a) the information provided by the owner of a property is not sufficient to determine compliance with the performance standards without providing additional studies or expert advice; or
- (b) that the information provided by the owner is of such nature, complexity, or quantity that the ~~Planning and Development Director Code Administrator~~ or Planning Commission is not able to make a determination of compliance without additional studies or expert advice.

The ~~Planning and Development Director Code Administrator~~ shall advise the owner that such studies or advice are required. The ~~Planning and Development Director Code Administrator~~ and the Planning Commission may accept the required studies prepared by

qualified professionals engaged by the owner or the owner shall deposit funds with the City as required to pay for such studies or expert advice.

#### **1343.07 HEIGHT REGULATIONS.**

No building shall exceed three stories, nor shall it exceed fifty (50) feet.

#### **1343.08 AREA REGULATIONS.**

(a) Front Yard. There shall be a front yard having a depth of not less than thirty (30) feet measured from the front property line abutting the right-of-way to the front building line. No building shall be constructed less than sixty (60) feet from the street center line.

(b) Side and Rear Yards. Side yards shall be provided with a width from side lot line to the building line of no less than twelve (12) feet. Rear yards shall be provided with a width from the rear lot line to the building line of not less than twelve (12) feet. Such yards may be used for driveways or parking.

Where a side line abuts a public right-of-way, as in a corner lot, the side yard shall have a width from the right-of-way to the building line of no less than thirty (30) feet.

Where the side or rear line of a use abuts a residential district, such side or rear yard shall have a minimum width (from respective lot line to the building line) of fifty (50) feet. Such yard shall be maintained as an area landscaped as approved by the Planning Commission.

(c) Minimum Lot Width. Every lot shall have a minimum width of one hundred fifty (150) feet, measured at a distance thirty (30) feet from and parallel to the right-of-way located at the front of the lot.

(d) Open Space Requirement. In addition to and not including the minimum required yards, a minimum of five percent (5%) of the lot area shall be retained as open space not covered by buildings, parking, loading spaces, or drives. Such open space shall be located and designed in a manner approved by the Planning Commission. It is the intent of this section to promote varied and attractive building setbacks, attractive settings for buildings and parking, attractive landscaped areas, and other functional and aesthetic improvements to the designs of properties in the district, especially in the front and side areas of lots visible from the public right-of-way and areas of lots abutting residential districts.

#### **1343.09 INTENSITY OF USE.**

The total area of the ground floor of buildings located on a lot in the M-1 District shall not exceed forty-five percent (45%) of the total area of the lot. Other provisions in this regulation may lessen the intensity of use, but they shall in no way be interpreted as a means of increasing the intensity of use.

#### **1343.10 RESIDENTIAL CONVERSIONS.**

No existing residential structure in the "M-1" Light Industrial District may be converted to any more intensive residential use (a more intensive residential use being a greater number of dwelling units or greater floor area than the existing residential use) or to any use other than a conforming use and no such existing building shall be converted for both residential and nonresidential purposes at the same time.



**CHAPTER 1349**  
**Off-Street Parking and Loading**

**1349.01 Provisions applying to parking and loading.**

**1349.03 Off-street loading provisions.**

**1349.02 Off-street parking provisions.**

**1349.01 PROVISIONS APPLYING TO PARKING AND LOADING.**

(a) Purpose. The purpose of the requirements in this chapter is to further the appropriate provision and design of off-street parking and loading areas that will:

- (1) Provide access for occupants, employees, customers, clients and visitors to land uses in a community dependent on automobile and truck transportation.
- (2) Foster safe and efficient circulation of vehicles and pedestrians both on private property and on adjacent public streets.
- (3) Minimize nuisances in residential areas from on- or off-street parking of large numbers of, or incompatible types of, vehicles.

(b) Applicability.

- (1) Off-street parking and loading spaces shall be provided in conformance with the requirements of Tables 1, 2, 3 and 4 and other provisions herein for:
  - A. All new uses, and
  - B. All existing uses that are:
    1. Enlarged or expanded, or
    2. Otherwise changed in density, intensity, capacity or other measure that determines parking or loading requirements hereunder, or
    3. Changed to any other use to which different parking requirements herein apply.
- (2) The requirements of this chapter apply to any provision, removal, enlargement or alteration of any off-street parking or loading spaces or areas that are accessory to any building or structure and either:
  - A. Are existing as of the effective date of these regulations, or
  - B. Are new spaces or areas required to be provided hereunder or voluntarily provided in excess of the requirements herein.

These provisions shall likewise apply to parking that is the principal use of a parcel. Open sales lots for motor vehicles shall not be considered as parking spaces for purposes of this chapter.

No additional spaces shall be required for expansion or change of an existing use if the standards herein would require an increase over the spaces already provided on the site of less than fifteen percent (15%).

(c) Prerequisite for Permits.

- (1) Building Permit/Zoning Certificate. Prior to issuance of a building permit or zoning certificate, the City Manager or his/her designee shall determine ~~that~~ the application therefor exhibits compliance with:
  - A. All applicable provisions of these and other City regulations from which a variance has not been approved as provided therein, and
  - B. All conditions to which any approval thereunder has been made subject.
- (2) Certificate of occupancy. Either prior to issuance of a certificate of occupancy or within such period of time thereafter as the Planning Commission may have approved, he or she shall likewise determine either:



- A. That parking and loading facilities required herein have been fully installed and improved in conformance with:
  - 1. All currently applicable approved applications for City permits, certificates or approvals, and
  - 2. Any conditions to which approval thereof was made subject, and
  - 3. All provisions of this and other applicable City ordinances from which a variance has not been approved, or
- B. That financial sureties approved by the Law Director have been provided guaranteeing such installation and improvement.

(d) Exception for C-1 Commercial District. In recognition of the existing character and pedestrian orientation of the City's older downtown business area, no off-street parking or loading shall be required for individual uses located entirely within the C-1 Commercial District and that are also located entirely within the area bounded by Lorain, Pleasant, Vine and Professor Streets.

This exception is made to minimize curb cuts disruptive to safe and efficient pedestrian circulation and to encourage provision of off-street parking in centralized locations that serve multiple uses.

(e) Variances. The Planning Commission may approve a variance to the parking or loading requirements herein on the basis either:

- (1) Of criteria provided in the general regulations governing variances in this chapter, or
- (2) Of submission of parking and demand studies, documented industry standards or other evidence satisfactory to the Commission that the nature of the use requires fewer spaces than required herein.

Procedures for approval of parking variances shall otherwise be the same as provided in this chapter for all variance approvals.

(f) Preservation and Replacement of Existing Spaces. No off-street parking or loading spaces or areas provided in full or partial conformity with the provisions of these or previous regulations shall be reduced in size, number or other characteristics below the requirements herein, or further below such requirements, so long as the use they serve continues in operation.

Residential garages shall not be converted into nonparking use unless parking requirements herein will be met after such conversion.

A use that undergoes a reduction in floor area or other measure specified herein for determining the number of required spaces may nonetheless reduce the number of spaces to those required herein for the downsized use.

(g) Use of Parking and Loading Areas. Except as otherwise provided herein, required off-street parking shall be used solely for parking for patrons, occupants, guests, visitors or employees of the premises on the same lot.

No sales, dead storage of any kind, nor motor vehicle dismantling, repair or servicing work except for emergency services, is permitted in any open off-street parking or loading area except as an accessory use to single-family detached or attached dwellings or as otherwise provided herein or as may be approved by Council.

(h) Access. Except for uses required hereunder to provide four or fewer spaces, each required off-street parking space and loading space shall open directly upon an aisle or driveway of such width and design as to provide a safe and efficient means of vehicular access. Each space shall have vehicular access to a public thoroughfare in a manner that will least interfere with traffic movement thereupon. Division of aisles and driveways shall be as provided in Table 1.

(i) Grading and Drainage. All parking and loading areas shall be graded for proper drainage and the volume of storm water runoff that exceeds that existing prior to the installation

of such areas shall be discharged into the City storm sewer system or in another manner approved by the Director of Public Works.

(j) Maintenance. All parking and loading areas shall be maintained free of dust, trash and debris. The surfacing, curbing, lighting fixtures, marking, signage and related appurtenances shall be maintained in good condition so long as such areas are used for parking or loading purposes.

(k) Signs. All signs relating to off-street parking and loading areas shall conform to the provisions on signs in Chapter 1351.

(l) Illumination. Uses required herein to provide over four parking spaces or one or more loading spaces shall provide, for such spaces as are intended to be commonly used at night, lighting facilities that are adequate to illuminate such spaces but that do not cause glare on adjoining streets or properties.

(m) Landscaping and Screening. All uses providing ten or more off-street parking spaces or any loading spaces shall screen such spaces from the view of the street and from adjacent residential property. Such screening shall take the form of a uniformly painted solid fence, wall, landscape screen or combination thereof that provides year-round opacity and that conform to the following requirements:

<u>Location of Parking or Loading Area</u>	<u>Minimum Height (a) of Screening in Feet (b)</u>	<u>Location of Screening</u>
Within 100 feet of a public street (c)		Along entire length of abutting street
Parking spaces	3	line except for access ways.
Loading spaces	5	Along entire length of property line between parking or loading area and the residential district except for access ways.
Abutting a residential district (d)	5	

(a) Height shall be fence height as defined herein.

(b) At time of installation.

(c) Maximum height of screening within thirty feet of an at-grade street or railroad intersection shall be three feet.

(d) Maximum height of screening at any time shall be seven feet.

The Planning Commission may approve a landscaping and screening plan which deviates from the requirements herein, upon a showing that strict adherence to such screening and landscaping requirements will have a detrimental effect upon the safety and welfare of the residents of the City.

All screening and landscaping plans shall be reviewed by and receive the written approval of the City Grounds Director prior to approval of the Commission.

#### **1349.02 OFF-STREET PARKING PROVISIONS.**

(a) Small Car Parking Spaces. Up to twenty-five percent (25%) of required off-street parking spaces may be of small car parking space dimensions as provided in Table 1, provided that such spaces are clearly identified by signs and pavement markings as intended for small cars only.

(b) Collective Provision. Required parking spaces for different uses may be provided collectively. Except as provided herein under subsections (c) and (f), the total number of spaces

so provided shall not be less than the sum of the spaces required for each separate use and no parking space shall serve as the required space for more than one use.

A binding written agreement approved as legally sufficient by the City Law Director shall be filed with an application for a building permit, guaranteeing the intended users of collective parking spaces the right to their use.

(c) Parking for Shopping Centers. The number of parking spaces required for retail and personal service uses located in a shopping center shall be as provided for shopping centers in Table 4 rather than the sum of the spaces required for the individual uses.

Except that the number of spaces for restaurants, taverns and drive-in facilities located in a shopping center and for any establishment occupying over fifty percent (50%) of the net floor area of the center, shall be as provided in Table 4 for these individual uses. This number shall be added to the number of spaces required by Table 4 for shopping centers for the balance of the uses in the center.

(d) Surfacing of Parking Areas. All open off-street parking areas and related vehicular access drives and aisles, including residential driveways and widenings thereof, shall be surfaced as follows:

<u>Use</u>	<u>Required Surfacing</u>
Single-family detached dwellings or conversions of such dwellings to rooming houses, accessory or multi-family units	1. Crushed stone, gravel or similar material, or 2. Any surface required for apartments or other uses below.
All other uses	Asphalt, concrete, brick, paving block or similar durable, dustless and impervious surface.

The ~~Planning and Development Director-Code Administrator~~ may waive the requirement for surfacing herein for a parking area located no less than 400 feet from a residential district that serves a use located in an M Industrial District.

(e) Marking. All off-street parking spaces for uses required to provide over four spaces shall be marked by durable painted lines, curbs or other means that clearly designate individual spaces.

(f) Shared Parking. Off-street parking spaces provided for one use may be credited by the ~~Planning and Development Director-Code Administrator~~ toward the spaces required herein for another use that normally operates during different hours. This provision shall apply only to spaces either provided for or to be credited to the following uses and only up to the applicable percentage specified of the total spaces required:

<u>Percentage of Required Spaces that May Be Shared Parking</u>	<u>Use</u>
100	Church Auditorium or school auditorium
50	Bowling alley Dance hall Restaurant Tavern or night club Theater

To be credited, such spaces shall be:

- (1) Included within a parking area that is located no further from the use to which the spaces are to be credited than the walking distances specified in the provision on subsection (i) hereof.
- (2) Not reserved on a twenty-four hour basis for particular individuals, occupants or organizations.

(3) Included in a written agreement filed with the Planning and Development Director ~~Code Administrator~~ and approved as legally sufficient by the City Law Director that:

- A. Specifically allows the use of such spaces by the use to which they are to be credited, and
- B. Specifies the type of establishment and normal operating hours—or hours during which parking spaces proposed for crediting are normally used--seven days a week for all uses sharing such spaces.

If the Planning and Development Director ~~Code Administrator~~ determines that any uses sharing spaces would regularly utilize such spaces during all or some of the same hours, he or she may disallow the crediting of such spaces.

(g) Wheel Guards or Curbing. Where parking spaces are so located that vehicles parked therein might extend beyond the parking surface, such as onto streets, sidewalks or landscaped areas, there shall be installed wheel guards, bumper guards, curbing or other means of restraint to prevent such encroachment. This requirement shall not apply to uses providing four or fewer parking spaces.

(h) Forward Vehicular Motion. Except for dwellings having individual garages or driveways, off-street parking areas shall be designed to enable vehicles to enter or leave such areas moving in a forward direction.

(i) Location of Parking Spaces.

(1) On same or separate lot. Required off-street parking for single-family detached and attached dwellings and manufactured homes on individual lots shall be provided on the same lot as the use served. Parking spaces within garages or carports and on driveways shall be counted as required spaces for such dwellings.

Required parking for other uses--including rooming houses, dormitories, single-family dwellings with accessory apartments and multifamily dwellings--may also be provided on a separate lot that is in the same possession by deed, lease or other written certification approved as legally sufficient by the City Law Director that confirms its availability to the use. No parking on a separate lot for any nonresidential or nonlodging use shall be separated from the use by any residentially-zoned property not in the same possession as the use.

Required parking shall be located within the following walking distances from the nearest point of the parking area to the nearest pedestrian entrance to the use served:

<u>Use</u>	<u>Feet</u>
Manufactured homes in manufactured home parks, Rooming houses, accessory apartments in single-family dwellings and multi-family residential:	200
Commercial and institutional:	400
Office and industrial:	1,000

## (2) In yards.

## A. Single-family and townhouses.

1. In required yards. Open off-street parking for single-family detached and attached, duplex and townhouse dwellings--and for such dwellings that have been converted to rooming houses, dwellings with accessory apartments or multifamily dwellings--may be located in required front, side and rear yards except as otherwise provided herein.

Where because of the slope of a lot, location of a garage outside of THE required front or corner side yard would necessitate a driveway slope greater than twelve percent (12%), the garage may be located within the required yard a minimum of six feet from the street line.

2. In actual yards. One motor vehicle that is not a commercial or recreational vehicle as defined herein may be parked within an actual front or corner side yard. Additional such vehicles may be so parked provided that coverage of the actual front yard by parking shall not exceed twenty-five percent (25%) of front yard area. All such vehicles not enclosed within a building or carport shall be parked entirely upon a driveway or comparably surfaced widening thereof and shall not encroach upon any public sidewalk.

Any additional motor vehicles shall be parked outside of such yards, provided that coverage of the actual rear yard by parking shall not exceed fifty percent (50%) of yard area. Except that where the dimensions of actual side yards and the absence of an alley preclude vehicular access to the side and rear yards, this restriction shall not apply.

B. Other uses. Open off-street parking for other uses, including multifamily residential, may be located in required side and rear yards, but not in required front yards.

No off-street parking for any such use is permitted within any required yard abutting or across an alley from property in a Single-Family Residential District. No parking for any nonresidential use is permitted within any required yard abutting or across an alley from property in any residential district.

(j) Parking for Single-Family Conversions. Parking requirements for rooming houses, multiple-family dwellings and other uses to which single-family dwellings have been lawfully converted may be satisfied by, among other measures, any of the following:

- (1) Widening of an existing driveway surface, subject to location and maximum coverage provisions in subsection (i) hereof.
- (2) Establishment of a parking pad in a side yard.
- (3) Written agreement with the owner thereof that allows use of an available parking space on a nearby property and that is approved as legally sufficient by the City Law Director.

(k) Parking of Recreational Vehicles.

- (1) In residential districts. A single recreational vehicle as defined herein per dwelling unit may be parked or stored in a residential district provided that:
- A. It is not occupied for living or sleeping purposes for more than seven consecutive nights or for more than thirty days per calendar year.
  - B. It is not parked on a public street for more than seventy-two consecutive hours.
  - C. It is stored in its collapsed position if it is a vehicle of the collapsible type not stored in a garage.
  - D. It is parked or stored in a location determined by the following:
    - 1. The vehicle shall be parked in a garage, carport or covered parking space, where one is available on the premises large enough to accommodate the vehicle.
    - 2. Otherwise, the vehicle shall be parked in the driveway or widening thereof outside of an actual front or corner side yard.
    - 3. Otherwise, where the dimensions of actual side yards and the absence of an alley make compliance with subsection (k)(1)D.2. hereof impossible, the vehicle may be parked for a maximum of seven consecutive days in the driveway ahead of such building line but not encroaching upon any public sidewalk.
    - 4. Otherwise, where the dwelling unit does not have its own driveway (as in the case of some multi-family units), the vehicle shall be parked in an open off-street parking space on the premises outside of an actual front or corner side yard or in an off-street space off the premises.
- (2) In other districts. There shall be no restrictions on parking of recreational vehicles in nonresidential districts, other than those concerning outdoor storage.

(l) Parking of Commercial Vehicles.

- (1) In residential districts. No commercial vehicle as defined herein weighing more than 8,000 pounds unloaded may be parked or stored in a residential district other than in a completely enclosed garage except for loading or unloading of household belongings between 6:00 am. and midnight for the purpose of moving a personal residence or for deliveries, repairs, construction, maintenance or service calls.
- (2) In commercial districts. No commercial vehicle as defined herein may be parked or stored in a commercial district other than in a completely enclosed garage or in a public off-street parking facility unless it is used in a business located on the same premises or is being parked temporarily by a customer, supplier, contractor or visitor or for loading, unloading, moving or construction, maintenance or repair of the premises.



(m) **Handicapped Parking.** All uses providing over twenty-five parking spaces shall mark at least one space as reserved for the handicapped. One space shall be so marked for the first fifty spaces and one additional space shall be marked for every 100 spaces thereafter.

All such spaces shall be as close as possible to a building entrance accessible to the handicapped and shall offer barrier-free access thereto. Such spaces shall have sufficient width to allow for wheelchair access to a passenger car or passenger van parked therein.

### 1349.03 OFF-STREET LOADING PROVISIONS.

(a) **Location of Loading Spaces.** All required loading spaces shall have adequate ingress from and egress to a public street or alley and shall be located:

- (1) On the same lot as the use to be served, except when collectively provided as central loading facilities in conformance with the requirements herein, and
- (2) Outside of required front and side yards, and
- (3) In such a manner that no portion of a vehicle shall project across a public sidewalk or into a street.

(b) **Surfacing of Loading Areas.** All open off-street loading spaces and related vehicular access drives and aisles shall be surfaced with a hard-surfaced all-weather pavement with a load-bearing capability approved by the Director of Public Works.

(c) **Collective Provision.** Loading spaces required for individual lots may be collectively provided in central facilities provided that all of the following requirements are met:

- (1) The number of spaces provided is not less than that required by the total floor space for each category of use served.
- (2) Each lot served has direct access to the central facilities without crossing streets at grade.
- (3) The central facilities are not more than 500 feet from any lot they serve.
- (4) Any tunnel or ramp between the central facilities and any lot served is at least nine feet wide and has a vertical clearance of at least seven feet.
- (5) Written covenants and easements approved as legally sufficient by the City Law Director and recorded with the County provide for the retention, maintenance and use of such facilities.

**TABLE 1: PARKING AND LOADING DIMENSIONS**

	<u>Parking Space</u>		<u>Loading Space (g)</u>	
	<u>For Small Cars(a)</u>	<u>For Other Cars</u>	<u>For Tractor Trailers</u>	<u>For Other Trucks (c)</u>
Minimum <u>depth</u> in feet	15(b)	18(b)	60	25
Minimum <u>width</u> in feet	7.5	9	14	10
Minimum <u>vertical clearance</u> in feet	7	7	14	14
Minimum <u>aisle</u> width in feet:				
Angle of spaces: 0 degrees (d)	13	13		
30 degrees	12	12		
45 degrees	13	13		
60 degrees	18	18		
90 degrees (e)	24	24		

DRIVEWAY WIDTH (f) in feet:

Residential

Other

One—way traffic	<u>Districts</u>		<u>Districts</u>	
	Minimum	Desired	Minimum	Desired
	9	12	10	14

Minimum driveway distance to street intersection in feet: 50

- (a) Up to twenty-five percent (25%) of required spaces may be for small cars.
- (b) Parallel parking spaces shall be 22 feet deep.
- (c) Permitted for uses not normally serviced by tractor-trailers.
- (d) Zero degrees parking refers to parallel parking.
- (e) Aisle width for 90 degree parking allows for two-way traffic.
- (f) Radii shall be approved by the Planning and Development Director—Code Administrator in compliance with standards established by the Director of Public Works.
- (g) Requirements apply to uses required to provide one or more loading spaces by Table 2.
- (h) The Planning Commission may approve to vary these requirements with just cause.
- (i) All driveway widths shall be measured at the right-of-way line and shall maintain at least the minimum required width the entire distance of the driveway.

**TABLE 2: REQUIRED NUMBER OF OFF-STREET LOADING SPACES**

<u>Type of Use</u>	<u>Building Size (sq. ft.)*</u>	<u>Number of Spaces**</u>
Offices		
Public uses	10,000 — 100,000	1
Institutional uses		
Manufacturing		
Warehousing and storage	5,000 - 40,000	1
Cartage & express	40,001 — 100,000	2
Retail and service	5,000 — 10,000	
	10,001 — 25,000	2
	25,001 — 40,000	3
	40,001 — 100,000	4

\* Building size measured by Net Floor Area, as defined herein

\*\* One additional space shall be provided for every 100,000 square feet over 100,000 square feet, with fractional spaces rounded to the nearest integer.

No space shall at the same time fully or partially serve to meet the requirement for both off-street parking and loading facilities.

Uses smaller than the smallest values given for each category shall be provided with other receiving facilities for motor vehicles judged adequate by the Planning and Development Director—Code Administrator.

Requirements of this table shall not apply to C-1 Commercial District as provided under Section 1349.01(d).

**TABLE 3: REQUIRED NUMBER OF OFF-STREET PARKING SPACES**

## FOR RESIDENTIAL AND LODGING USES

<u>RESIDENTIAL (a)</u>	<u>Minimum Number of Spaces Required Per Dwelling or Lodging Unit</u>
Efficiency units	1.25
1-Bedroom units	1.5
All other units	2.0
Small existing Lots (e)	0
<u>LODGING (b)(d)</u>	
Hotel	1(c)
Motel	1(c)
Apartment hotel	1
Rooming house	0.5
Dormitories (f)	
For students allowed to park cars at dormitories	0.5
For all other students	0
See also Table 4 for required spaces for other uses.	
Fractional spaces shall be rounded to the nearest integer.	
Requirements of this table shall not apply to the C-1 Commercial District as provided under Section 1349.01(d)	
(a)	Includes single-family detached or attached, townhouses, duplexes, apartments and manufactured homes. Required spaces include .25 spaces per unit for visitor parking but shall be increased by 1 space for each roomer or lodger. No more than 4 spaces shall be provided per dwelling or lodging unit.
(b)	Plus 1 parking space per owner, manager or employee on largest shift.
(c)	Plus spaces for restaurant, retail and meeting rooms, if any, as provided in Table 4.
(d)	One space for each truck or business vehicle employed by an establishment on the premises shall be provided in addition to the number of spaces indicated in this table.
(e)	Single-family detached dwelling units of any size on existing lots of record as of the effective date of these regulations having a lot width of 40 feet or less and lacking access to an alley.
(f)	Requirement is number of spaces per bed, not per unit.

**TABLE 4: REQUIRED NUMBER OF OFF-STREET PARKING SPACES  
FOR NONRESIDENTIAL AND NONLODGING USES**

	<u>Minimum Number of Spaces Required (a)</u>		
	<u>Per Employee(b)</u>	<u>Per 1,000 square feet Floor Area</u>	<u>Per Person Design Capacity(c)</u>
<u>SCHOOLS</u>			
Elementary	1	--	--
Junior high	1	--	--
High school	1	--	.25(d)
College or university	1	--	(m)
Commercial	1	--	.25(d)
<u>RECREATIONAL</u>			
Indoor theater	--	--	.25
Bowling alley			
Per lane	--	--	--(h)
Restaurant/bar	--	3	--
Arena or stadium	--	--	.25

Auditorium (nonschool)			.25
Health club	--	5.0	--
Skating rink	--	5.0	--
Swimming pool	--	--	.25
Dance or meeting hall	--	--	.25
Community center	--	--	.25
Club or lodge	--	5.0	--

#### INSTITUTIONAL

Church	--	--	.25
Public utility and service	--	1	--
Institution office or meeting hall	1	--	--
Library, museum or gallery	--	2.5	--
Nursing home	1	--	-- (f)
Child day care center	--	2	--
Government offices	--	3.5	--

#### MEDICAL

Hospital	1	--	-- (e)
Clinic	--	4.0	--
Animal hospital	--	2.5	--

#### AUTOMOTIVE

Auto laundry	1	--	-- (i)
Service station	1	--	-- (k)
Vehicle sales	--	2.5	--

	<u>Per Employee(b)</u>	<u>Per 1,000 square feet Floor Area</u>	<u>Per Person Design Capacity(c)</u>
<u>OFFICE BUILDING (1)</u>	--	3.5	--
<u>SHOPPING CENTER:</u>			
Under 400,000 square feet	--	4	--
400,000—600,000 square feet	--	4.5	--
Over 600,000 square feet	--	5	--
<u>DEPARTMENT STORE</u>	--	4	--
<u>SUPERMARKET</u> or			
Food store	--	4	--
<u>HARDWARE</u> store	--	3.5	--
<u>BANK</u> or			
Financial institution	--	5	-- (g)
<u>RESTAURANT:</u>			
Carry out only	--	16	--
Drive in and eat in	--	20	-- (g)
Eat in, no drive in	--	20	--
<u>TAVERN</u>	--	10	--
<u>MORTUARY</u>	1	10	--
<u>CONTRACTOR</u> or			
Construction office	1	--	--
<u>FURNITURE AND APPLIANCE</u>			
Sales or repair store	--	1.5	--
<u>OTHER RETAIL</u>			
and personal service	--	4.5	-- (g)

#### INDUSTRIAL

Cartage and express firms	1	--	--
Warehousing and wholesaling	1	.5	-- (j)
Radio or TV station or studio	1	--	--
Manufacturing, research, testing	1	1.5	-- (j)

#### NOTES FOR TABLE 4

Unless otherwise provided herein, required parking is the sum of the requirements in all columns of this Table.

See also Table 3 for required spaces for residential and lodging uses.

Parking for uses not listed shall be as provided for the most similar listed use as determined by the Planning Commission

Requirements of this table shall not apply to the C-1 Commercial District as provided under Section 1349.01(d).

Floor area shall be Net Floor Areas as defined herein. All required space figures shall be prorated for each establishment. Fractional spaces shall be rounded to the nearest integer.

- (a) One space for each truck or business vehicle employed by an establishment on the premises shall be provided in addition to the number of spaces specified.
- (b) Maximum number of full- and part-time employees on duty on the premises at any one time.
- (c) Per seat in main auditorium or meeting room or per person of design capacity of the facility. Eighteen inches of seating space shall be considered a seat for purposes of this requirement where individual seats are not discernable.
- (d) Capacity in full-time students attending classes at any one time.
- (e) Plus 0.5 spaces per bed, excluding bassinets.
- (f) Plus 0.25 spaces per bed.
- (g) Plus 5 stacking spaces per drive-in window.
- (h) 5 spaces per bowling lane.
- (i) Plus stacking spaces equal to 5 times the capacity of the car wash. The capacity shall be calculated as the number of vehicles that can be accommodated at any one time in any phase of the washing or waxing process.
- (j) Employment standard or floor space standard, whichever is greater, shall be used. If employment is not known when plans are drawn, floor space standard may be used. If upon occupancy the employment standard yields a greater number of required spaces, the Planning and Development Director ~~Code Administrator~~ may require the provision of additional parking before granting a certificate of occupancy.
- (k) Plus 2 spaces per service bay.
- (l) Applies to offices generally attracting employees but not customers. Offices that regularly attract customers such as real estate, insurance, tax preparation and the like shall meet the standard for other retail and personal service uses.
- (m) Planning Commission shall determine parking requirements, including such institutional buildings as libraries and auditoriums.

## CHAPTER 1353 Rooming Houses

1353.01	Rooming house definition.	1353.08	Egress.
1353.02	License required; display; location restricted.	1353.09	Maintenance; responsibility of operator.
1353.03	Change of ownership; expiration of licenses.	1353.10	Fire extinguishers.
1353.04	License fees; inspections.	1353.11	Exit signs.
1353.05	Issuance and suspension of licenses; hearings.	1353.12	Bedfast and feeble persons.
1353.06	Plumbing requirements.	1353.99	Penalty.
1353.07	Area and ventilation requirements; health, safety and sanitation.		

### 1353.01 ROOMING HOUSE DEFINITION.

(a) A rooming house shall be any building in which sleeping room(s) are occupied by individuals not related to each other by blood or marriage which provides sleeping accommodations for at least five but not more than sixteen persons residing on a transient or permanent basis with or without meals, but without separate cooking facilities for individual occupants.

(b) Notwithstanding anything in this section to the contrary, Temporary Shelters, as defined in Chapter 1354 of the Zoning Code, are specifically excluded from the definition of Rooming Houses.

### 1353.02 LICENSE REQUIRED; DISPLAY; LOCATION RESTRICTED.

(a) License Required. No person shall operate a rooming house unless he/she holds a valid rooming house license issued by the ~~City Code Administrator~~ in the name of the operator.

(b) Display. The rooming house license shall be displayed in a conspicuous place within the rooming house at all times. The license shall not be transferable.

(c) Location Restricted. A rooming house license shall be issued only for a dwelling house, building or other structure located in the zoning districts as provided in the Zoning Code.

### 1353.03 CHANGE OF OWNERSHIP; EXPIRATION OF LICENSES.

Every person holding a rooming house license shall give notice in writing to the ~~Building Division Code Administrator~~ within five days after having sold, transferred, given away or otherwise disposed of ownership or control of such rooming house. Every rooming house license shall expire on June 30 of each year unless suspended or revoked earlier as hereinafter provided. An annual inspection and renewal is required. Renewal of licenses may be approved by the ~~Building Division Code Administrator~~ and is not subject to the review of the Planning Commission unless there is a structural change made to the rooming house or there is proposed increase in the number of occupants.

### 1353.04 LICENSE FEES; INSPECTIONS.

The initial fee for a rooming house license, as well as the renewal fee, shall be such amount as provided by ordinance. If, upon inspection it is found that the rooming house does not meet the requirements of this chapter and of the applicable Housing, Building and Fire Codes, the operator shall be informed in writing of the deficiencies and a date shall be set for compliance and reinspection thereof. If the reinspection reveals that the deficiencies have not been corrected the license shall be denied and the fee not returned. In such an event, a new application and fee must be filed and paid for each inspection required before the premises are found to meet all the rules and regulations set forth in this chapter and in the applicable Housing,



Building and Fire Codes. An annual inspection is required but the renewal fee shall be reduced to such amount as provided by ordinance if the rooming house passes inspection on the first inspection for the renewal.

The amount of all fees hereinbefore established shall be doubled if at the time application is made, such applicant is operating a rooming house without a license or with an expired license. There shall be extended a sixty-day grace period in renewing a license.

#### **1353.05 ISSUANCE AND SUSPENSION OF LICENSES; HEARINGS.**

(a) Any person whose application for a license renewal to operate a rooming house has been denied or suspended by the Building Division~~Code Administrator~~ for reasons set forth in this chapter, may request and shall be granted a hearing on the matter before the Planning Commission and in the same manner as an appeal for violation as set forth in subsection (b) hereof.

(b) Whenever, upon inspection of any rooming house, conditions or practices are found to exist which are in violation of any provision of the applicable Housing, Building or Fire Codes or of any rule or regulation adopted pursuant thereto, the Building Division~~Code Administrator~~ shall give notice in writing to the operator of the rooming house and the Planning Commission that unless such conditions or practices are corrected within thirty days, the operator's rooming house license shall be suspended. At the end of the period, upon reinspection of the rooming house, and if the conditions or practices have not been corrected, the Building Division~~Code Administrator~~ shall give notice in writing to the operator and the Planning Commission that the latter's license has been suspended.

(c) Any person whose license to operate a rooming house has been suspended, or who has received notice from the Building Division~~Code Administrator~~ that his/her license is to be suspended unless existing conditions or practices at this rooming house are corrected, may request and shall be granted a hearing on the matter before the Planning Commission. If no petition for such hearing is filed within ten days following the day on which such license was suspended, the license shall be deemed to have been automatically revoked.

#### **1353.06 PLUMBING REQUIREMENTS.**

At least one flush water closet, lavatory basin and bathtub or shower properly connected to a public water and sewer system or to a water and sewer system approved by the Housing Inspector and in good working condition, shall be supplied for each ten persons or fraction thereof residing within a rooming house including members of the operator's family wherever they share the use of the facilities. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities. Every lavatory, basin and bathtub or shower shall be supplied with hot water at all times.

#### **1353.07 AREA AND VENTILATION REQUIREMENTS; HEALTH, SAFETY AND SANITATION.**

Every room occupied for sleeping purposes by one person shall contain at least seventy square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least fifty square feet of floor space for each occupant thereof.

Dormitories for sleeping purposes may be provided for occupancy by more than six persons in college dormitories, college fraternities, college sororities and college club houses, subject to all the provisions of this chapter and other relevant provisions of these Codified Ordinances, except the floor space requirements thereof. However, such dormitories for sleeping purposes shall comply with the following requirements:

- (a) Beds. Beds shall not have more than two decks each. A bed shall be defined as any bunk, cot or other furniture equipment used for sleeping purposes.
- (b) Exits and Aisles. Clear space at least three feet wide shall be provided for not less than three feet in front of each fire exit and stairway and shall be connected by an aisle at least three feet wide to a center of the main aisle. Any center or main aisle shall be at least three feet wide.
- (c) Spacing Beds. Space at least two feet wide shall be provided at the ends of beds

and between the ends of beds arranged end to end, except that center or main aisles between ends of beds shall be at least three feet wide. Space at least thirty inches wide shall be provided along each long side of each bed, but where such space is a center or main aisle it shall be at least three feet wide.

- (d) Adequate Air. Adequate air space shall be provided, but where, due to low ceilings, substandard window area or other substandard conditions in any sleeping dormitory, a lesser air space is provided per bed than specified by the Ohio Basic Building Code, an approved ventilation facility that provides recirculation and change of air sufficient to overcome such deficiency may be approved after inspection.
- (e) Safety, Health, Building and Housing Standards. All rules, regulations and requirements of these Codified Ordinances shall apply to all dormitories, except that State rules, regulations and requirements shall take precedence.

### **1353.08 EGRESS.**

In every structure used for rooming house purposes, there shall be not less than two stairways for egress from each floor above the first floor. One of the stairways may be an outside stairway or fire escape of steel or wood leading to ground level, constructed according to the requirements listed in the Building Codes. Such outside stairway shall be accessible through a door, unlockable from within, located in a hallway or in a room which is not occupied, directly reaching from a hall through a door without a locking device or bolt of any kind, and shall be located as remotely as possible from the inside stairway. All wells and areaways shall be protected with guardrails.

### **1353.09 MAINTENANCE; RESPONSIBILITY OF OPERATOR.**

The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for maintenance in a sanitary condition of every part of the rooming house. The operator shall further be responsible for the sanitary maintenance of the entire premises where the entire structure or building is leased or occupied by the operator.

### **1353.10 FIRE EXTINGUISHERS.**

(a) Every rooming house wherein ten or more persons are lodged shall be equipped with a suitable number of fire extinguishers bearing approval of the National Fire Protection Association, the type of such extinguishers to meet the approval of the Fire Chief or his/her designee.

(b) There shall be at least one approved extinguisher as designated by the Fire Chief, or his/her designee, on each floor of each rooming house required to be equipped with fire extinguishers by subsection (a) hereof. Where any floor area is in excess of 2,000 square feet, there shall be installed one additional approved fire extinguisher for each such 2,000 square feet of floor area, or fraction thereof.

(c) All fire extinguishers shall be inspected annually per the requirements of the Ohio Fire Code.

(d) The location of all such fire extinguishers as are required under this section, shall be indicated and approved by the Chief of the Fire Department, or his/her designee, and all such fire extinguishers shall be kept in good repair and in operating condition at all times.

### **1353.11 EXIT SIGNS.**

In rooming houses of over ten people, an illuminated exit sign shall be installed over each stairway and emergency means of exit. Such exit sign shall remain lighted at all times. The circuit supplying exit signs shall not supply other lights, receptacles or appliances and shall be so connected that there will be only one set of fuses between the same and service fuses.

### **1353.12 BEDFAST AND FEEBLE PERSONS.**

In all rooming houses, all bedfast and feeble persons shall be lodged on the first floor.

**1353.99 PENALTY.**

Whoever violates any of the provisions of this chapter is guilty of a minor misdemeanor. Each day of violation shall constitute a separate offense.

In approving a conditional use permit, the Planning Commission shall have the authority to impose such conditions as it deems necessary to protect the public welfare, preserve the purpose and intent of this ordinance, to protect the character of the surrounding properties and neighborhood affected by the proposed conditional use, and to mitigate the special characteristics of the use. Such conditions may include, but shall not be limited to:

- (a) Location and setbacks.
- (b) Screening and buffers.
- (c) Access and traffic, including pedestrian accessibility.
- (d) Noise control measures.
- (e) Other features of construction, including but not limited to paving and parking, signs, and landscaping.
- (e) Hours and method of operation.
- (f) Maintenance of the site, structures, and landscaping.
- (g) Means of controlling glare, vibration, odors, dust, smoke, hazardous materials, refuse matter, water-carried waste, and storm water.
- (h) Time limit for operation of the conditional use, if temporary operation is determined to be a typical characteristic of the proposed use or otherwise appropriate given unique circumstances of the proposed use.

#### **1355.08 ISSUANCE, REVOCATION, TRANSFER, AMENDMENT, RE-APPLICATION.**

(a) Issuance of Permit. Subsequent to approval by the Planning Commission, and compliance with all applicable conditions of such approval and of this ordinance, the Planning and Development Director-Code Administrator shall issue a conditional use permit stating the conditionally permitted use and all conditions of the permit.

- (b) Revocation of Permit. A conditional use permit shall become null and void if:
- (1) The applicant does not commence the operation of the conditional use within six (6) months of the date the permit is issued; or
  - (2) The conditional use ceases for a period of six (6) months; or
  - (3) The conditional use is operated in a manner which violates any provision of the conditional use permit.

The owner of the property may, within six (6) months of the original approval, request that the Planning Commission issue an extension of time to establish the conditional use.

The Planning and Development Director-Code Administrator shall notify the Planning Commission if a conditional use is determined to be operating in violation of any provision of the conditional use permit. Notice shall also be forwarded to the property owner. The property owner shall discontinue such violation upon receipt of the notice.

The Planning Commission, upon determining that a violation may necessitate revocation of the permit, shall set a public hearing date and shall notify the owner. Subsequent to the public hearing, the Commission shall take action to affirm, revoke, or amend the permit.

(c) Transfer of Permit. A conditional use permit may be transferred to a new owner when a property is sold, subject to the approval of the Planning Commission. Prior to transfer of ownership, the proposed new owner shall submit a statement to the Planning and Development Director-Code Administrator stating that he/she is aware of, understands, and will comply with all conditions and requirements of the conditional use permit. The new property owner shall be bound by the conditions of the permit as long as the conditional use is continued.

(d) Amendment of Permit. The owner of a property for which a conditional use permit is in effect may request amendment of the permit. Amendment shall be accomplished according to the procedures, requirements, and standards of this ordinance applicable for a new conditional use permit.

(e) Re-Application. Subsequent to disapproval of an application for a conditional use permit, a period of at least one year shall elapse before another application for the same conditional use on the same site may be considered by the Planning Commission.

#### **1355.09 STANDARDS AND REQUIREMENTS FOR ALL CONDITIONAL USES.**

In review of a conditional use permit application, the Planning Commission shall consider whether there is adequate evidence that the proposed conditional use is consistent with the following standards:

- (a) The proposed conditional use shall be in harmony with the existing or intended character of the neighborhood and shall not change the essential character of the neighborhood.
- (b) The proposed conditional use shall not adversely affect the use of adjacent property.
- (c) The proposed conditional use shall not adversely affect the health, safety, or welfare of persons residing or working in the neighborhood.
- (d) The proposed conditional use shall be served adequately by public facilities and services such as, but not limited to, roads, pedestrian and bike facilities, police and fire protection, storm water facilities, water, sanitary sewer, or schools.
- (e) The proposed conditional use shall be in accord with the general and specific objectives, and the purpose and intent of this Zoning Ordinance and the Comprehensive Plan and any other plans and ordinances of the City.
- (f) The proposed use shall be found to be consistent with a use specifically stated as a conditional use in the district in which it is proposed to be located.

#### **1355.10 SUPPLEMENTARY REQUIREMENTS FOR CONDITIONAL USES.**

In addition to the other requirements of this chapter, the following conditional uses shall meet additional requirements. The Planning Commission may vary any requirements it determines to be an unnecessary hardship on the property owner and in the best interest of the City:

- (a) (EDITOR'S NOTE: Former subsection (a) was repealed by Ordinance 00-30AC, passed April 17, 2000.)
- (b) **VEHICLE SALES, SERVICE, RENTAL, LEASING**  
The following regulations, in addition to those stated at 1355.09, shall apply to conditional use permits for vehicle sales, service, rental, or leasing.
  - (1) Outdoor storage or parking areas for vehicles for sale, rent, lease, serviced or to be serviced, or in storage shall be paved with asphalt or concrete and shall not be located closer to the public right-of-way than ten (10) feet. The area between the right-of-way and the vehicle parking or storage area shall be landscaped according to the approved site plan.
  - (2) The application shall specifically state the types and maximum number of the vehicles to be sold, service, rented, or leased, including automobiles, vans, trucks (pickup, light hauling, semi tractors, etc.).
  - (3) All repair, testing, cleaning, and other service activities shall be performed within an enclosed building unless the nature and location of such activities outdoors are specifically described in the approved site plan.
  - (4) All door openings in all structures shall be identified in the site plan and shall be located to direct equipment noise away from nearby residential areas.
  - (5) Temporary outdoor storage of discarded materials, vehicle parts, scrap and other waste shall only be permitted within a storage area completely surrounded by a gated masonry wall six (6) feet in height or other

screening approved by the Planning Commission. Such screening shall be set back from residential districts at least six (6) feet and landscaped according to the approved site plan. Damaged or partially dismantled vehicles shall only be stored in locations screened from view from adjoining properties and public rights-of-way.

- (6) Exterior loudspeakers shall not be permitted.

(c) **FILLING STATION, SERVICE STATION, GAS STATION**

The following regulations, in addition to those stated at 1355.09, shall apply to conditional use permits for a filling station.

- (1) Parking of employee vehicles, vehicles used in the operation of the business, vehicles awaiting servicing or return to customers after servicing, and vehicles held for disposal shall only be permitted in the locations approved on the site plan. Parking and storage of vehicles not related to the principal use of the site shall not be permitted.
- (2) Vehicle sales, service, rental, or leasing shall not be permitted on the site unless specifically approved in the conditional use permit and subject to the supplementary requirements listed for Vehicle Sales, Service, Rental, Leasing.
- (3) Retail sales of products other than vehicular fuels shall be permitted only within an enclosed structure which shall comply with all provisions of the district, including requirements for parking. Outdoor display, storage, or sale of goods shall not be permitted on the site unless specifically approved in the conditional use permit and in conformance with the supplementary standards for outdoor display, storage, and sale.
- (4) Temporary outdoor storage of discarded materials, vehicle parts, scrap and other waste prior to collection shall only be permitted within a storage area completely surrounded by a gated masonry wall six (6) feet in height or other screening approved by the Planning Commission. Such screening shall be set back from residential districts at least six (6) feet and landscaped according to the approved site plan.
- (5) Fuel pumps and canopies shall conform to all requirements of this ordinance with regard to height, setbacks, and signs.
- (6) Air compressor pumps (e.g., for tire inflation) and other outdoor equipment shall be identified on the site plan and shall be located in a manner which minimizes noise impacts on residential areas.
- (7) Curb cuts shall be limited to two per site. On corner lots, curb cuts shall be limited to one per street.

(d) **DRIVE-IN ESTABLISHMENT**

The following regulations, in addition to those stated at 1355.09, shall apply to conditional use permits for a drive-in establishment.

- (1) Loudspeakers shall be located and designed, with volume and hours of operation controlled, in a manner to minimize noise impacts on nearby residential uses.
- (2) Lanes required for vehicle access to and waiting for use of a drive through or drive up facility shall be designed to have sufficient length to accommodate the peak number of vehicles projected to use the facility at any one time, to provide escape/abort lanes for vehicles desiring to leave the stacking lanes or to avoid disabled vehicles, and to minimize impacts on the use of other required parking or drives or on the use of abutting streets and hazards to pedestrians. The applicant shall provide a traffic study which documents to the satisfaction of the Planning Commission the projected vehicular use of the proposed facilities and evidence of compliance with the provisions of this Zoning Ordinance.
- (3) The Planning Commission may impose restrictions on the hours of operation in order to reduce inappropriate impacts on abutting uses and on street traffic and to ensure compatibility with normal vehicular activity in the district.



- (4) The applicant shall so design the site plan or otherwise provide assurances as to reduce the impacts of lighting, litter, noise, and exhaust resulting from the facility, especially impacts on nearby residential uses.
- (e) **PLACE OF WORSHIP, CHURCH, OR SCHOOL**  
The following regulations, in addition to those stated at 1355.09, shall apply to conditional use permits for churches or schools.
  - (1) Paved areas, such as parking lots, playgrounds, and vehicle loading or storage areas, but not including access driveways, shall not be located closer than fifty (50) feet to any side or rear lot line of the site.
  - (2) No church building or other main or accessory building shall be located closer than fifty (50) feet to any side or rear lot line of the site. All structures shall be located in conformance with the approved site plan.
  - (3) No residential use or cemetery shall be permitted on the same site as the main use of church or school unless specifically authorized by the Planning Commission and otherwise listed as a permitted use in the district.
  - (4) Churches and schools shall be located on thoroughfares suitable to serve the traffic volumes generated by the proposed use.
  - (5) A place of worship shall only be used for local purposes of the congregation of the organization and shall not be used or operated in connection with a business, except for the renting of rooms for a use that provides a service to the community, such as day care or other classes on a not-for-profit basis.
- (f) **BED AND BREAKFAST INN**  
The following regulations, in addition to those stated at 1355.09, shall apply to conditional use permits for a bed and breakfast inn.
  - (1) The applicant shall specify the maximum number of overnight guests which shall be served on any one night and the maximum number of rooms which shall be made available to such guests.
  - (2) A bed and breakfast inn shall comply in all respects with local ordinances. The ~~Residential Building Official Code Administrator~~ and Fire Chief shall submit written reports to the Planning Commission indicating that they have reviewed the proposal and whether they have found it to comply with requirements of the building, housing, and fire codes, especially with regard to plumbing requirements, area and ventilation requirements, health, safety, and sanitation, egress, fire extinguisher, exit signs, exterior lighting, and other applicable requirements.
  - (3) A bed and breakfast inn shall only be permitted on a lot and in a building which complies in all respects with the requirements of the zoning district for lot area, lot width, and building setbacks.
  - (4) Site improvements such as trees, shrubs, planting beds, and lawns shall be installed and maintained on the bed and breakfast inn site in a manner consistent with good quality residential landscape design in order to ensure consistency with and a positive contribution to the aesthetic character of the neighborhood. Such improvements shall be detailed on the site plan for approval by the Planning Commission.
  - (5) An area, surrounded by a fence or other material as approved on the site plan, shall be provided for exterior storage of waste containers. No other exterior storage, except for automobiles, bicycles, and seasonal outdoor furnishings, shall be permitted.
  - (6) All on-site service walks and street sidewalks shall be installed, repaired, and maintained in sound and safe condition.
  - (7) The exterior condition of all surfaces and appurtenances of all structures on the property shall be maintained in sound condition, including but not limited to sound and complete roof shingles, sound and weatherproof paint or siding, complete and functioning windows and doors.
  - (8) A bed and breakfast shall not be established on a lot on which is situated any other dwelling or use.

(g) **OUTDOOR SALES, STORAGE, OR DISPLAY**

The following regulations, in addition to those stated at 1355.09, shall apply to conditional use permits for outdoor sales, storage, or display.

- (1) Outdoor sales, storage, or display shall only be permitted in areas identified on the approved site plan. No such activity shall be located closer than fifty (50) feet to a residential zoning district boundary or road right-of-way abutting any residential zoning district or within ten (10) feet of any road right-of-way. Such activities shall not occupy any required parking area or driveway.
- (2) Any outdoor sales, storage, or display area located closer than 100 feet to a residential district shall, if determined to be visible from such district, be screened by a landscape buffer strip or other means indicated on the approved site plan.
- (3) Illumination of outdoor sales, storage, or display areas shall be designed to prevent glare or direct light from the illumination source into residential areas.
- (4) Outdoor displays shall be maintained in a neat and orderly fashion. Signs shall comply with this Zoning Ordinance. Waste material shall be contained within a storage area completely surrounded by a gated masonry wall six (6) feet in height or other screening approved by the Planning Commission. Such screening shall be set back from residential districts at least six (6) feet and landscaped according to the approved site plan.
- (5) The site plan submitted with an application for a conditional use permit shall indicate the types of merchandise to be displayed, and, if applicable, any seasonal changes of display.
- (6) Outdoor repair, preparation, cleaning, assembly, disassembly, or other similar activities shall not be permitted unless the nature and location of such activity is specifically identified in the application and approved by the Planning Commission.

(h) **MINI-STORAGE FACILITY**

The following regulations, in addition to those stated at 1355.09, shall apply to conditional use permits for a mini-storage facility.

- (1) All storage shall be within an enclosed building unless the nature and location of outdoor storage has been specifically approved by the Planning Commission in conformance with the supplementary regulations for outdoor sales, storage, or display.
- (2) Loading and unloading areas shall be paved and shall be located only as approved by the Planning Commission.
- (3) A minimum of five (5) parking spaces shall be provided near the leasing office. Sufficient space shall be provided in the paved lanes serving the storage units to accommodate on-site movement of vehicles and the parking and loading/unloading of the trucks, vans, trailers, and automobiles of persons using the units.
- (4) An on-site leasing office shall be provided.
- (5) Fencing of the perimeter shall be provided as determined by the Planning Commission in a manner which promotes security and presents an appropriate appearance to abutting properties.
- (6) A landscaped setback area of at least twenty-five feet in width shall be provided along any lot line of the subject site which abuts a residential area. This area shall not be covered by buildings, parking or drives.
- (7) Door openings facing residential areas shall not be permitted unless approved by the Planning Commission.
- (8) Activities on the site shall be limited to the storage of property only. Other activities, such as the operation of tools, rummage sales, temporary residency, shall be prohibited unless specifically permitted by the Planning Commission.
- (9) Hours of operation shall only be as approved by the Planning Commission, after consideration of the impact of the proposed use upon

the character, safety, and tranquillity of the neighborhood.

- (i) Wireless And Cellular Telecommunications Facilities. In recognition of the quasi-public nature of cellular and/or wireless telecommunication systems, it is the purpose of these regulations to: accommodate the need for cellular or wireless telecommunications towers and facilities for the provision of personal wireless/cellular services while regulating their location and number in the City of Oberlin; minimize adverse visual effects of telecommunication towers and support structures through proper siting, design, and screening; to minimize the adverse impacts that telecommunication facilities may have on the health, safety and welfare of the City of Oberlin; to avoid potential damage to adjacent properties from telecommunication tower and support failure; and encourage the joint use of any new and existing telecommunication towers and support structures to reduce the number of such structures in the future.

- (1) Special application requirements. In addition to the provisions of this Chapter for applications for conditional use permits, the following shall be required for a conditional use permit application for a wireless or cellular telecommunication facility:

- A. A plot plan including, in addition to the requirements of Chapter 1355, the following:

1. The total area of the property.
2. The existing zoning of the site and all adjoining properties.
3. All public and private rights-of-way and easements located on the property.
4. The location of all existing buildings and structures on the property; all buildings or structures and uses within 500 feet of the tower site; and the proposed location of the wireless/cellular communication tower and all wireless/cellular communication support structures including dimensions, heights, and, where applicable, the gross floor areas.
5. The location and dimensions for all curb cuts, driving lanes, off-street parking spaces, grades, surfacing materials, drainage plans, illumination of the facility, and landscaping.
6. The location of all proposed fences, screening and walls.
7. Any other information as may be required by the Planning Commission.

- B. A report prepared by a licensed professional engineer documenting the height, design, proof of compliance with nationally accepted structural standards, and a description of the tower's capacity, which shall include the number and types of antennae it can accommodate.

- C. For the purpose of demonstrating the necessity for the erection of any new telecommunication tower, any applicant requesting permission to install a new tower shall provide evidence of written communication with all other wireless/cellular service providers who supply service within a one mile radius of the proposed facility requesting use of the other providers' towers for collocation of the applicant's antennae. The contacted provider shall be requested to respond in writing to the inquiry within thirty days. The applicant's letter(s) as well as the responses received shall be presented to the Planning Commission to demonstrate the need for a new tower.

- D. The applicant shall also provide evidence of written communication with owners of nearby tall structures within a one mile radius of the proposed tower site, asking permission to install the wireless/cellular antennae on those structures. Tall structures

shall include, but not be limited to: smoke stacks, water towers, buildings over fifty feet in height, other communication towers, and roadway light poles.

- E. The facility owner/operator shall present a maintenance plan demonstrating responsibility for the site.
- F. The applicant shall provide a copy of a permanent easement or appropriate leasehold estate providing for access to the tower site. The access to the tower site must be maintained regardless of other development that may take place on the site.
- G. The communication company must demonstrate proof to the City that the company is licensed by the Federal Communications Commission (FCC).

(2) Requirements for telecommunication facilities. The requirements below, subsections (i)(2)A. through O., in addition to those stated at Section 1355.09, shall apply to conditional use permits for wireless or cellular telecommunications facilities.

- A. Wireless or cellular telecommunication sites shall be located at least 1000 feet from any residential zoning district.
- B. The required setback between the base of the tower or any guy wire anchors and any property line shall be forty percent (40%) of the tower's height or fifty feet, whichever is greater.
- C. The maximum height of a telecommunication tower shall be 200 feet. The maximum height of the equipment building shall be thirty-five feet.
- D. Maximum size of an equipment building shall be 750 square feet.
- E. The minimum lot size and area restriction shall be the same as permitted for any other use in the (M-1) Light Industrial District.
- F. A security fence eight feet in height with barbed wire around the top shall completely surround the tower, the equipment building and any guy wires.
- G. Towers and antennae shall be designed to withstand wind gusts of at least 100 miles per hour.
- H. The tower shall be painted in a non-contrasting gray or similar color to minimize its visibility, unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).
- I. No advertising is permitted anywhere on the facility.
- J. Buffer planting shall be located around the perimeter of the security fence as follows: An evergreen screen shall be planted that consists of either a hedge or evergreen trees that shall provide a minimum of seventy-five percent (75%) opacity year round.
- K. The tower shall not be artificially lighted except to assure safety or as required by the FAA.
- L. Warning signs shall be posted around the facility with an emergency telephone number of whom to contact in the event of an emergency.
- M. The owner/operator of any telecommunications facility shall design such facility so that additional service providers may add their antennae, platforms, and associated hardware to the structure at a later date. The owner/operator shall negotiate in good faith with other providers for the collocation of other service providers' antennae at the facility, shall cooperate with the City of Oberlin in identifying other wireless/cellular service providers for the purpose of negotiating sub-lease agreements for collocation of other service providers' antennae at the facility, and shall not interfere or hinder service providers from utilizing the facility.
- N. Where possible, an antenna or tower for use by a wireless/ cellular service provider shall be attached to an existing structure or

building. A new wireless communication facility shall not be erected if there is a technically suitable space for a wireless communication facility available on an existing wireless communication tower or other suitable structure within the applicant's search area. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing structure or that bona fide efforts to negotiate location on structures have been rejected.

- O. Any owner of a tower whose use will be discontinued shall submit a written report to the Planning Commission indicating the date on which such use shall cease. If at any time the use of the facility is discontinued for 180 days (excluding any dormancy period between construction and the initial use of the facility), the Commission may declare the facility abandoned. The tower owner and the owner of the property upon which the tower is located shall receive written instruction from the Commission to either reactivate the use within 180 days or dismantle and remove the facility.

If reactivation does not occur within said period, the City may thereafter proceed to remove the facility and assess the costs of removal to the owner as well as certify those costs to the County Auditor as a lien against the property.

In addition to the foregoing requirements, the following standards, subsections (i)(2)P. through S. shall apply to conditional use permits for wireless or cellular telecommunications facilities permitted on a property with an existing use.

- P. The existing use on the property may be any permitted use or lawful nonconforming use in the M-1 Light Industrial District, and said use need not be affiliated with the wireless/cellular telecommunication provider.
- Q. The telecommunication facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
- R. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
- S. Subsequent to approval of a conditional use permit for a telecommunication tower, the owner shall submit building permit applications to the City for any additional antennae proposed to be placed on the tower. Such permit applications may be approved by the Planning and Development Director Codes Administrator, except that he/she may refer such applications to the Commission if he/she determines that such additions do not conform with the Conditional Use Permit.

- (j) Farmers' Markets. The following regulations, in addition to those stated in Section 1355.09, shall apply to conditional use permits for a farmers' market:

- (1) A farmers' market shall only operate within the months, days and hours specified by the Planning Commission in order to ensure that it is a seasonal market.
- (2) A minimum setback distance of ten feet is required from the public street right-of-way line and twenty-five feet from any residentially zoned property. Notwithstanding these setback requirements, nothing in this regulation shall preclude the operation of a farmers' market within a public right of way or on publicly-owned land if approved by Council.
- (3) The applicant shall specify the number of vendor spaces on the application

form and on a site plan drawing, and the number of spaces shall be such as to not create overcrowding.

- (4) All activities relating to the operation of the farmers' market shall be conducted on an improved surface.
- (5) The applicant shall specify the types of goods offered for sale and they shall be restricted to grown or baked goods produced by the vendor.
- (6) Commercially manufactured goods or products shall not be offered for sale.
- (7) Any signage shall be restricted to a maximum display area of twenty-five square feet and any sign must be set back a minimum distance of ten feet from a public street right of way.
- (8) The use of loudspeakers and amplified music shall be prohibited.
- (9) Proof of liability insurance shall be provided to the City.

(k) **SIMILAR USES**

The following regulations, in addition to those stated at 1355.09, shall apply to uses requested to be interpreted as similar uses and requested for approval of a conditional use permit:

- (1) The Planning Commission shall consider the information submitted with regard to the use requested to be interpreted as a similar use and shall determine if such use is or is not similar based on the following standards:
  - (a) Such use is not listed in any other district as a permitted use;
  - (b) Such use has characteristics and impacts consistent with those of one or more of the permitted uses in the district; and such use has characteristics and impacts more consistent with those of the permitted uses of the subject district than with the permitted uses of any other district;
  - (c) The establishment of such use in the district will not significantly alter the nature of the district;
  - (d) Such use does not create dangers to health and safety and does not create offensive noise, vibration, dust, heat, smoke, odor, glare, traffic, or other objectionable impacts or influences to an extent greater than normally resulting from permitted uses listed in the subject district;
  - (e) Such use does not typically require site conditions or features, building bulk or mass, parking areas, or other requirements dissimilar from permitted uses; and the typical development of site and buildings for such use is compatible with those required for permitted uses and can be constructed in conformance with the standard regulations for height, lot dimensions, setbacks, etc. of the district.

The Planning Commission shall make a recommendation to City Council that a proposed use should be or should not be determined to be a similar use for the subject district. City Council shall consider the recommendation of the Commission and shall determine that the proposed use either is or is not a similar use for the subject district. The effect of a determination that a proposed use is a similar use shall be to make such use a conditional use for the subject district.

- (2) Subsequent to a determination by City Council that the proposed use is a similar use, the Planning Commission shall consider the application for a conditional use permit and take action in the manner required by this ordinance.



(l) **LIMITED CONVERSION OF SINGLE-FAMILY DWELLING**

The following regulations, in addition to those stated in Section 1355.09, shall apply to conditional use permits for the limited conversion of a single-family dwelling:

- (1) The subject property shall have the minimum lot frontage and area specified for the zoning district in which the property is located without exception for lots recorded prior to the passage of this Zoning Ordinance (Ordinance No. 430 AC, passed on November 29, 1965.)
- (2) The minimum required number of off-street parking spaces shall be provided on the subject property.
- (3) The proposed conversion shall be in compliance in all respects with regard to local ordinances. The ~~Residential Building Official~~ ~~Code Administrator~~ and Fire Chief shall submit written reports to the Planning Commission indicating that they have reviewed the proposal and whether they have found it to comply with the requirements of the Building, Housing and Fire Codes.
- (4) Site improvements such as trees, shrubs, planting beds, and lawns shall be installed and maintained on the lot in a manner consistent with good quality residential landscape design in order to ensure consistency with and a positive contribution to the aesthetic character of the neighborhood. Such improvements shall be detailed on the site plan for approval by the Planning Commission.
- (5) An area, surrounded by a screen fence or other material as approved on the site plan, shall be provided for exterior storage of waste containers. No other exterior storage, except for automobiles, bicycles, and seasonal outdoor furnishings, shall be permitted.
- (6) Off-street parking spaces shall be screened from the view of abutting properties through landscape plantings or opaque fencing.
- (7) All on-site service walks and street sidewalks shall be installed, repaired, and maintained in sound and safe condition.
- (8) The exterior condition of all surfaces and appurtenances of all structures on the property shall be maintained in sound condition, including but not limited to sound and complete roof shingles, sound and weatherproof paint or siding, complete and functioning windows and doors.

(m) **TWO-FAMILY DWELLINGS**

The following regulations, in addition to those stated in Section 1355.09, shall apply to conditional use permits for the use, conversion or construction of a two-family dwelling:

- (1) The subject property shall have the minimum lot frontage and area specified for the zoning district in which the property is located without exception for lots recorded prior to the passage of this Zoning Ordinance (Ordinance No. 430 AC, passed November 29, 1965.)
- (2) The minimum required number of off-street parking spaces shall be provided on the subject property.
- (3) Any two-family use shall be in compliance in all respects with regard to local ordinances. The ~~Residential Building Official~~ ~~Code Administrator~~ and Fire Chief shall submit written reports to the Planning Commission indicating that they have reviewed the proposal and whether they have found it to comply with the requirements of the Building, Housing and Fire Codes.
- (4) Site improvements such as trees, shrubs, planting beds, and lawns shall be installed and maintained on the two-family dwelling property in a manner consistent with good quality residential landscape design in order to ensure consistency with and a positive contribution to the aesthetic character of the neighborhood. Such improvements shall be detailed on

- the site plan for approval by the Planning Commission.
- (5) An area, surrounded by a screen fence or other material as approved on the site plan, shall be provided for exterior storage of waste containers. No other exterior storage, except for automobiles, bicycles, and seasonal outdoor furnishings, shall be permitted.
  - (6) Off-street parking spaces shall be screened from views of abutting properties through landscape plantings or opaque fencing.
  - (7) All on-site service walks and street sidewalks shall be installed, repaired, and maintained in sound and safe condition.
  - (8) The exterior condition of all surfaces and appurtenances of all structures on the property shall be maintained in sound condition, including, but not limited to sound and complete roof shingles, sound and weatherproof paint or siding, complete and functioning windows and doors.

**1355.11 FEES.**

Fees, in amounts as required by ordinance of the City, shall be submitted with applications for conditional use permits.

## **CHAPTER 1357**

### **Site Plan Review**

<b>1357.01</b>	<b>Purpose and intent.</b>	<b>1357.07</b>	<b>Administration and enforcement.</b>
<b>1357.02</b>	<b>Site plan review required.</b>	<b>1357.08</b>	<b>Design Review Subcommittee of the Planning Commission.</b>
<b>1357.03</b>	<b>Submittal, review, and approval process.</b>	<b>1357.09</b>	<b>Fees.</b>
<b>1357.04</b>	<b>Application requirements.</b>	<b>1357.10</b>	<b>Site plan and design standards for commercial districts located outside C-1 Central Business District.</b>
<b>1357.05</b>	<b>Required improvements.</b>		
<b>1357.06</b>	<b>Standards for site plans.</b>		

#### **1357.01 PURPOSE AND INTENT.**

Site plan and design review is required to ensure proper design of sites for the efficient use of land; to protect adjoining properties from adverse impacts of site and structure design; and to promote high standards in the layout, design, landscaping, and construction of development. It is also intended to supplement the requirements of the Subdivision Ordinance and to further the purposes and provisions of the Comprehensive Plan and this Zoning Code.

The purposes of this section are to state the specific additional requirements applicable to the development of land in certain zoning districts and to prescribe the standards for the preparation and submission of site plans.

#### **1357.02 SITE PLAN REVIEW REQUIRED.**

No use or construction for which a site plan is required shall be established or commenced until a site plan application has been submitted to and approved by the Planning Commission. No permit shall be issued by ~~the Code Administrator or any other~~ city official for the construction of any building or improvement in any area subject to a site plan except in conformity with the provisions of this ordinance and the duly approved site plan. No Certificate of Occupancy shall be issued unless in compliance with an approved site plan.

A site plan application and related information as required by this ordinance shall be submitted for the following:

- (a) In commercial and industrial districts, including C-1, C-2, C-3, O and M-1, and in the PD District, any new construction, substantial renovation, or expansion of a building, parking lot, loading facility, or of any sign for which a permit is required except temporary signs, or the establishment of any use.
- (b) In residential districts, including R-1A, R-1B, R-1, R-2, and in the PD District, any new construction, substantial renovation, or expansion of a commercial, multifamily, public, or institutional building, boarding house, rooming house, bed and breakfast inn, hospital, private club or lodge, tourist home, nursing home, school of commerce, office, parking lot, loading facility, or of any sign for which a permit is required, except temporary signs.  
In residential districts, including R-1A, R-1B, R-1, and R-2, any new subdivision which creates more than five new lots.
- (c) Any substantial change, as determined by the Director of Planning and Development, to a previously approved site plan application.
- (d) Any change in use of an existing building or accessory building or of a site to a different use, including but not limited to the change of: an existing residential use to a commercial, industrial, multifamily, boarding house, or rooming house use; an existing non-residential use to a residential use; an industrial to a commercial use; a commercial to an industrial use; a public, semi-public, or institutional use to any other use.
- (e) A conditionally permitted use.
- (f) A variance to parking or loading requirements as provided for in 1349.01(e) of this Zoning Ordinance.

- (g) In any district, the creation of a condominium by conversion of an existing building or buildings involving physical modification of the property or a transfer of responsibility for the maintenance of common areas to a condominium association.

### **1357.03 SUBMITTAL, REVIEW, AND APPROVAL PROCESS.**

It is recommended that every applicant request informal preliminary discussion with the Director of Planning and Development in order to review the requirements of this ordinance prior to submitting an application for site plan review.

(a) **Site Plan Review Procedures**

- (1) **Submittal.** The applicant for site plan review shall submit twelve (12) copies of the site plan application, which shall include the items required by this ordinance. The application shall be submitted at least twelve (12) days prior to the meeting at which the plans will be reviewed by the Planning Commission.

- An applicant may submit and request review of a preliminary application.
- (2) **Staff Review.** Site plan applications shall be reviewed by the ~~Code Administrator~~, Director of Public Works, and Director of Planning and Development for compliance with all applicable regulations.

- (3) **Planning Commission Review.** The Planning Commission shall review a site plan application at the regularly scheduled meeting occurring at least twelve (12) days after submittal of the application. The Commission may review an application in less than twelve (12) days after submittal if it determines that it is in the interest of the City.

If an applicant has submitted and requested review of a preliminary site plan application, then the Planning Commission may review and comment upon the application, but shall not take formal action upon such application. The Planning Commission may advise the applicant of the information which shall be required for review of a complete site plan application. Review of a preliminary site plan application shall not cause or imply any commitments, authorizations, or rights for the applicant.

If an applicant has submitted a complete site plan application, the Planning Commission shall approve, approve with conditions, or disapprove the site plan application within a reasonable time. Approval or disapproval shall be based on findings of fact consistent with the purposes of these regulations. The Planning Commission may attach conditions to the approval of the site plan application as may be reasonably required to promote the public health, safety and welfare.

Written approval of the site plan application shall be indicated by signature of the Chair of the Planning Commission on one or more copies of the site plan, notated with such amendments and conditions as the Planning Commission may require, and shall constitute authorization to proceed with issuance of required permits and construction in compliance with the approved site plan, provided that all conditions are satisfied and the site plan complies with all other requirements of law.

- (4) **Conditions Prior to Approval.** Prior to the approval of the site plan, the developer shall post any bonds or other guarantees, present any dedication or easement plats, and comply with any other legally required conditions to the satisfaction of the City Law Director. The Planning Commission may establish a condition that the developer shall execute a written development agreement to ensure compliance with this Chapter and with all other laws and regulations of the City. The form and content of the development agreement shall be as determined and approved by the City Law Director.

- (5) **Expiration of Approval.** Approval of a site plan by the Planning Commission shall expire 12 months from the date of such approval unless construction has commenced according to the approved site plan. A single extension of site plan approval, not to exceed six months, may be given by

- the Planning Commission after written request by the applicant.
- (6) Resubmittal. Subsequent to disapproval of a site plan, no applicant shall resubmit within a period of six months from the date of disapproval, a site plan which the Planning Commission deems substantially similar to the previously disapproved site plan.
- (b) Design Review Procedures
- (1) Applicability. Site plan applications which involve any of the following shall be submitted for design review in addition to the other review requirements of this ordinance:
- (A) In commercial and industrial districts, including C-1, C-2, C-3, O and M-1, and in the PD District, any new construction, substantial renovation, or expansion of a building, or of any sign for which a permit is required, except temporary signs.
- (B) In residential districts, including R-1A, R-1B, R-1, R-2, and in the PD District, any new construction, substantial renovation, or expansion of a multifamily, public, or institutional building, or of any sign for which a permit is required, except temporary signs.
- (C) In residential districts, including R-1A, R-1B, R-1, and R-2 and in the PD District, any new subdivision which creates more than five new lots.
- (D) Any substantial change, as determined by the Director of Planning and Development, to a site plan application previously reviewed by the Design Review Subcommittee.
- (E) Any site plan application for which the Planning Commission determines the necessity of a recommendation from the Design Review Subcommittee.
- (2) Transmittal to Subcommittee of the Planning Commission. At the time a site plan application is received, the Director of Planning and Development shall determine if design review is required to comply with this ordinance. If design review is required, the Director of Planning and Development shall transmit the application to the Design Review Subcommittee of the Planning Commission.
- (3) Review by Subcommittee of the Planning Commission. Within thirty (30) days of transmittal of the application, the Subcommittee of the Planning Commission shall meet to review the application and shall submit a written recommendation to the Planning Commission, except that the time for submittal of a recommendation shall be extended to no more than forty-five (45) days if the Subcommittee of the Planning Commission determines that professional assistance is required to proceed with the review.

The Design Review Subcommittee of the Planning Commission may determine that professional assistance in the form of additional studies or expert advice is necessary to evaluate a proposed design plan for conformance to the requirements of this ordinance. The Subcommittee of the Planning Commission shall advise the applicant if such professional assistance is required. The applicant so advised shall, within five (5) days of notification, deposit with the Director of Planning and Development funds as required to pay for such professional assistance to be performed by a qualified architectural consultant engaged by the City.

Upon receipt of the required funds from the applicant, the Director of Planning and Development shall direct the architectural consultant to perform a study of the proposed design for compliance with the standards of this Ordinance. Such consultation and assistance shall be strictly advisory and neither the Board nor the Planning Commission shall be bound by the architectural consultant's opinions or recommendations.

The Design Review Board shall review the site plan application with regard to the provisions of 1357.06 (l) and (m). The Board may also

comment upon other elements of the site plan which are related to the provisions of 1357.06 (l) and (m).

The Planning Commission shall not approve, disapprove, or modify a site plan application until it has received and considered the recommendation of the Board except that, if the recommendations of the Board are not submitted to the Planning Commission in compliance with the time limits stated above, the Commission may either extend the time limit or may proceed to take action without such recommendation.