

# City of Barberton

## Development Code



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# 1000

## Introduction to the Development Code

### Sections

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### 1000.01: Title of the Development Code

- (a) This Development Code shall be known and cited as the City of Barberton “Development Code.”

### 1000.02: Effective Date of the Development Code

- (a) This Development Code was adopted on XXXX, XXXX, 2025 with an effective date of XXXX, XXXX, 2026.

### 1000.03: Purpose of the Development Code

- (a) The purpose of this Development Code is to promote the public health, safety, and general welfare; to facilitate the provision of public utilities, schools, and other public requirements; to promote the preservation of historic resources; and to promote the City’s interests in building attractive, walkable, and vibrant neighborhoods.
- (b) The following standards were developed to promote a development form that aligns with the vision and policies set forth by the Barberton Master Plan.

### 1000.04: Applicability of the Development Code

- (a) This Development Code shall apply to all uses of land, all structures, and all lots within the City, including uses of land, structures, and lots owned and controlled by the City, County, State, or Federal government, or by special governmental subdivisions of the State.
- (b) No building, structure, or use not lawfully existing on the date of effect of this Development Code shall be made lawful solely by the adoption thereof. Such structure or use shall remain unlawful hereunder to the extent that it is in conflict with the requirements of this Development Code.

### 1000.05: Repeal of Former Development Code

- (a) Upon enactment of this Development Code, there shall thereby be repealed the following City regulations:
  - (1) the Land Planning and Subdivision Regulations, and
  - (2) the former Development Code.
- (b) In addition, the Zoning Resolution of any annexed property shall upon enactment of this Development Code no longer have applicability in any part of the City.
- (c) Except as may have been provided in the enacting ordinance, no other ordinance, regulation, annexation, agreement, or private agreement, covenant, or easement is intended to be replaced or abrogated.

## INTRODUCTION TO THE DEVELOPMENT CODE

### 1000.06: Continuance of Existing Projects

- (a) No regulation contained herein shall require any change in the overall layout, plans, construction, size, or designated use of any development, structure, or part thereof, for which official approvals and required zoning permits have been granted before the enactment of this Development Code, and the construction of which, conforming with such plans, shall have been started prior to the effective date of this Development Code, or within thirty (30) days thereafter, and completion thereof carried on in a normal manner within the subsequent twelve (12)-month period and not discontinued until completion except for reasons beyond the owner's control.

### 1000.07: Compliance with the Development Code Required

- (a) Compliance with Structure and Use Standards Required. No structure of land shall hereafter be used or occupied, and no structure or part hereof shall hereafter be erected, constructed, reconstructed, moved, or altered unless in conformity with all the provisions of this Development Code and after the lawful issuance of all permits and certificates required by this Development Code.
- (b) Compliance with Lot Standards Required. Lots created after the effective date of this Development Code shall comply with the requirements of this Development Code.
- (c) Conflicts with Private Agreements. The provisions of this Development Code are not intended to nullify, abolish, or repeal any easement, covenant, or other private agreement or restriction.

### 1000.08: Conflict with Other Regulations

- (a) In the case of any conflict or inconsistency between two or more provisions of this Development Code or any other City ordinance, law, rule, or regulation, the provision which imposes the greater, higher, or more restrictive requirement or standard of performance shall control.

### 1000.09: Invalidity / Severability of the Development Code

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

### 1000.10: Rules of Interpretation

- (a) General Interpretation of Words. Whenever a defined word appears in this Development Code, its meaning is as defined in this Development Code. Words not defined in this Development Code are interpreted in accord with their dictionary meaning and customary usage. Some specific interpretations should be minded, as listed below:
  - (1) The word "person" includes a firm, association, organization, partnership, trust limited liability company, corporation, or other legal entity, as well as an individual.
  - (2) The present tense includes the future tense; the singular number includes the plural; and the plural number includes the singular in each case if the context so requires.
  - (3) The word "shall" is mandatory; the word "may" is permissive.
  - (4) The words "used" or "occupied" include the words "intended," "designed," "constructed," "altered," or "arranged" to be used or occupied.
  - (5) The word "lot" includes the words "plot," "tract," or "parcel."
  - (6) The terms "standards," "regulations," and "requirements" are used to mandate a specific course of action or built outcome.
- (b) Interpretation of Conjunctions. Where a regulation involves two or more items, conditions, provisions, or events which are connected by a conjunction—"and," "or," or "either...or"—the conjunction shall be interpreted as follows:
  - (1) "And" indicates that all the connected items, conditions, provisions, or events shall apply.

## INTRODUCTION TO THE DEVELOPMENT CODE

- (2) “Or” indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
- (3) “Either...or” indicates that all the connected items, conditions, provisions, or events shall apply singularly but not in combination.
- (c) References to Most Updated Versions of Regulations. All references to other regulations or manuals shall refer to the most current version and citation for those regulations or manuals, unless expressly indicated otherwise. When the referenced regulations or documents have been repealed and not replaced by other regulations or manuals, such reference or requirement for compliance is no longer in effect.
- (d) Section Headings as Navigational Aids. Section headings are provided for ease of use and organization and shall not be interpreted as regulatory.
- (e) Interpretation of Illustrations. Illustrations, diagrams, and flowcharts are included in this Development Code to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustration, diagram, or flowchart, the text shall control.
- (f) The Development Code applies to all property within the Zoning District as shown in the City’s Official Zoning Map (also known as the Digital Zoning Map or Zoning Map).
- (g) Interpreting Zoning Map Boundaries
  - (1) Boundaries indicated as approximately following the centerlines of streets, or highways; platted lot lines; municipal limits; railroad lines; or the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed as such.
  - (2) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the Zoning Map.

- (3) Where a district boundary line divides a lot that was in single ownership at the time of passage of this Zoning Ordinance, the Planning Director or Building Commissioner or their designee may permit the extension of the regulations for either portion of the lot beyond the district line into the remaining portion of the lot.

### 1000.11: Rules of Measurement

- (a) How to Measure Sign Area. See Section 1050.08 (f). “Measuring Sign Area.”
- (b) How to Measure Sign Height. See Section 1050.08 (g). “Measuring Sign Height.”
- (c) How to Measure Structure Height.

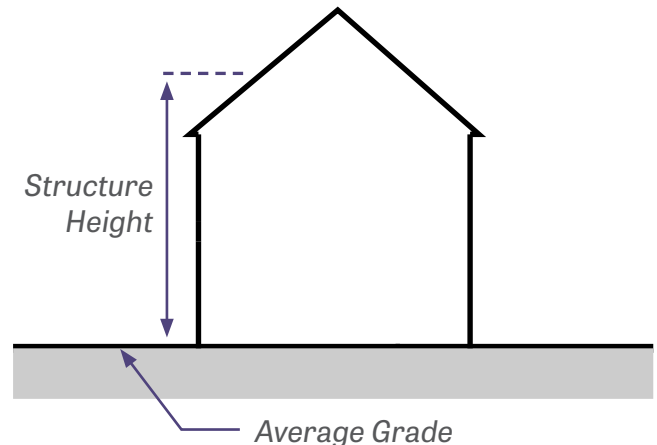


Figure 1000.01: Measuring structure height on flat ground plane

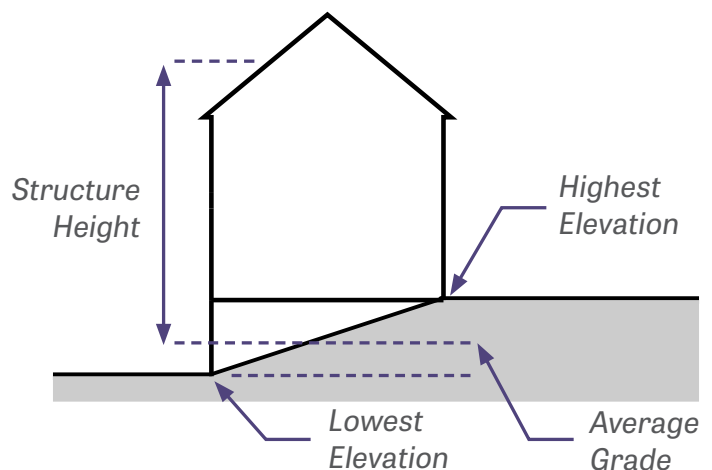


Figure 1000.02: Measuring structure height on a sloped ground plane

## INTRODUCTION TO THE DEVELOPMENT CODE

- (d) Exceptions to Structure Height Regulations. The height regulations prescribed herein shall not apply to telecommunications facilities under the control of governmentally licensed utility service providers, church spires, belfries, monuments, tanks, water and fire towers, cooling towers, ornamental towers and spires, cupulas, chimneys, elevator bulkheads, smokestacks, conveyors, and flagpoles, except where the height of such structures will constitute a hazard to the safe landing and takeoff of aircraft at an established airport.

- (e) How to Determine Lot Lines

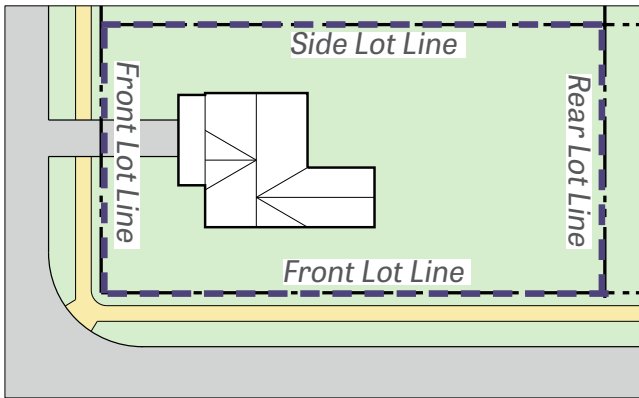


Figure 1000.03: Lot lines for a corner lot

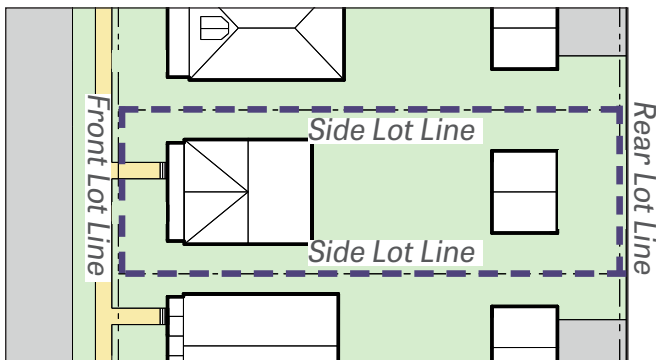


Figure 1000.04: Lot lines for an interior lot

- (f) Determining Lot Width and Depth

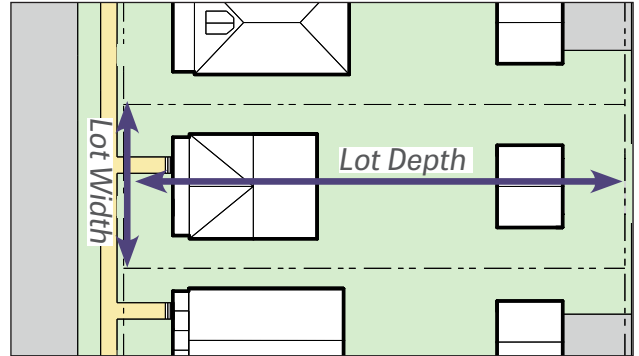


Figure 1000.05: Lot Width and Lot Depth

- (g) Determining Lot Area and Lot Coverage

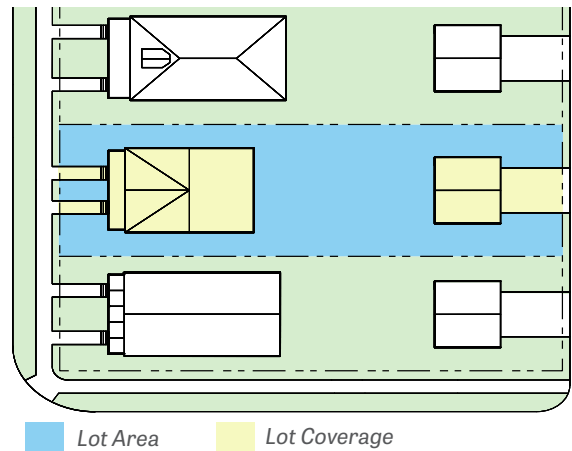


Figure 1000.06: Lot Area and Lot Coverage



## INTRODUCTION TO THE DEVELOPMENT CODE

### (h) Determining Setbacks

- (1) If no Lot Line is specified, the applicable lot line shall be the street line(s).

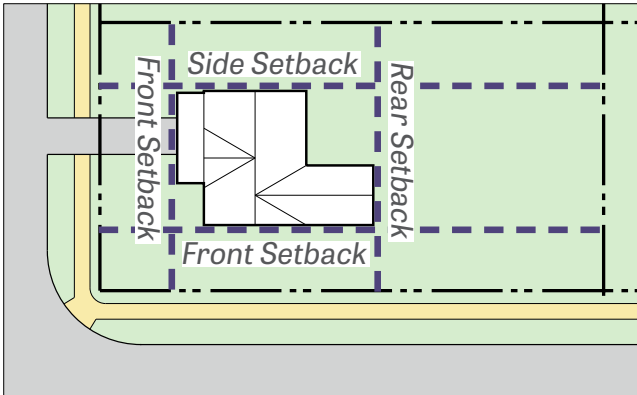


Figure 1000.07: Setbacks for a corner lot

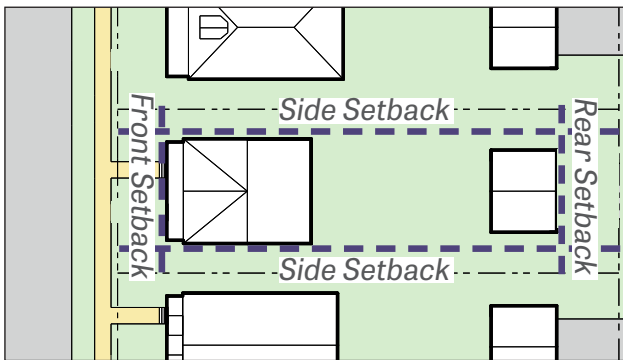


Figure 1000.08: Setbacks for an interior lot

### (i) Exceptions to Setbacks

- (1) Open or lattice-enclosed fire escapes, outside stairways, balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard may extend rearward of a principal structure by up to five (5) horizontal feet, regardless of the rear setback requirements for the district in which it resides.
- (2) Ramps built to provide wheelchair accessibility to entrances of dwellings are exempt from the setback requirements.

## INTRODUCTION TO THE DEVELOPMENT CODE

# How to use this Development Code

Below is a summary guide. Please refer to the City's permit procedures and application requirements for all necessary information.

1.

**Find the zoning district for your parcel.**

**1030.01: Zoning District Map**

2.

**Review the intent, uses, standards, typologies, and additional regulations for the zoning district.**

**Chapter 1030, Section depending on your zoning district**

3.

**Select the building, frontage, and open space type(s) from the typologies allowed in the zoning district.**

**Chapter 1030, Sections 10, 11, 12**

4.

**Review the use regulations for each use allowed in the zoning district.**

**Chapter 1040**

5.

**Review the standards for general uses allowed in the zoning district.**

**Chapter 1050**

6.

**Address any existing nonconforming uses.**

**Chapter 1051**

7.

**Follow the procedures and comply with the requirements for application.**

**Chapter 1052**

# 1030

## Zoning Districts

Sections

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1030.01: Introduction to Zoning Districts

- (b) Zoning Districts. To achieve the purposes of this Development Code, the City is hereby divided and classified into the districts established in this chapter.

(c) Establishment of Zoning Map.

(3) The district classification of all land in the City shall be shown on the map designated as the City Zoning District Map, dated and signed by the Clerk of Council upon adoption.

(4) The Zoning District Map and all amendments thereto shall be as much a part of this Development Code as if fully described herein and shall be filed as part thereof by the Clerk of Council. The Map shall be available for public inspection in the Building Department. Any amendments to this Map shall be similarly dated, filed, and made available to the public.
- (d) List of Districts.

(1) Traditional Residential (TR)

(2) Suburban Residential (SR)

(3) Lake Anna (LA)

A. Lake Anna Neighborhood (LAN)

B. Lake Anna Corridor (LAC)

(4) Commercial Center (CC)

(5) Corridor (CO)

(6) Employment Flex (EF)

(7) Industrial (IN)

(8) Natural (NA)

(e) Compliance with Regulations.

(1) All developments and uses must conform to the standards set forth in this chapter.

(2) Additional applicable development standards are included elsewhere in the Development Code, such as Chapter 1040 Use-Specific Standards and Chapter 1050 Generally Applicable Regulations.

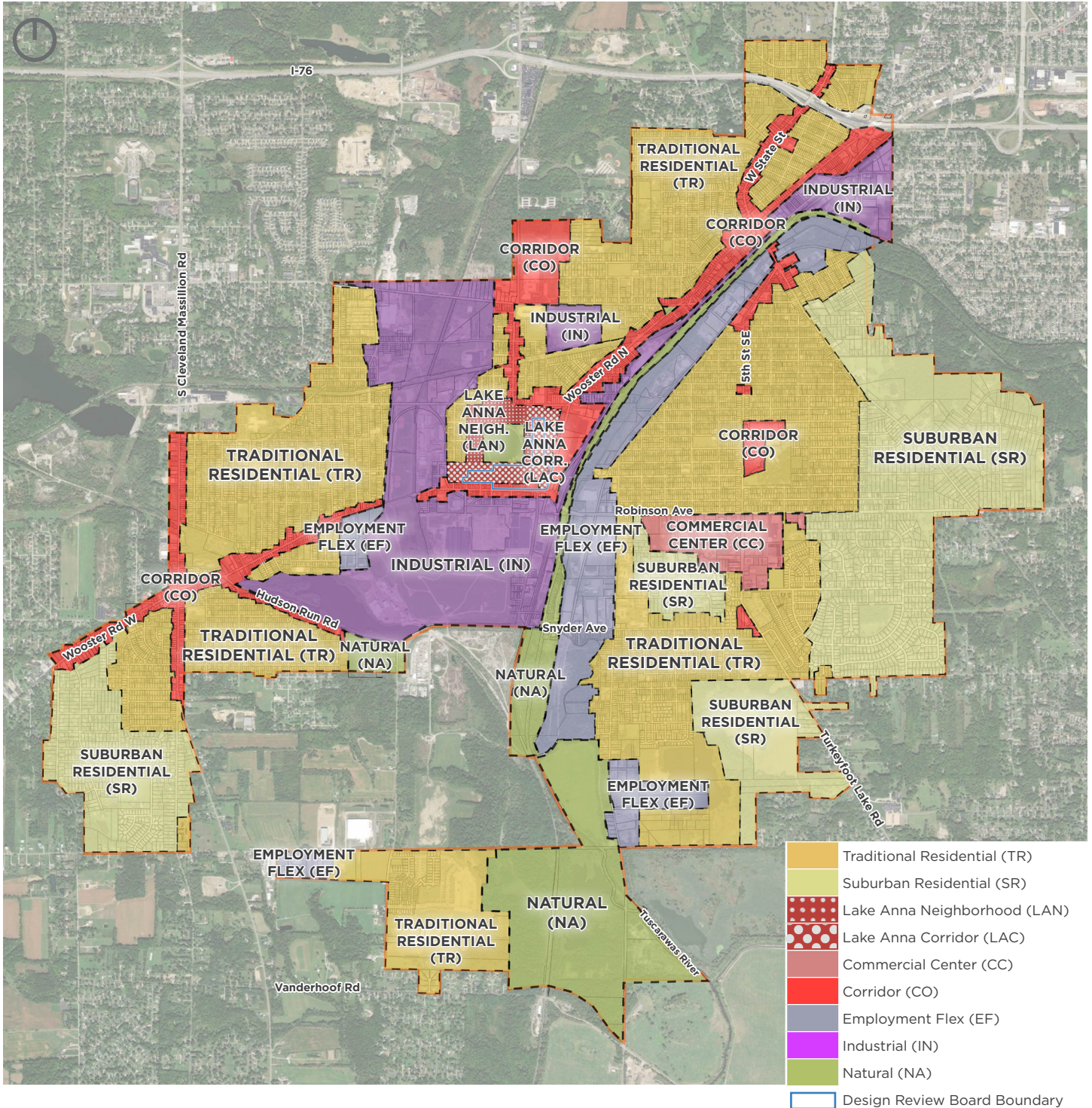
## **ZONING DISTRICTS**

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# ZONING DISTRICTS

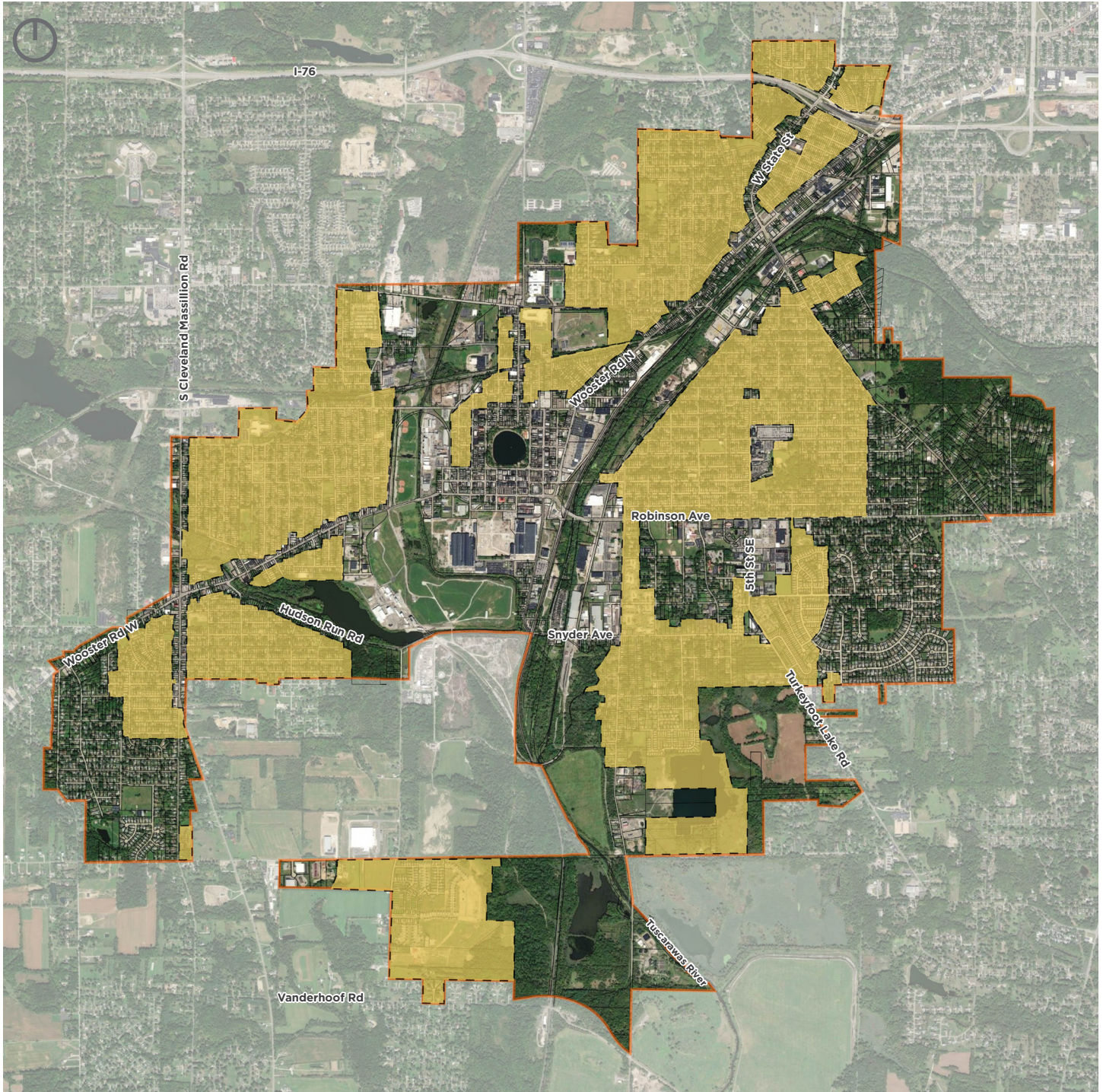
FIGURE 1030.01: ZONING DISTRICT MAP





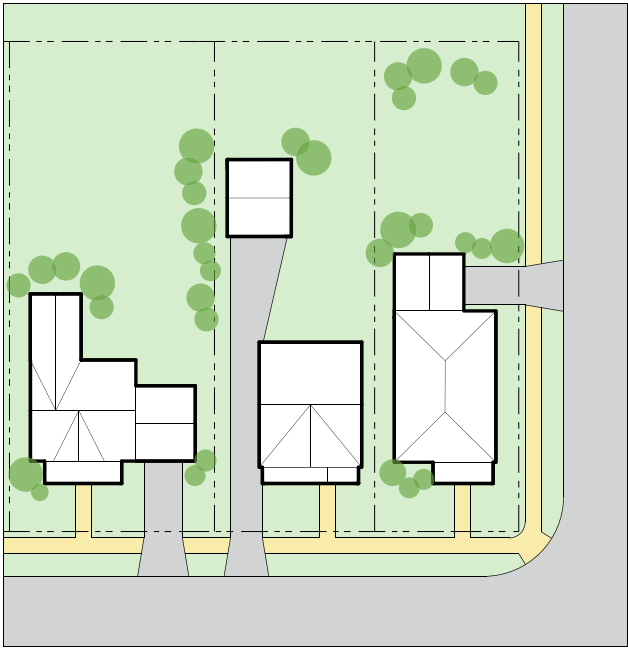
## ZONING DISTRICTS

FIGURE 1030.02: TRADITIONAL RESIDENTIAL (TR) DISTRICT MAP





1030.02: Traditional Residential (TR)



(a) Intent

The Traditional Residential District (TR) is intended to promote urban residential development. The existing development pattern consists of traditionally-designed homes near commercial centers and major corridors. Future developments may include a range of housing options with different price points and styles that can accommodate a diversity of household sizes. The district should enhance walkability through short setbacks, improved streetscapes, and small blocks.

(b) Uses

- (1) Number of Uses per Lot. No more than one (1) principal use is permitted per lot in the Traditional Residential District.
- (2) Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3) Uses Restricted. No building or land within the Traditional Residential District (TR) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

TABLE 1030.02 (A): TR ALLOWED USES TABLE

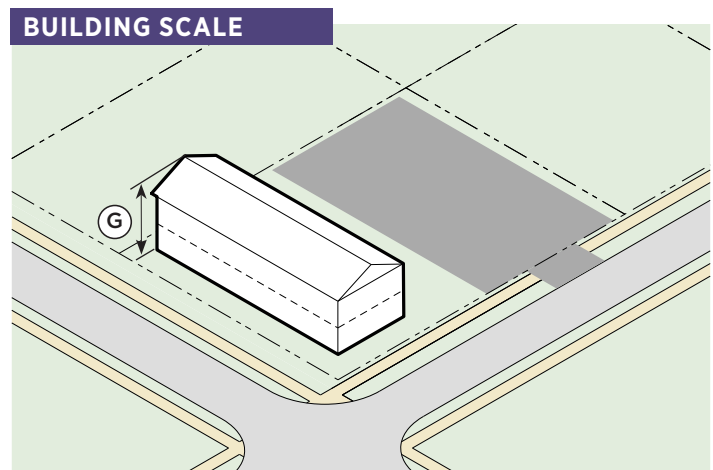
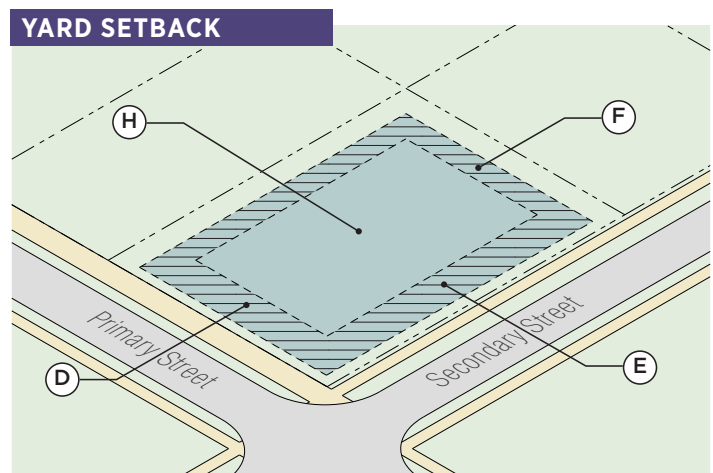
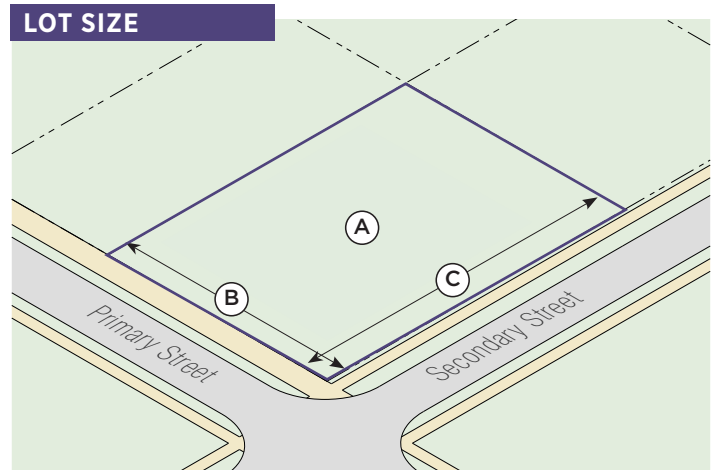
ALLOWED USES	REFERENCE
ALLOWED BY ZONING PERMIT	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Civic and Institutional	1040.09
Single-Unit Residential	1040.10
ALLOWED BY CONDITIONAL USE APPROVAL	
Recreational	1040.08

(c) Building Development Standards

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

TABLE 1030.02 (B): TR BUILDING DEVELOPMENT STANDARDS TABLE

LOT SIZE STANDARDS		
Lot Area	4,500 sq. ft. min.	(A)
Lot Width	40 ft. min.	(B)
Lot Depth	200 ft. max.	(C)
YARD SETBACK STANDARDS		
Front Yard Setback	80-120 percent of context average (1)	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 5 ft. min. per side	(E)
Rear Yard Setback	20 ft. min.	(F)
BUILDING SCALE STANDARDS		
Building Height	35 ft. max.	(G)
Lot Coverage	35 percent max.	(H)
NOTES		
(1) Where no context average can be determined due to lack of appropriate benchmarks the front setback shall be 10 feet minimum.		





**(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.02 (C): TR TYPOLOGIES TABLE**

\* TYPOLOGY ALLOWED BY CONDITIONAL USE APPROVAL

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Detached Single-Unit Residential Building (Suburban) *	1030.10 (A1)
Detached Single-Unit Residential Building (Traditional)	1030.10 (A2)
Attached Single Unit Residential Building	1030.10 (B)
Duplex Residential Building *	1030.10 (C)
Small Flex Retail Building *	1030.10 (F)
Institutional Flex Building *	1030.10 (I)
Primary School Building	1030.10 (J)
School and Institutional Building	1030.10 (K)
Bed and Breakfast Building *	1030.10 (L)
Community Center Building *	1030.10 (M)
Maker Space or Live-Work Units *	1030.10 (T)
<b>FRONTAGE TYPOLOGIES</b>	
Yard	1030.11 (E)
Terrace	1030.11 (F)
Forecourt	1030.11 (G)
Streetwall	1030.11 (H)
Porch	1030.11 (I)
Stoop	1030.11 (J)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Plaza	1030.12 (B)
Square	1030.12 (C)
Green	1030.12 (D)
Passage	1030.12 (E)
Pocket Plaza	1030.12 (F)
Sport Field	1030.12 (G)
Green Infrastructure	1030.12 (H)

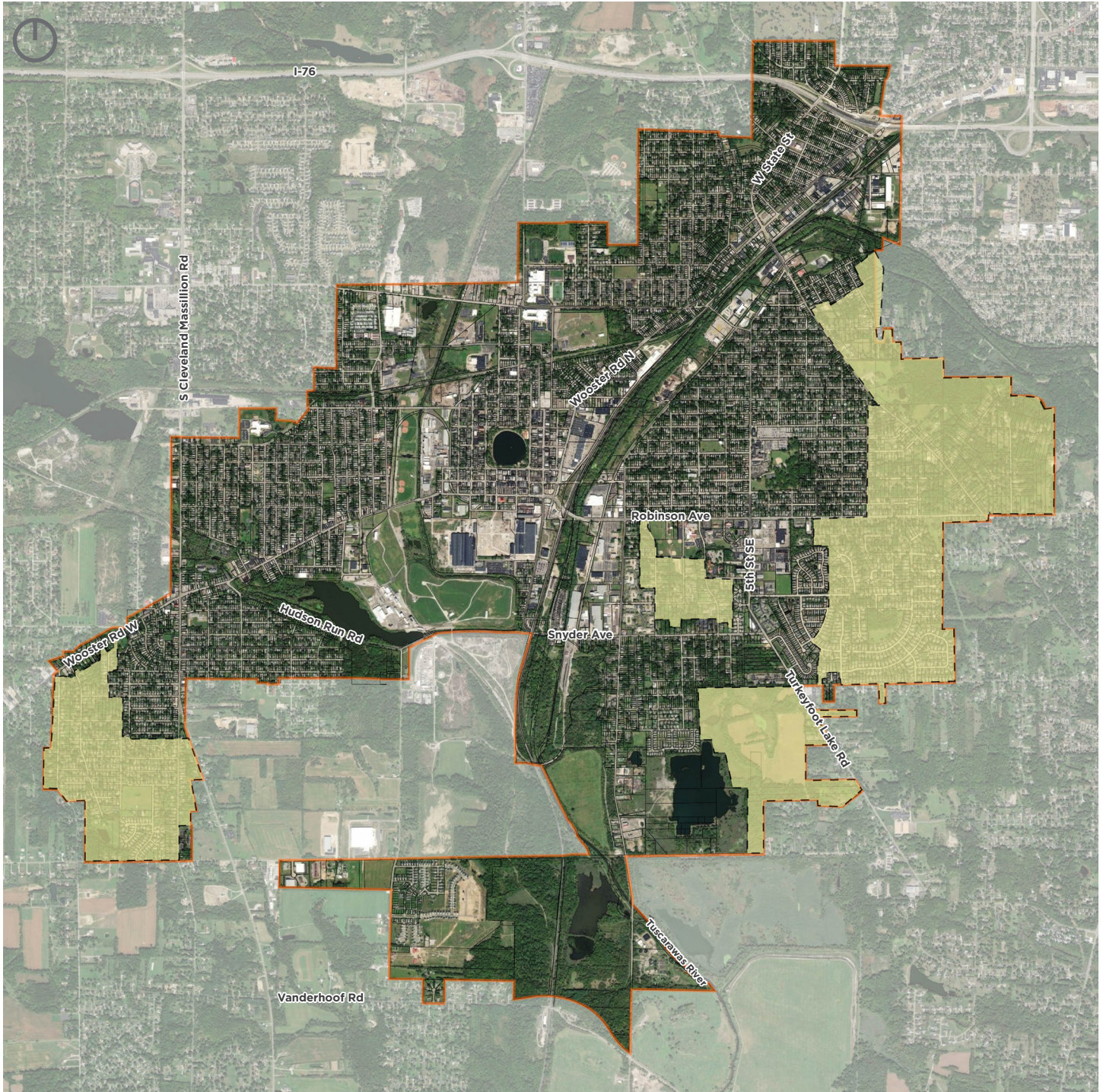
**(e) Additional Regulations**

- (1) Garage Door Standards. No street-facing garage door that is attached to the principal building shall exceed sixteen (16) feet in width.
- (2) Generally Applicable Regulations. In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.



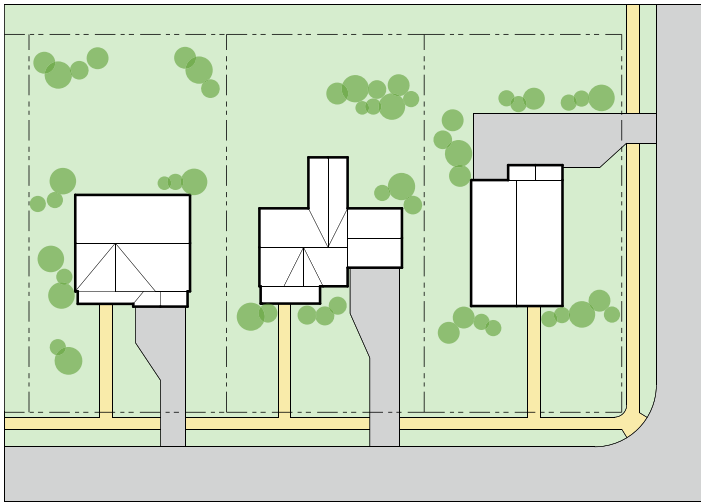
## ZONING DISTRICTS

FIGURE 1030.03: SUBURBAN RESIDENTIAL (SR) DISTRICT MAP





## 1030.03: Suburban Residential (SR)

**(a) Intent**

The Suburban Residential District (SR) is intended to accommodate multiple forms of single-unit residential development, while also promoting walkability and connectivity. The existing development includes single-unit homes within driving distance of commercial centers. New development should promote pedestrian connectivity and the retention of open space as an amenity. Where possible, new residential development should be connected to trail systems and within a half-mile walk from parks or significant open space.

**(b) Uses**

- (1)** Number of Uses per Lot. No more than one (1) principal use is permitted per lot in the Suburban Residential District.
- (2)** Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3)** Uses Restricted. No building or land within the Suburban Residential District (SR) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

**TABLE 1030.03 (A): SR ALLOWED USES TABLE**

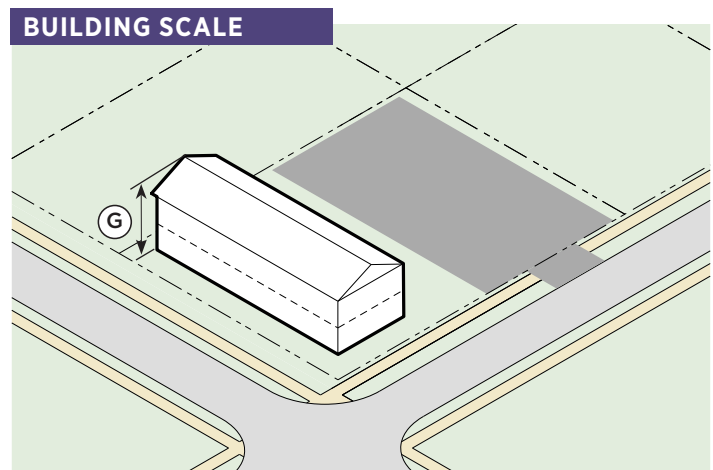
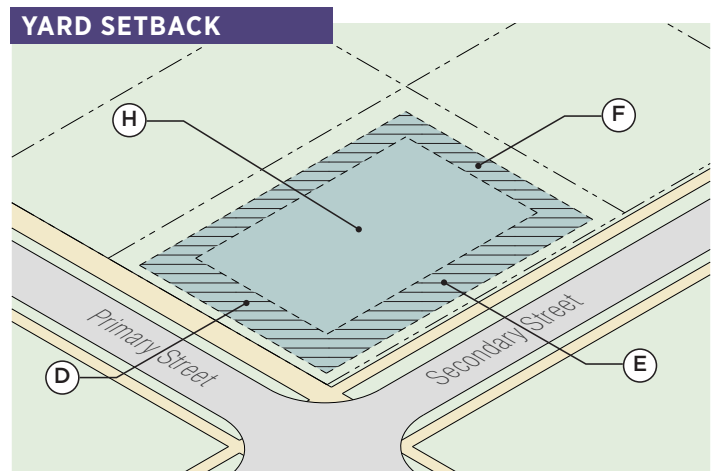
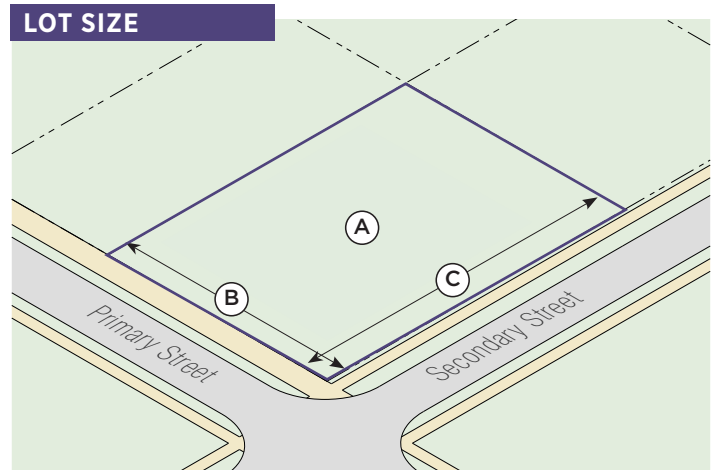
ALLOWED USES	REFERENCE
<b>ALLOWED BY ZONING PERMIT</b>	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Civic and Institutional	1040.09
Single-Unit Residential	1040.10
<b>ALLOWED BY CONDITIONAL USE APPROVAL</b>	
Recreational	1040.08
Agricultural	1040.20

(c) Building Development Standards

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

TABLE 1030.03 (B): SR BUILDING DEVELOPMENT STANDARDS TABLE

LOT SIZE STANDARDS		
Lot Area	7,200 sq. ft. min.	(A)
Lot Width	45 ft. min.	(B)
Lot Depth	NA	(C)
YARD SETBACK STANDARDS		
Front Yard Setback	80-120 percent of context average (1)	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 5 ft. min. per side	(E)
Rear Yard Setback	25 ft. min. (2)	(F)
BUILDING SCALE STANDARDS		
Building Height	35 ft. max.	(G)
Lot Coverage	35 percent max.	(H)
NOTES		
(1) Where no context average can be determined due to lack of appropriate benchmarks the front setback shall be 20 feet minimum. (2) Detached garages may be located within 3 feet from the rear lot line.		



**(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.03 (C): SR TYPOLOGIES TABLE**

\* TYPOLOGY ALLOWED BY CONDITIONAL USE APPROVAL

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Detached Single-Unit Residential Building (Suburban)	1030.10 (A1)
Detached Single-Unit Residential Building (Traditional)	1030.10 (A2)
Attached Single Unit Residential Building *	1030.10 (B)
Primary School Building	1030.10 (J)
School and Institutional Building	1030.10 (K)
<b>FRONTAGE TYPOLOGIES</b>	
Yard	1030.11 (E)
Porch	1030.11 (I)
Stoop	1030.11 (J)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Green	1030.12 (D)
Sport Field	1030.12 (G)
Green Infrastructure	1030.12 (H)

**(e) Additional Regulations**

- (1) Garage Door Standards. No street-facing garage door that is attached to the principal building shall exceed sixteen (16) feet in width.
- (2) Generally Applicable Regulations. In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.

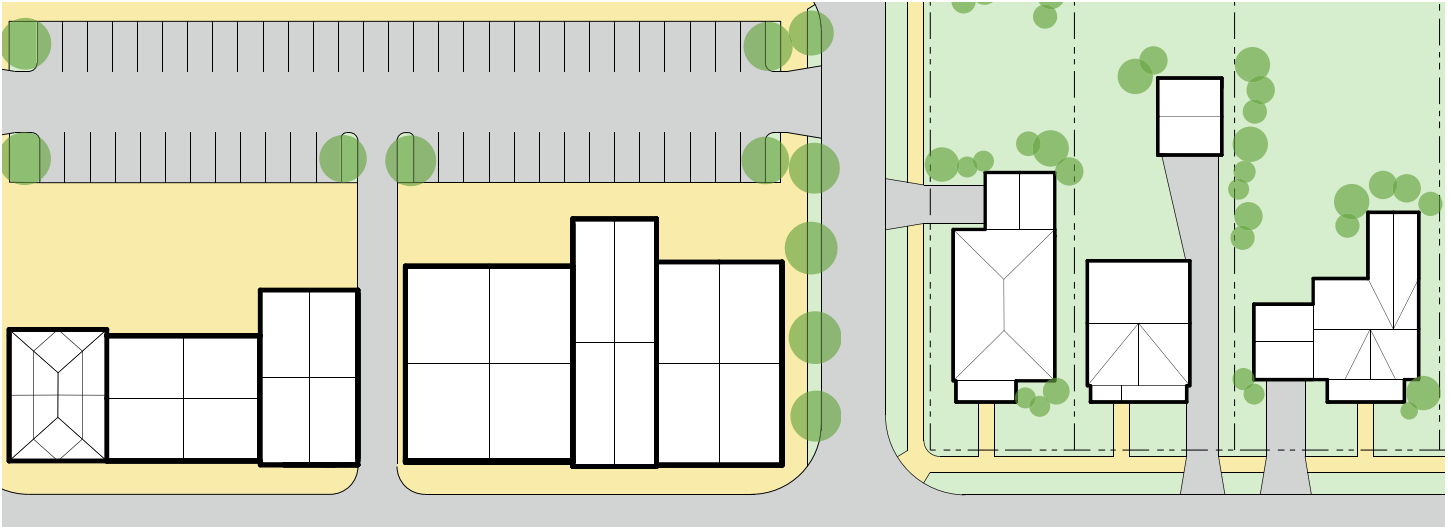


ZONING DISTRICTS

FIGURE 1030.04: LAKE ANNA CORRIDOR (LAC) DISTRICT MAP





**1030.04: Lake Anna (LA)****(a) Intent**

The Lake Anna District (LA) intends to strengthen the pedestrian-oriented nature of the existing historic downtown and neighborhoods. Historic buildings, facades, and public spaces should be maintained. Developments should be designed to promote pedestrian safety and comfort and should promote pedestrian-oriented outdoor lighting and seating, outdoor dining, and ground-floor retail uses.

**(b) Uses**

- (1)** Number of Uses per Lot. No more than one (1) principal use is permitted per lot in the Lake Anna Neighborhood (LAN) District. More than one (1) principal use is permitted per lot or building in the Lake Anna Corridor (LAC) District.
- (2)** Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3)** Uses Restricted. No building or land within the Lake Anna District (LA) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

## 1030.04: Lake Anna Neighborhood (LAN)

FIGURE 1030.05: LAKE ANNA NEIGHBORHOOD (LAN) DISTRICT MAP

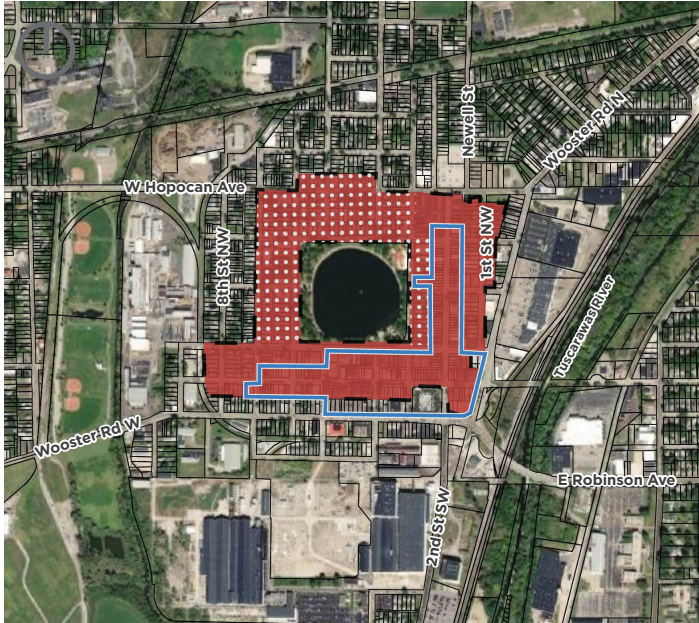


TABLE 1030.04 (A): LAN ALLOWED USES TABLE

ALLOWED USES	REFERENCE
<b>ALLOWED BY ZONING PERMIT</b>	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Civic and Institutional	1040.09
Single-Unit Residential	1040.10
Two-Unit Residential	1040.11
<b>ALLOWED BY CONDITIONAL USE APPROVAL</b>	
Recreational	1040.08
Three-to-Eight-Unit Residential	1040.12
Nine-Plus-Unit Residential	1040.13
Neighborhood Commercial	1040.14

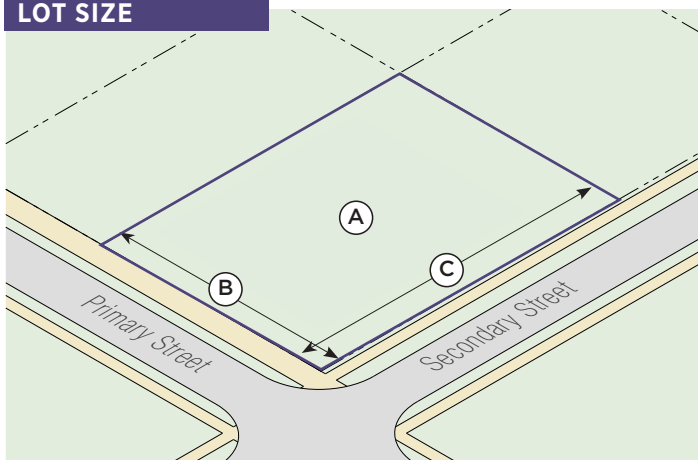
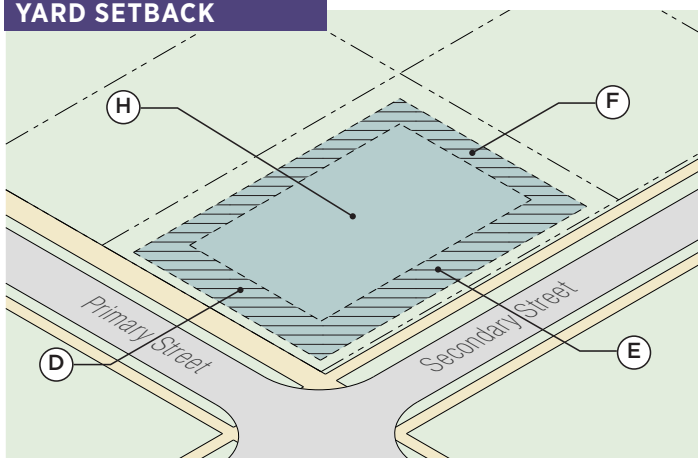
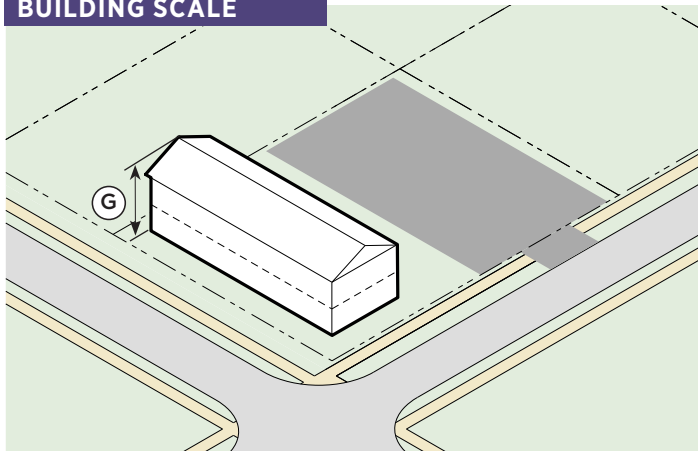
### (c) Building Development Standards

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

TABLE 1030.04 (B): LAN BUILDING DEVELOPMENT STANDARDS TABLE

<b>LOT SIZE STANDARDS</b>		
Lot Area	4,500 sq. ft. min.	(A)
Lot Width	40 ft. min.	(B)
Lot Depth	200 ft. min.	(C)
<b>YARD SETBACK STANDARDS</b>		
Front Yard Setback	80-120 percent of context average (1)	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 5 ft. min. per side	(E)
Rear Yard Setback	20 ft. min.	(F)
<b>BUILDING SCALE STANDARDS</b>		
Building Height	35 ft. max.	(G)
Lot Coverage	60 percent max. for lots opposing Lake Anna to the north, east, and west; 90 percent max. for all other lots	(H)
<b>NOTES</b>		
(1) Where no context average can be determined due to lack of appropriate benchmarks the Front Setback shall be 10 feet minimum. (2) Detached garages may be located within 2.5 feet from the Rear Lot Line.		



**LOT SIZE****YARD SETBACK****BUILDING SCALE****(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

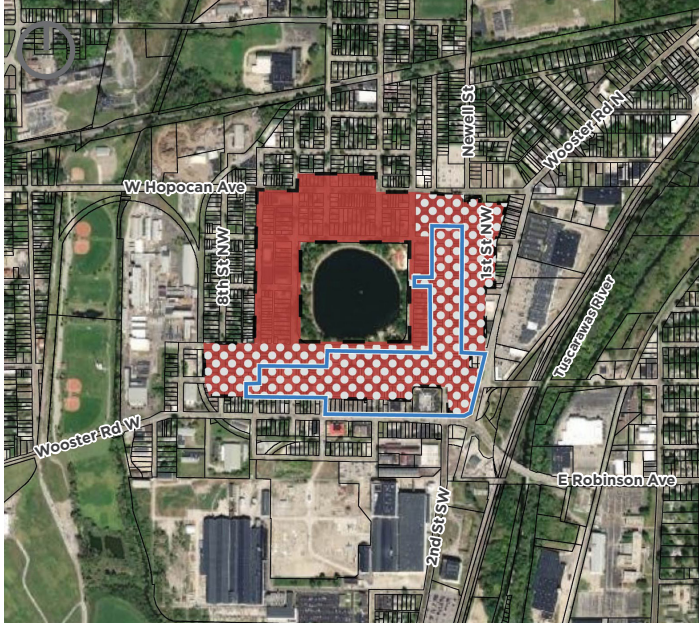
**TABLE 1030.04 (C): LAN TYPOLOGIES TABLE**

\* TYPOLOGY ALLOWED BY CONDITIONAL USE APPROVAL

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Attached Single Unit Residential Building	1030.10 (B)
Duplex Residential Building	1030.10 (C)
Small Flex Retail Building *	1030.10 (F)
Institutional Flex Building *	1030.10 (I)
Primary School Building	1030.10 (J)
School and Institutional Building	1030.10 (K)
Bed and Breakfast Building *	1030.10 (L)
Assembly Use Building	1030.10 (S)
Maker Space or Live-Work Units	1030.10 (T)
<b>FRONTAGE TYPOLOGIES</b>	
Shopfront	1030.11 (A)
Patio	1030.11 (B)
Gallery	1030.11 (C)
Arcade	1030.11 (D)
Yard	1030.11 (E)
Terrace	1030.11 (F)
Forecourt	1030.11 (G)
Streetwall	1030.11 (H)
Porch	1030.11 (I)
Stoop	1030.11 (J)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Plaza	1030.12 (B)
Square	1030.12 (C)
Green	1030.12 (D)
Passage	1030.12 (E)
Pocket Plaza	1030.12 (F)
Green Infrastructure	1030.12 (H)

## 1030.04: Lake Anna Corridor (LAC)

**FIGURE 1030.06: LAKE ANNA CORRIDOR (LAC) DISTRICT MAP**



**TABLE 1030.04 (D): LAC ALLOWED USES TABLE**

ALLOWED USES	REFERENCE
<b>ALLOWED BY ZONING PERMIT</b>	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Civic and Institutional	1040.09
Neighborhood Commercial	1040.14
Artisanal Industrial	1040.17
<b>ALLOWED BY CONDITIONAL USE APPROVAL</b>	
Recreational	1040.08
Single-Unit Residential (1)	1040.10
Two-Unit Residential (1)	1040.11
Three-to-Eight-Unit Residential (1)	1040.12
<b>NOTES</b>	
(1) No residential use may be located on the ground floor in the LAC District.	

### (e) Building Development Standards

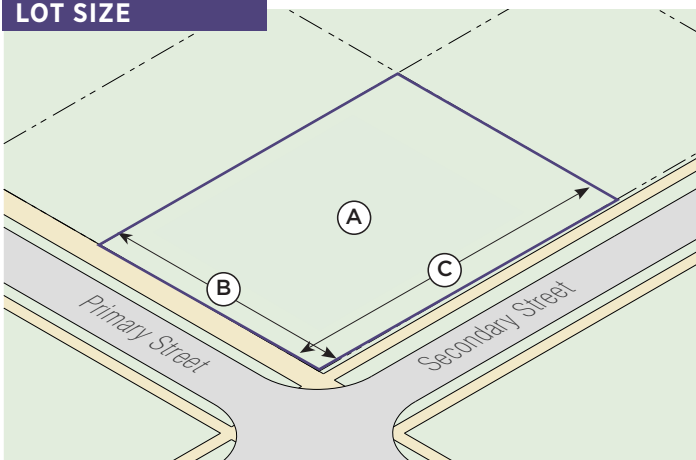
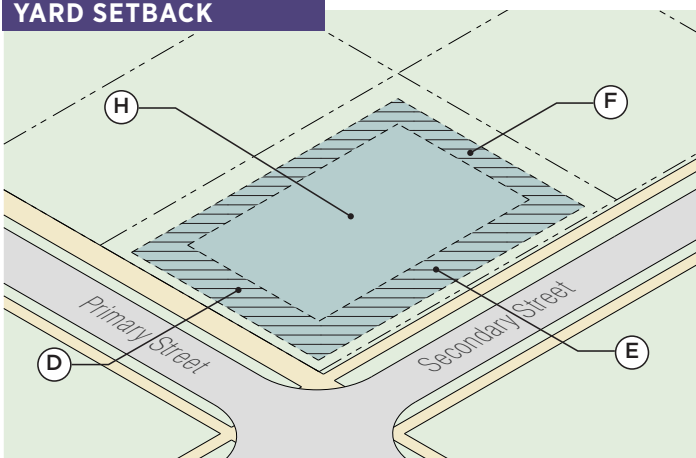
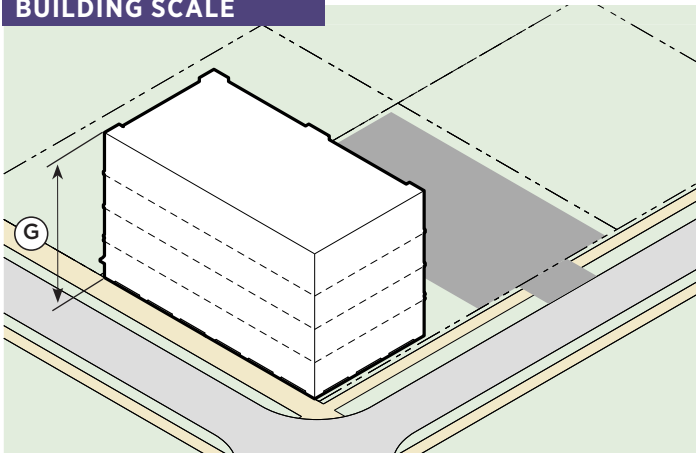
- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

**TABLE 1030.04 (E): LAC BUILDING DEVELOPMENT STANDARDS TABLE**

<b>LOT SIZE STANDARDS</b>		
Lot Area	1,000 sq. ft. min.	<b>A</b>
Lot Width	20 ft. min.	<b>B</b>
Lot Depth	50 ft. min.	<b>C</b>
<b>YARD SETBACK STANDARDS</b>		
Front Yard Setback	80-120 percent of context average (1)	<b>D</b>
Side Yard Setback	No side yard setback is required, except that if a side yard setback is provided the min. shall be 5 ft.	<b>E</b>
Rear Yard Setback	No rear yard setback is required for buildings facing Wooster Road, Park Avenue, Tuscarawas Avenue, 2nd Street, and 3rd Street; 20 ft. min. for all other buildings (2)	<b>F</b>
<b>BUILDING SCALE STANDARDS</b>		
Building Height	50 ft. max. for buildings facing Wooster Road, Park Avenue, Tuscarawas Avenue, 2nd Street and 3rd Street; 35 ft. max. for buildings facing all other streets; 18 ft. max. for detached accessory structures	<b>G</b>
Lot Coverage	60 percent max. for lots opposing Lake Anna to the north, east, and west; 90 percent max. for all other lots	<b>H</b>

#### NOTES

- (1) Where no context average can be determined due to lack of appropriate benchmarks the Front Setback shall be 20 feet minimum.
- (2) Detached garages may be located within 2.5 feet from the Rear Lot Line.

**LOT SIZE****YARD SETBACK****BUILDING SCALE****(f) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.04 (F): LAC TYPOLOGIES TABLE**

\* TYPOLOGY ALLOWED BY CONDITIONAL USE APPROVAL

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Attached Single Unit Residential Building, with no residential living on the ground floor	1030.10 (B)
Duplex Residential Building, with no residential living on the ground floor	1030.10 (C)
Small Flex Retail Building	1030.10 (F)
Medium Flex Retail Building *	1030.10 (G)
Institutional Flex Building *	1030.10 (I)
Primary School Building	1030.10 (J)
School and Institutional Building	1030.10 (K)
Bed and Breakfast Building *	1030.10 (L)
Office Building	1030.10 (N)
Assembly Use Building	1030.10 (S)
Maker Space or Live-Work Units	1030.10 (T)
<b>FRONTAGE TYPOLOGIES</b>	
Shopfront	1030.11 (A)
Patio	1030.11 (B)
Gallery	1030.11 (C)
Arcade	1030.11 (D)
Yard	1030.11 (E)
Terrace	1030.11 (F)
Forecourt	1030.11 (G)
Streetwall	1030.11 (H)
Porch	1030.11 (I)
Stoop	1030.11 (J)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Plaza	1030.12 (B)
Square	1030.12 (C)
Green	1030.12 (D)
Passage	1030.12 (E)
Pocket Plaza	1030.12 (F)
Green Infrastructure	1030.12 (H)

**1030.04**

## Lake Anna

**(g) Additional Regulations for the Lake Anna District**

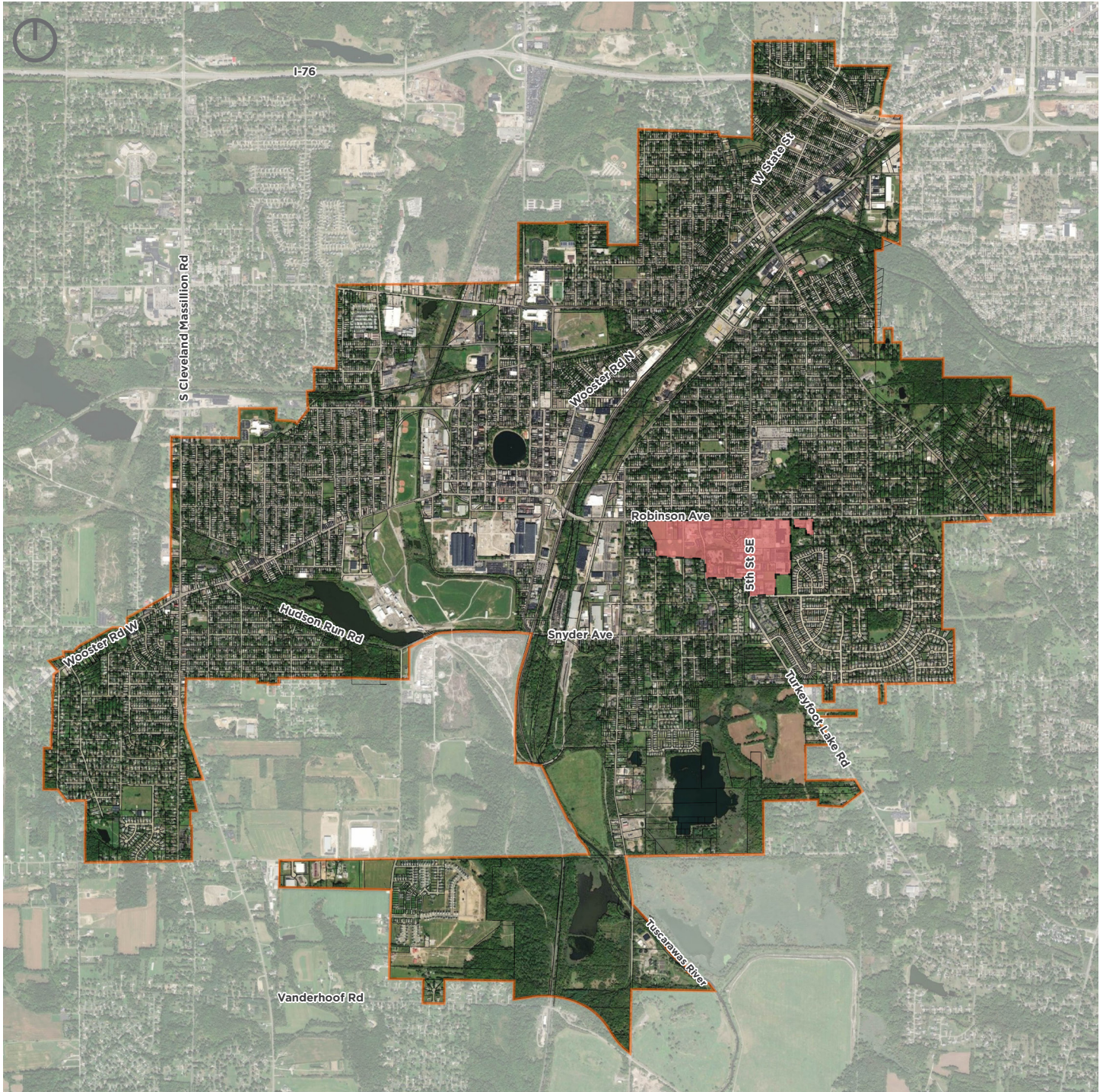
- (1)** Parking Location. No parking areas shall be provided between a building and the street. All parking areas shall be located to the rear or to the side of a building and be screened from all streets or other public rights-of-way. Screening shall include a row of densely planted shrubs and trees at least four (4) feet in height, opaque fencing or decorative perimeter walls. No new parking areas shall face Lake Anna.
- (2)** Building Entrances. The primary entrance of any building shall be oriented toward the street or other public right-of-way. Any entrances provided to rear parking areas shall be considered a secondary entrance. The primary entrance shall be accessible for public use at all times of the day and all days of the week that the secondary entrance is accessible for public use.
- (3)** Sidewalks and Walkways. All business entrances must be connected along an efficient path to public sidewalk system via designated walkway. Designated walkways must be painted, paved, raised, or otherwise differentiated from vehicle use areas.
- (4)** Curb Cuts. No new curb cuts may be installed along Wooster Road, Park Avenue, Tuscarawas Avenue, 2nd Street, or 3rd Street, unless no shared access is available to the lot and the curb cut is approved by the Building Commissioner or designee.
- (5)** Refuse Storage. Outdoor refuse storage areas shall not be located between the street and the front street wall of a building. All outdoor refuse areas must be screened within a structure constructed of concrete masonry, brick, wood, or other rigid building material that is not greater than eight (8) feet in height.
- (6)** Landscaping. Each lot shall provide at least one (1) shade tree. The trunk of the trees may be located within the right-of-way or on the lot within ten (10) feet of the Lot Line.
- (7)** Design Considerations
  - A. Architectural Features. Buildings shall use architectural features that emphasize their orientation towards one (1) or more streets on which the lot has frontage.
  - B. Historic Overlay District. Within the Design Review Board Boundary, no alterations, new development, or demolitions shall be permitted except with the permission of the Design Review Board, which shall review each change on its ability to preserve historic character or to blend historic and modern architectural forms.
- (8)** Generally Applicable Regulations. In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.

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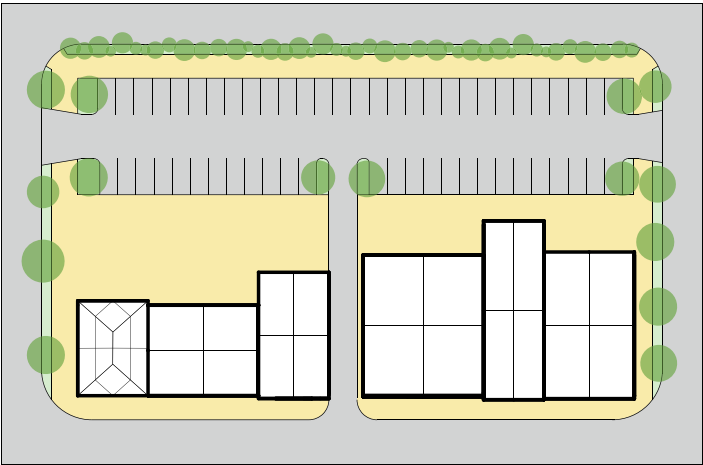
## ZONING DISTRICTS

FIGURE 1030.07: COMMERCIAL CENTER (CC) DISTRICT MAP





1030.05: Commercial Center (CC)



(a) Intent

The Commercial Center District (CC) is intended to promote development patterns that are consistent with large retail and office centers. Existing development is comprised of traditional large-lot retail development with surface parking. Future development patterns should accommodate changes in retail and transportation trends, including smaller-format retail uses, decreased setbacks, and pedestrian-friendly design. Centers should attract a variety of businesses, including companies with a workforce residing throughout the region that seek the convenience of access from main corridors.

(b) Uses

- (1) Number of Uses per Lot. More than one (1) principal use is permitted per lot in the Commercial Center District.
- (2) Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3) Uses Restricted. No building or land within the Commercial Center District (CC) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

TABLE 1030.05 (A): CC ALLOWED USES TABLE

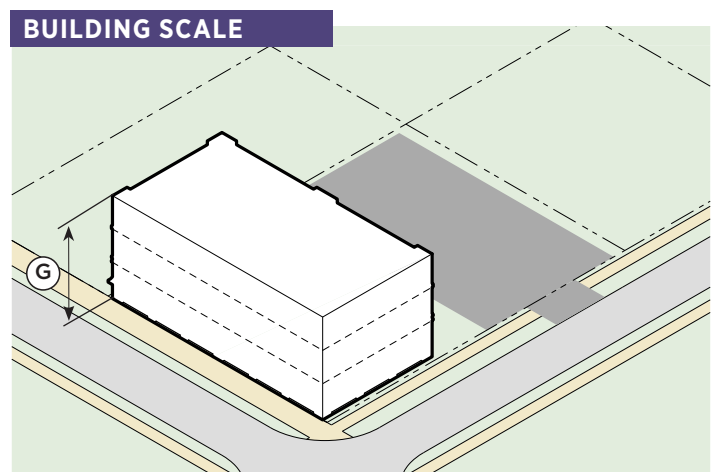
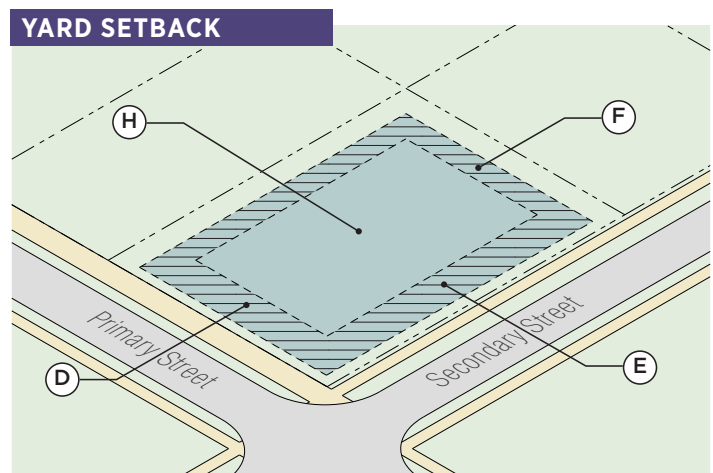
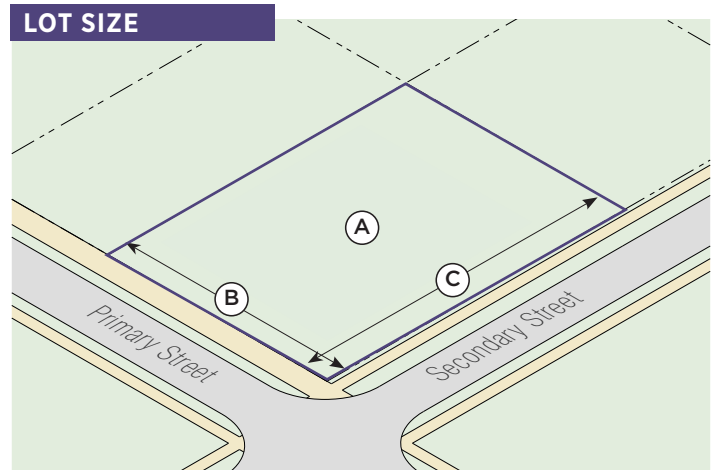
ALLOWED USES	REFERENCE
ALLOWED BY ZONING PERMIT	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Civic and Institutional	1040.09
Neighborhood Commercial	1040.14
Regional Commercial	1040.15
Artisanal Industrial	1040.17
ALLOWED BY CONDITIONAL USE APPROVAL	
Recreational	1040.08

(c) Building Development Standards

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

TABLE 1030.05 (B): CC BUILDING DEVELOPMENT STANDARDS TABLE

LOT SIZE STANDARDS		
Lot Area	2,000 sq. ft. min.	(A)
Lot Width	30 ft. min.	(B)
Lot Depth	30 ft. min.	(C)
YARD SETBACK STANDARDS		
Front Yard Setback	15 ft. min., except that along Robinson Avenue the min. setback shall be 50 ft.	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 5 ft. min. per side	(E)
Rear Yard Setback	5 ft. min.	(F)
BUILDING SCALE STANDARDS		
Building Height	40 ft. max.	(G)
Lot Coverage	70 percent max.	(H)
NOTES		





**(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.05 (C): CC TYPOLOGIES TABLE**

\* TYPOLOGY ALLOWED BY CONDITIONAL USE APPROVAL

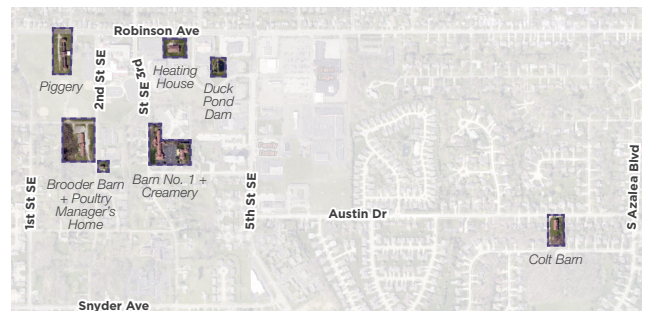
ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Multi-Unit Residential Building	1030.10 (D)
Multi-Unit Residential / Mixed-Use Commercial Complex	1030.10 (E)
Small Flex Retail Building	1030.10 (F)
Medium Flex Retail Building	1030.10 (G)
Large Flex Retail Building	1030.10 (H)
Institutional Flex Building	1030.10 (I)
Primary School Building	1030.10 (J)
School and Institutional Building	1030.10 (K)
Bed and Breakfast Building *	1030.10 (L)
Community Center Building	1030.10 (M)
Office Building	1030.10 (N)
Office-Corporate Building	1030.10 (O)
Retail Large Format Building	1030.10 (P)
Assembly Use Building	1030.10 (S)
Maker Space or Live-Work Units	1030.10 (T)
<b>FRONTAGE TYPOLOGIES</b>	
Shopfront	1030.11 (A)
Patio	1030.11 (B)
Gallery	1030.11 (C)
Arcade	1030.11 (D)
Terrace	1030.11 (F)
Streetwall	1030.11 (H)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Plaza	1030.12 (B)
Square	1030.12 (C)
Green	1030.12 (D)
Passage	1030.12 (E)
Pocket Plaza	1030.12 (F)
Green Infrastructure	1030.12 (H)

**(e) Additional Regulations**

- (1)** Parking Location. All parking areas shall be located to the rear of a building and be screened from all streets or other public rights-of-way. Screening shall be at least four (4) feet in height and shall include a row of densely planted shrubs or trees, opaque fencing, or decorative perimeter walls.
- (2)** Building Entrances. The primary entrance of any building shall be oriented toward the street or other public right-of-way. Any entrance provided to rear parking areas shall be considered a secondary entrance. The primary entrance shall be accessible for public use at all times of the day and all days of the week that the secondary entrance is accessible for public use.
- (3)** Sidewalks and Walkways. All business entrances must be connected along an efficient path to the public sidewalk system via a designated walkway. Designated walkways must be painted, paved, raised, or otherwise differentiated from vehicle use areas where such walkways cross vehicle use areas.
- (4)** Curb Cuts. New curb cuts along Robinson Avenue are prohibited unless approved by the Building Commissioner or designee. In considering whether to permit a new curb cut along Robinson Avenue, the Building Commissioner or designee must consider whether such curb cut interferes with future pedestrian safety.
- (5)** Refuse Storage. Outdoor refuse storage areas shall not be located between the street and the front street wall of a building. All outdoor refuse areas must be screened within a structure constructed of concrete masonry, brick, wood, or other rigid building material of eight (8) feet in height.

**(6) Design Considerations**

- A. Architectural Features. Buildings should use architectural features that emphasize their orientation towards one (1) or more streets on which the lot has frontage.
- B. Development Within 1,000 Feet of a Anna Dean Farm property. Development within one thousand (1000) feet of an Anna Dean Farm property should include front facades that complement the historic architectural features of the Anna Dean Farm, with consideration for massing, facade materials, color, and roof style.



*Existing Anna Dean Farm properties*

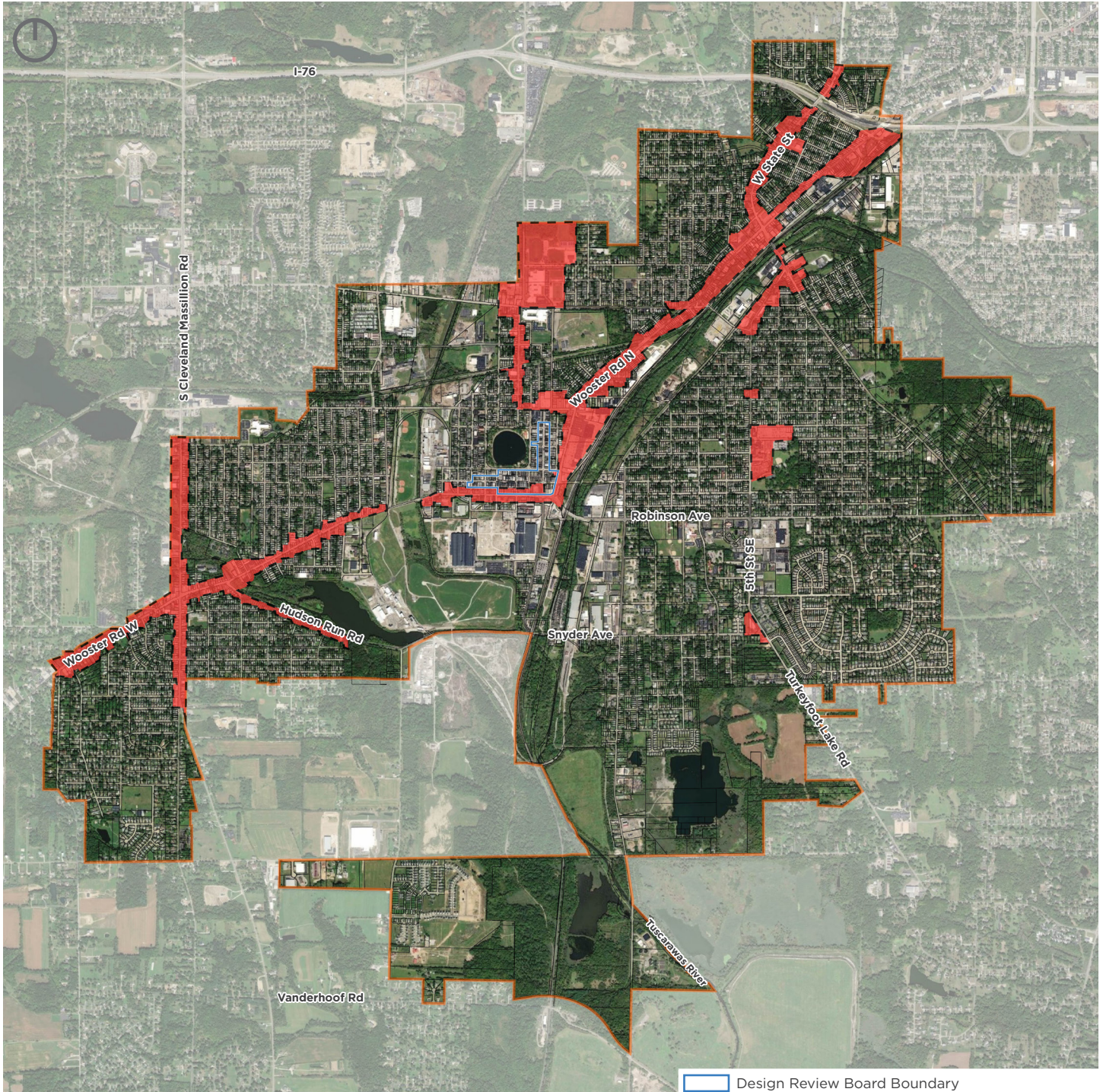
- (7)** Generally Applicable Regulations. In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.

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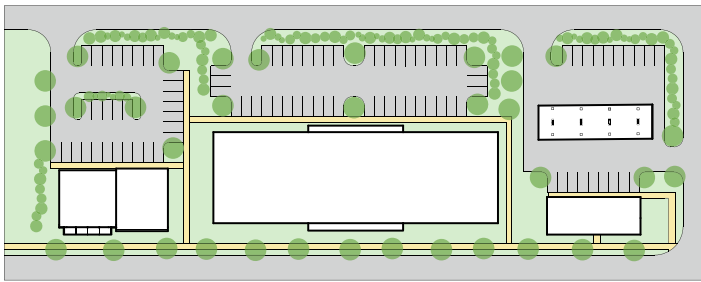


## ZONING DISTRICTS

FIGURE 1030.08: CORRIDOR (CO) DISTRICT MAP





**1030.06: Corridor (CO)****(a) Intent**

The Corridor District (CO) is intended to promote a range of scales, form, and frontage types of commercial and residential uses that, through strategic development patterns, achieve walkable and vibrant communities. Buildings in the Corridor District should facilitate transitions in height and intensity to nearby residential districts.

**(b) Uses**

- (1)** Number of Uses per Lot. More than one (1) principal use is permitted per building in the Corridor District.
- (2)** Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3)** Uses Restricted. No building or land within the Corridor District (CO) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

**TABLE 1030.06 (A): CO ALLOWED USES TABLE**

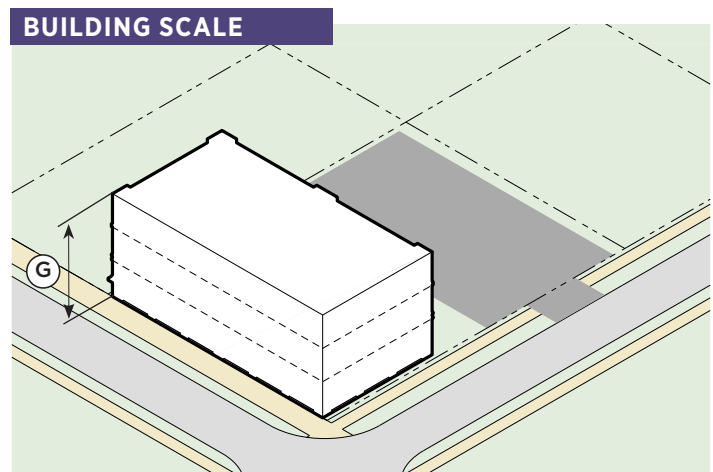
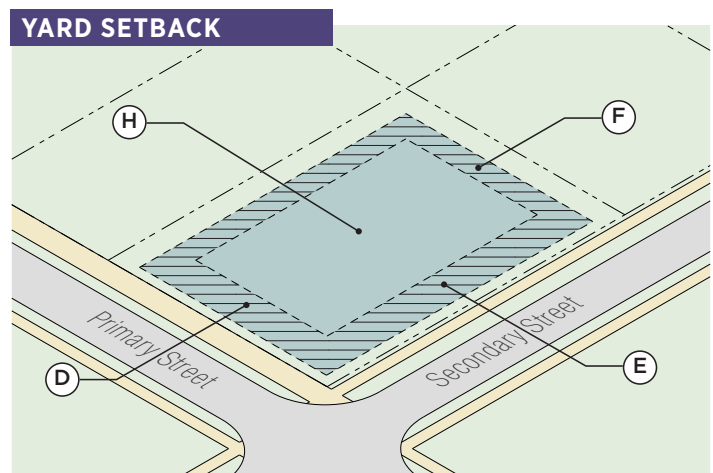
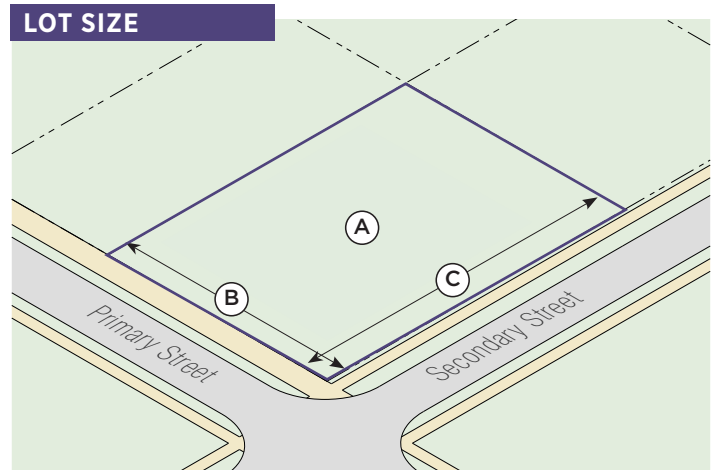
ALLOWED USES	REFERENCE
<b>ALLOWED BY ZONING PERMIT</b>	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Civic and Institutional	1040.09
Single-Unit Residential	1040.10
Neighborhood Commercial	1040.14
Artisanal Industrial	1040.17
Light Industrial	1040.18
<b>ALLOWED BY CONDITIONAL USE APPROVAL</b>	
Recreational	1040.08
Regional Commercial	1040.15
Vehicle-Oriented	1040.16

(c) **Building Development Standards**

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

**TABLE 1030.06 (B): CO BUILDING DEVELOPMENT STANDARDS TABLE**

LOT SIZE STANDARDS		
Lot Area	4,500 sq. ft. min.	(A)
Lot Width	35 ft. min.	(B)
Lot Depth	NA	(C)
YARD SETBACK STANDARDS		
Front Yard Setback	5 ft. min. along minor streets; 10 ft. min. along collector streets; 20 ft. min. along arterial streets; 50 ft. max. along all streets	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 5 ft. min.	(E)
Rear Yard Setback	20 ft. min.	(F)
BUILDING SCALE STANDARDS		
Building Height	35 ft. max.	(G)
Lot Coverage	75 percent max.	(H)
NOTES		



**(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.06 (C): CO TYPOLOGIES TABLE**

\* TYPOLOGY ALLOWED BY CONDITIONAL USE APPROVAL

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Attached Single Unit Residential Building	1030.10 (B)
Duplex Residential Building	1030.10 (C)
Multi-Unit Residential Building	1030.10 (D)
Multi-Unit Residential / Mixed-Use Commercial Complex	1030.10 (E)
Small Flex Retail Building	1030.10 (F)
Medium Flex Retail Building	1030.10 (G)
Large Flex Retail Building	1030.10 (H)
Institutional Flex Building	1030.10 (I)
Primary School Building	1030.10 (J)
School and Institutional Building	1030.10 (K)
Bed and Breakfast Building *	1030.10 (L)
Community Center Building	1030.10 (M)
Office Building	1030.10 (N)
Office-Corporate Building	1030.10 (O)
Assembly Use Building	1030.10 (S)
Maker Space or Live-Work Units	1030.10 (T)
<b>FRONTAGE TYPOLOGIES</b>	
Shopfront	1030.11 (A)
Patio	1030.11 (B)
Gallery	1030.11 (C)
Arcade	1030.11 (D)
Terrace	1030.11 (F)
Streetwall	1030.11 (H)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Plaza	1030.12 (B)
Square	1030.12 (C)
Green	1030.12 (D)
Passage	1030.12 (E)
Pocket Plaza	1030.12 (F)
Green Infrastructure	1030.12 (H)

**(e) Additional Regulations**

- (1)** Parking Location. Parking areas shall be located primarily to the rear or to the side of a building, except that up to one (1) parking space per twenty (20) feet of lot width may be located in the front of a building. For example, if a lot is one hundred (100) feet wide, it may have up to five (5) off-street parking spaces located in front of the building, with all other parking spaces located to the side or rear of the building
- (2)** Building Entrances. The primary entrance of any building shall be oriented toward the street or other public right-of-way. Any entrances provided to rear parking areas shall be considered a secondary entrance. The primary entrance shall be accessible for public use at all times of the day and all days of the week that the secondary entrance is accessible for public use.
- (3)** Sidewalks and Walkways. All business entrances must be connected along an efficient path to public sidewalk system via designated walkway. Designated walkways must be painted, paved, raised, or otherwise differentiated from vehicle use areas.
- (4)** Curb Cuts. No new curb cuts may be installed unless no shared access is available to the lot and the curb cut is approved by the Building Commissioner or designee.
- (5)** Screening. Any outdoor storage of materials, utilities, mechanical equipment, and refuse storage areas shall not be located between the street and the front street wall of a building, and shall be screened from view of any street or public right-of-way.
- (6)** Landscaping. Each lot shall provide at least one (1) shade tree. The trunk of the trees may be located within the right-of-way or on the lot within ten (10) feet of the Lot Line.
- (7)** Design Considerations
  - A. Commercial Uses. For any building containing commercial uses, the commercial portion of a building should architecturally address the corridor through the use of building elements including entrances and access, windows, signage, and other architectural features. Any areas used for processing, storage, shipments or other building elements that are operational in nature should be located to the rear of the building or property, with such operations screened from the primary corridor.
- (8)** Generally Applicable Regulations. In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.

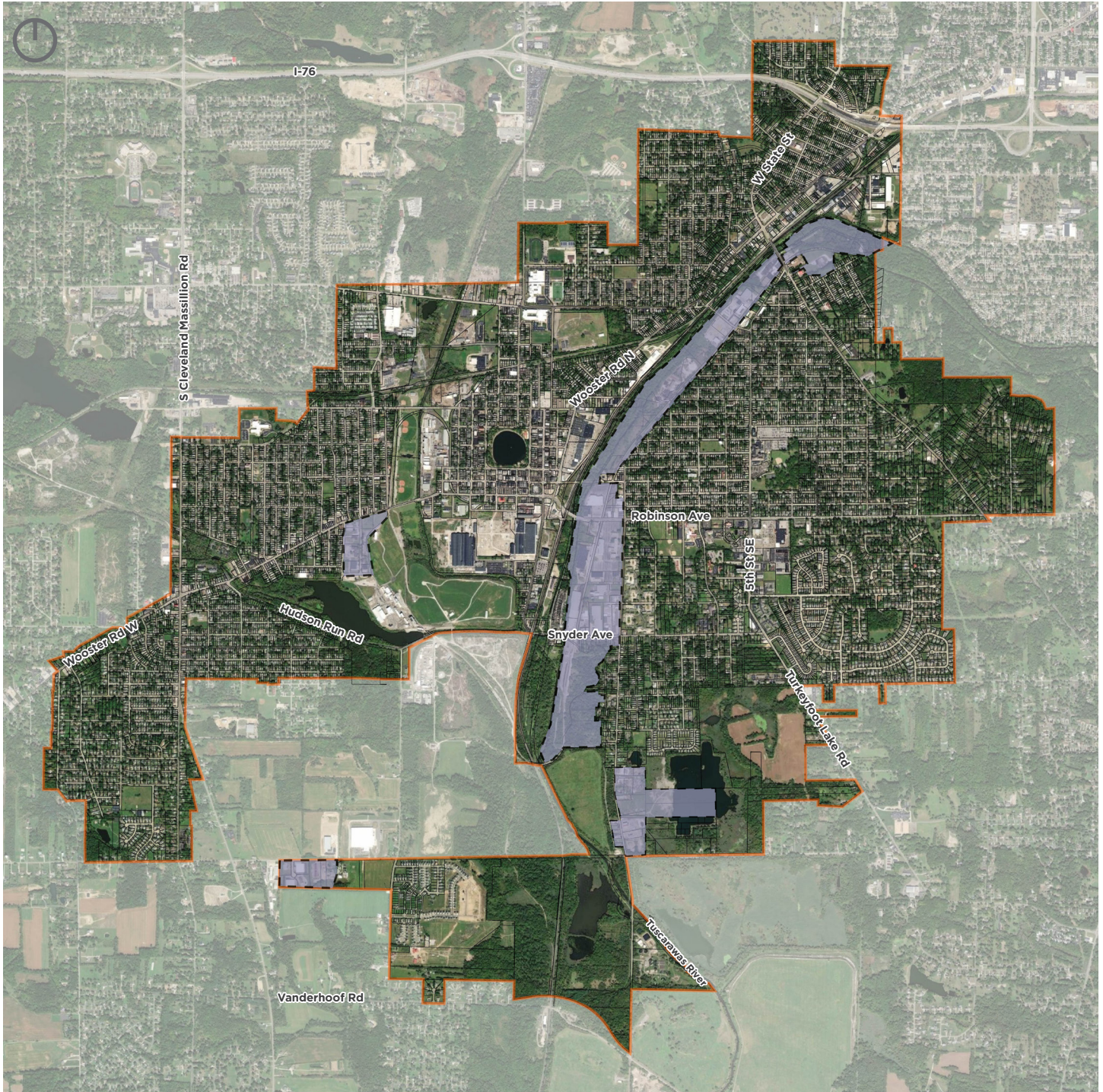


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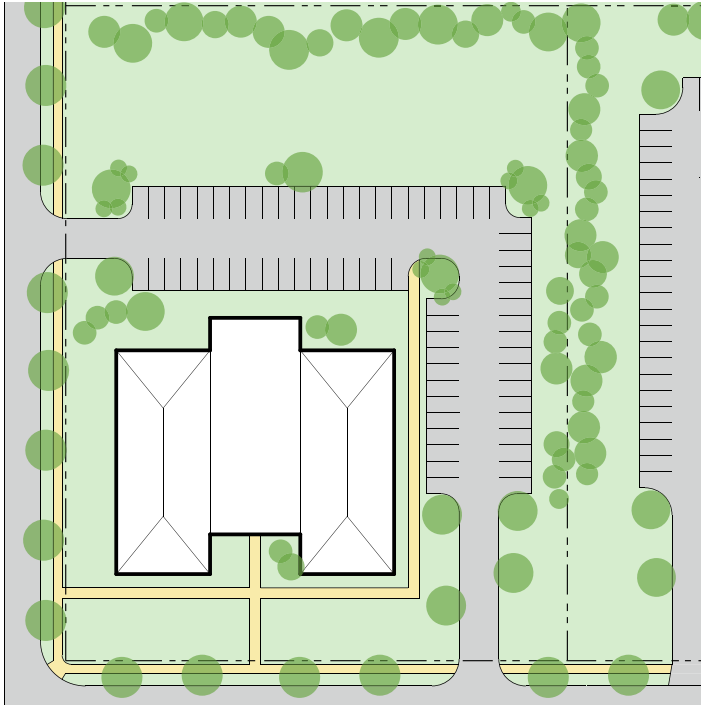
## ZONING DISTRICTS

FIGURE 1030.09: EMPLOYMENT FLEX (EF) DISTRICT MAP





## 1030.07: Employment Flex (EF)

**(a) Intent**

The Employment Flex District (EF) promotes low-pollution commercial uses that are compatible with nearby residences. It may incorporate a mix of light industrial uses with commercial offices, retail, entertainment, and multi-unit residential uses.

**(b) Uses**

- (1)** Number of Uses per Lot. More than one (1) principal use is permitted per lot or building in the Employment Flex District.
- (2)** Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3)** Uses Restricted. No building or land within the Employment Flex District (EF) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

**TABLE 1030.07 (A): EF ALLOWED USES TABLE**

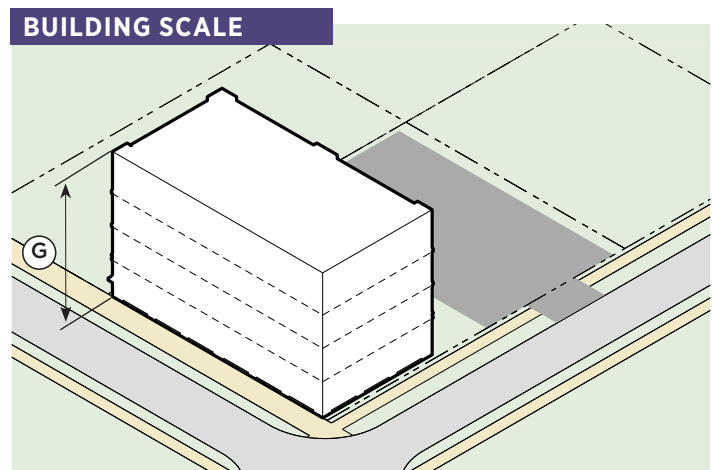
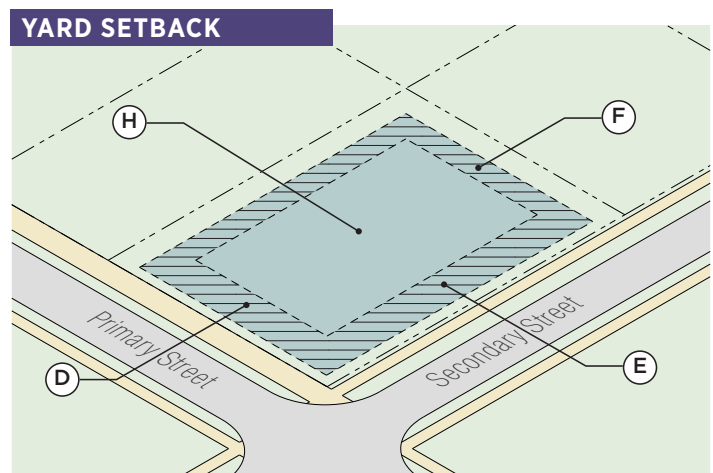
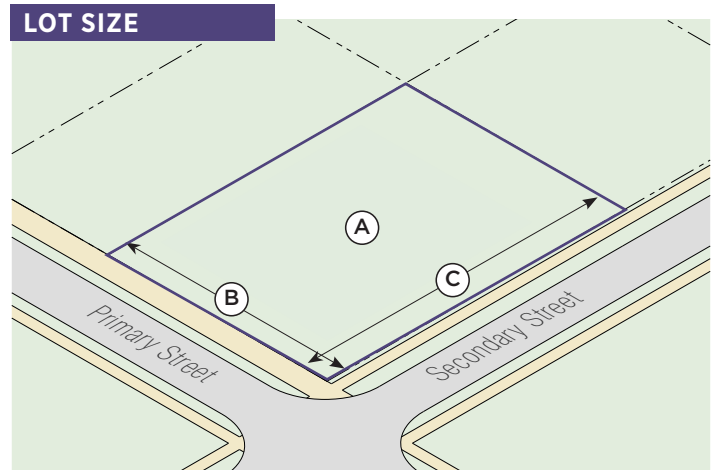
ALLOWED USES	REFERENCE
<b>ALLOWED BY ZONING PERMIT</b>	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Vehicle-Oriented	1040.16
Artisanal Industrial	1040.17
Light Industry	1040.18
<b>ALLOWED BY CONDITIONAL USE APPROVAL</b>	
Recreational	1040.08
Neighborhood Commercial	1040.14
Regional Commercial	1040.15
Outdoor Arena	1040.21
Sexually Oriented	1040.23
Telecommunications Tower	1040.24
Aerospace-Related	1040.25

(c) Building Development Standards

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

TABLE 1030.07 (B): EF BUILDING DEVELOPMENT STANDARDS TABLE

LOT SIZE STANDARDS		
Lot Area	5,000 sq. ft. min.	(A)
Lot Width	100 ft. min.	(B)
Lot Depth	NA	(C)
YARD SETBACK STANDARDS		
Front Yard Setback	25 ft. min.; 50 ft. max.	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 15 ft. min.	(E)
Rear Yard Setback	15 ft. min.	(F)
BUILDING SCALE STANDARDS		
Building Height	50 ft. max.	(G)
Lot Coverage	NA	(H)
NOTES		





**(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.07 (C): EF TYPOLOGIES TABLE**

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Multi-Unit Residential Building	1030.10 (D)
Multi-Unit Residential / Mixed-Use Commercial Complex	1030.10 (E)
Small Flex Retail Building	1030.10 (F)
Medium Flex Retail Building	1030.10 (G)
Large Flex Retail Building	1030.10 (H)
Institutional Flex Building	1030.10 (I)
School and Institutional Building	1030.10 (K)
Office Building	1030.10 (N)
Office-Corporate Building	1030.10 (O)
Retail Large Format Building	1030.10 (P)
Industrial Building	1030.10 (Q)
Assembly Use Building	1030.10 (S)
<b>FRONTAGE TYPOLOGIES</b>	
Shopfront	1030.11 (A)
Patio	1030.11 (B)
Gallery	1030.11 (C)
Arcade	1030.11 (D)
Yard	1030.11 (E)
Terrace	1030.11 (F)
Streetwall	1030.11 (H)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Plaza	1030.12 (B)
Square	1030.12 (C)
Passage	1030.12 (E)
Pocket Plaza	1030.12 (F)
Green Infrastructure	1030.12 (H)

**(e) Additional Regulations**

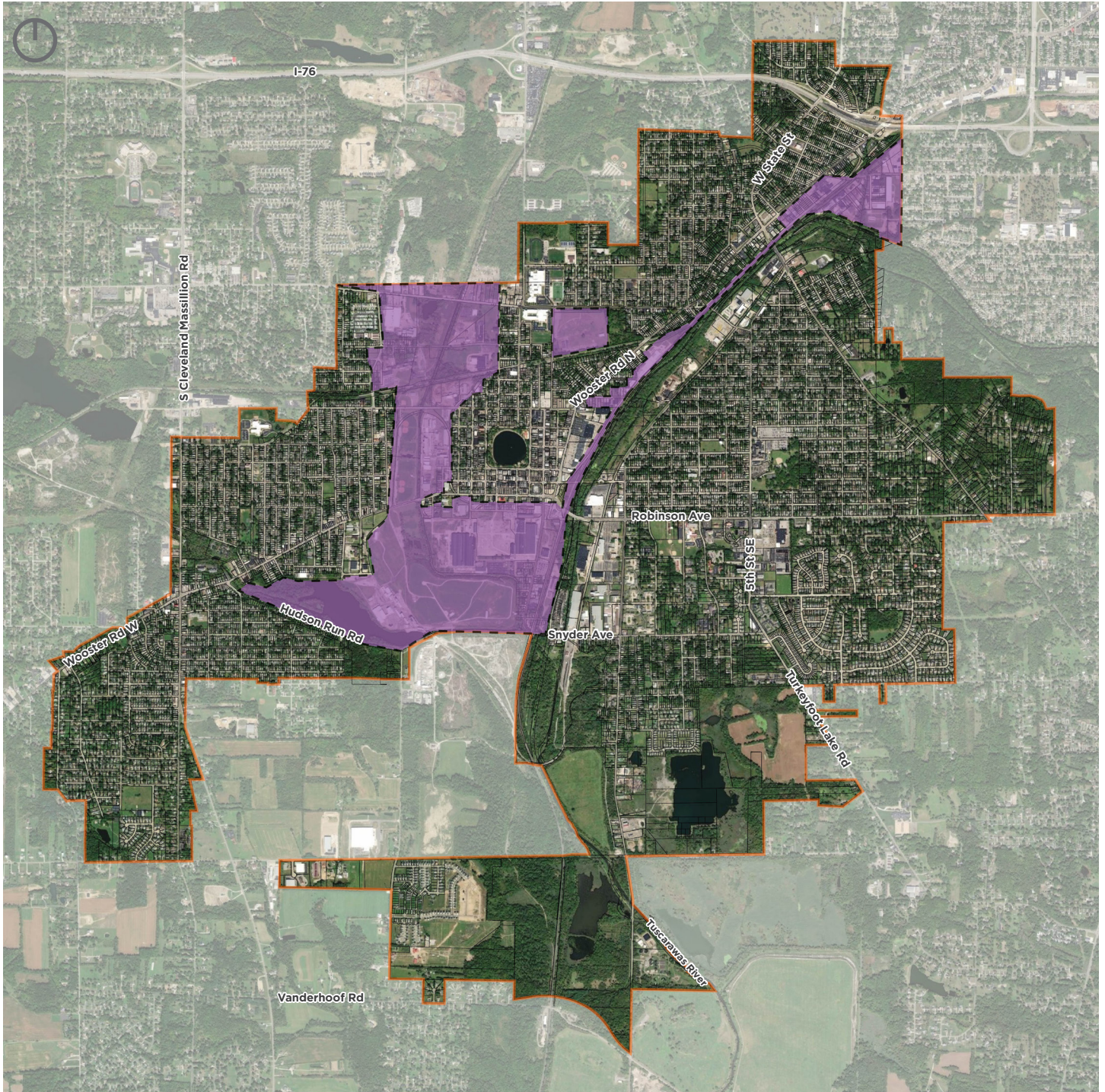
- (1)** Parking Location. No parking areas shall be provided between a building and the street. All parking areas shall be located to the rear or to the side of a building and be screened from all streets or other public rights-of-way. Screening shall include a row of densely planted shrubs and trees at least four (4) feet in height, opaque fencing, or decorative perimeter walls.
- (2)** Building Entrances. The primary entrance of any building shall be oriented toward the street or other public right-of-way. Any entrances provided to rear parking areas shall be considered a secondary entrance. The primary entrance shall be accessible for public use at all times of the day and all days of the week that the secondary entrance is accessible for public use.
- (3)** Sidewalks and Walkways. All business entrances must be connected along an efficient path to public sidewalk system via designated walkway. Designated walkways must be painted, paved, raised, or otherwise differentiated from vehicle use areas.
- (4)** Curb Cuts. No new curb cuts may be installed unless no shared access is available to the lot and the curb cut is approved by the Building Commissioner or designee.
- (5)** Screening. Any outdoor storage of materials, utilities, mechanical equipment, and refuse storage areas shall not be located between the street and the front street wall of a building and shall be screened from view of any street or public right-of-way.
- (6)** Landscaping. Each lot shall provide at least one (1) shade tree. The trunk of the trees may be located within the right-of-way or on the lot within ten (10) feet of the lot line.
- (7)** Design Considerations
  - A. Commercial Uses. For any building containing commercial uses, the commercial portion of a building should architecturally address the street through the use of building elements including entrances and access, windows, signage, and other architectural features. Any areas used for processing, storage, shipments or other building elements that are operational in nature should be located to the rear of the building or property, with such operations screened from the primary corridor.
- (8)** Generally Applicable Regulations. In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including, but not limited to: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.

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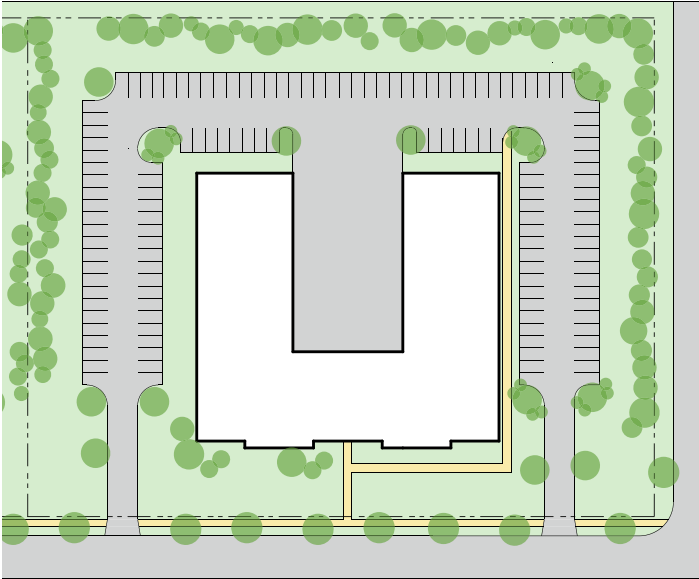
## ZONING DISTRICTS

FIGURE 1030.10: INDUSTRIAL (IN) DISTRICT MAP





1030.08: **Industrial (IN)**



**(a) Intent**

The Industrial District (IN) intends to incorporate a mix of industrial and office uses, creating economic centers that serve the City and surrounding communities. The existing development pattern is traditional, auto-oriented retail, commercial, and industrial development. The desired development pattern includes flexible buildings that act as revenue-generating industrial uses, as well as offices and mixed-use commercial spaces. New construction should be well-designed, and site plans should incorporate attractive landscaping, streetscape elements, and signage.

**(b) Uses**

- (1)** Number of Uses per Lot. More than one (1) principal use is permitted per lot or building in the Industrial District.
- (2)** Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3)** Uses Restricted. No building or land within the Industrial District (IN) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

**TABLE 1030.08 (A): IN ALLOWED USES TABLE**

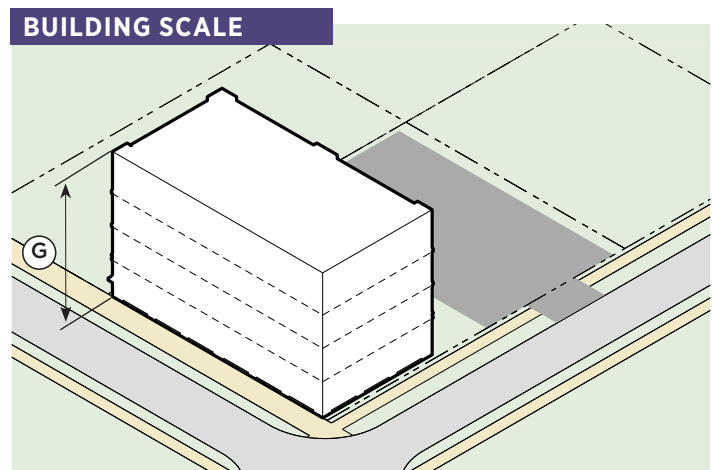
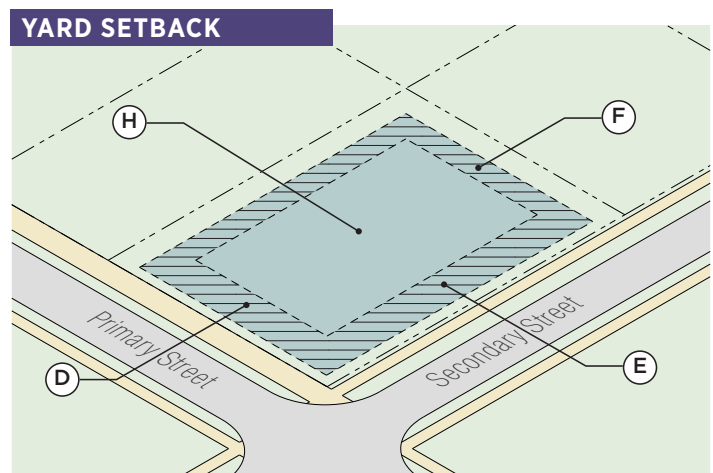
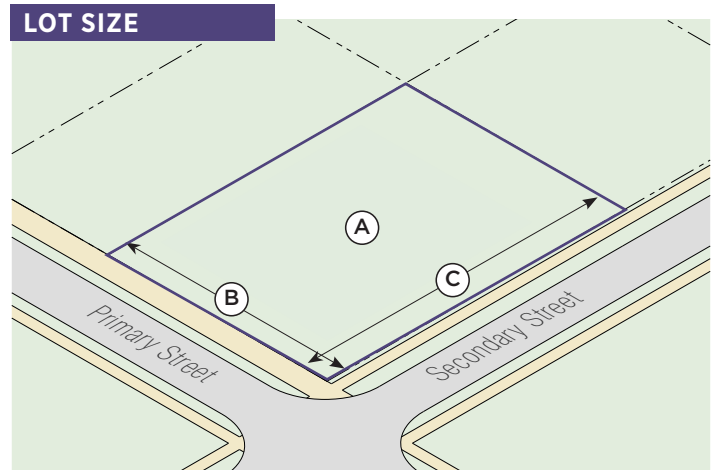
ALLOWED USES	REFERENCE
ALLOWED BY ZONING PERMIT	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Vehicle-Oriented	1040.16
Light Industrial	1040.18
Heavy Industrial	1040.19
Telecommunications Tower	1040.24
Aerospace-Related	1040.25
ALLOWED BY CONDITIONAL USE APPROVAL	
Recreational	1040.08
Outdoor Arena	1040.21
Weapons-Related	1040.22

(c) **Building Development Standards**

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

**TABLE 1030.08 (B):** IN BUILDING DEVELOPMENT STANDARDS TABLE

LOT SIZE STANDARDS		
Lot Area	NA	(A)
Lot Width	100 ft. min.	(B)
Lot Depth	NA	(C)
YARD SETBACK STANDARDS		
Front Yard Setback	25 ft. min.	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 15 ft. min.	(E)
Rear Yard Setback	25 ft. min.	(F)
BUILDING SCALE STANDARDS		
Building Height	50 ft. max.; 35 ft. max. within 50 ft. of a Residence District	(G)
Lot Coverage	NA	(H)
NOTES		



**(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.08 (C): IN TYPOLOGIES TABLE**

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Office Building	1030.10 (N)
Office-Corporate Building	1030.10 (O)
Retail Large Format Building	1030.10 (P)
Industrial Building	1030.10 (Q)
Warehouse Building	1030.10 (R)
Assembly Use Building	1030.10 (S)
<b>FRONTAGE TYPOLOGIES</b>	
Yard	1030.11 (E)
Streetwall	1030.11 (H)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Green Infrastructure	1030.12 (H)

**(e) Additional Regulations**

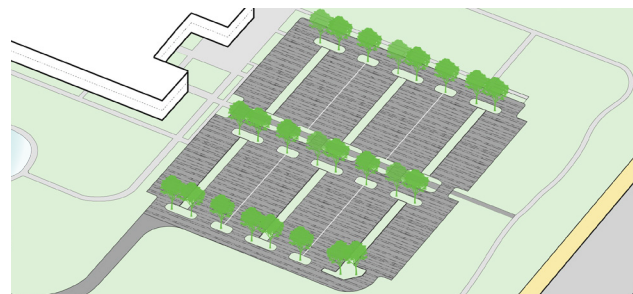
- (1) Screening. Any outdoor storage of materials, utilities, mechanical equipment, and refuse storage areas shall not be located between the street and the front street wall of a building and shall be screened from view of any street or public right-of-way.
- (2) Generally Applicable Regulations. In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.

**(3) Design Considerations for the Newell Site.**

- A. The Newell Site is adjacent to Barberton Middle School and High School, surrounded by the Traditional Residential (TR) District. Due to its proximity to rail and adjacent uses, the site offers an opportunity to create a self-contained, walkable development.
- B. Potential uses shall not be detrimental to surroundings or generate considerable traffic. Uses could include: Trade School, Incubator Spaces for Business Start-Ups, Research Facility, Medical Facility, Laboratory, Logistics, Light Manufacturing, Product Assembly, Data Processing, or Call Center.
- C. Architectural Features. Buildings shall be compatible with nearby homes and institutions, with lower building heights, human-scale features, or a small campus of structures.
- D. Development shall be environmentally sensitive, including features such as renewable energy, green parking (trees, bioswales, permeable pavers), and multi-modal connections.



*Newell Site Location Map*

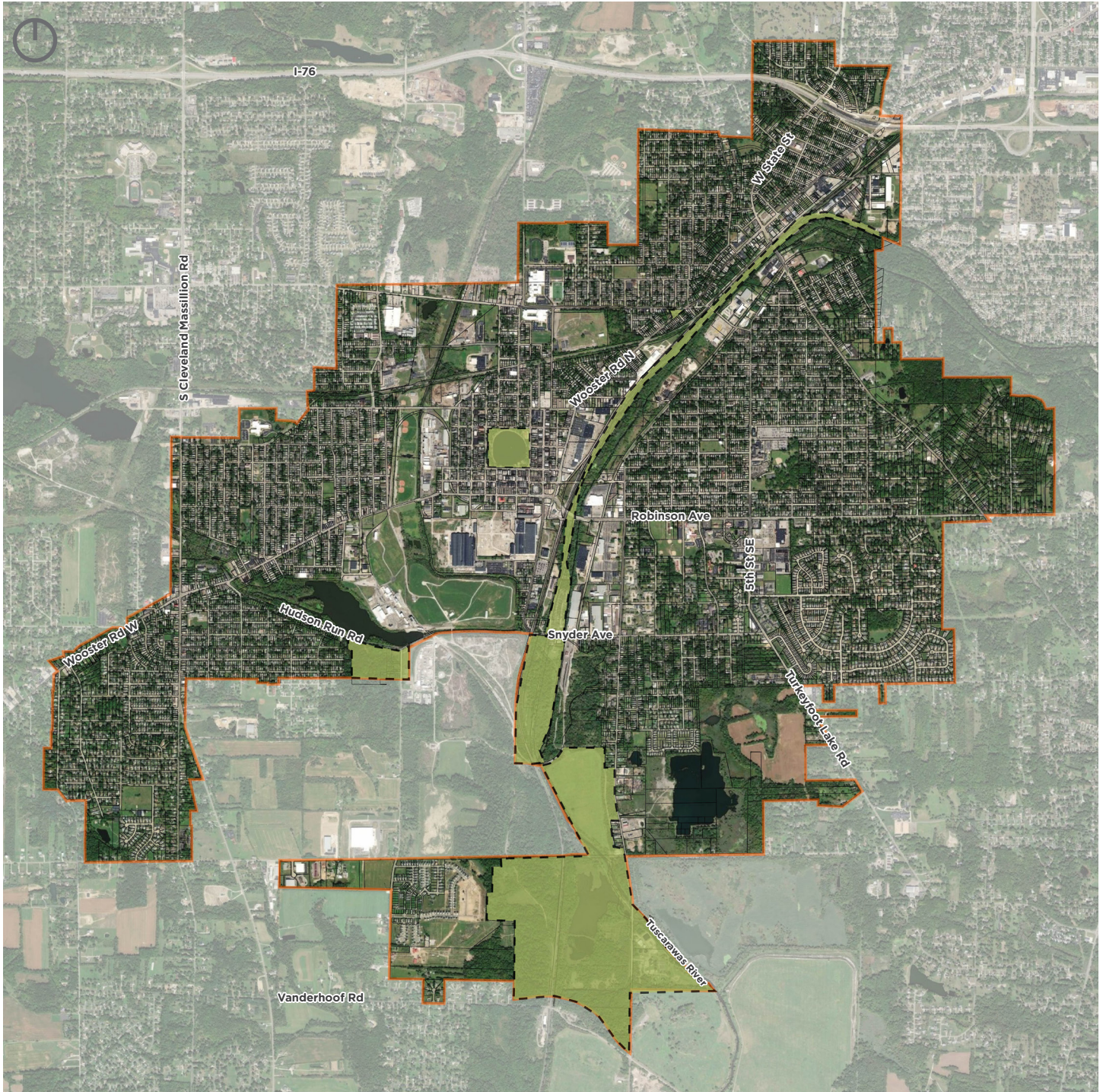


*Green Parking Diagram: Trees, Bioswales, Permeable Pavers, and Multi-Modal Connections*



## ZONING DISTRICTS

FIGURE 1030.11: NATURAL (NA) DISTRICT MAP





1030.10: Natural (NA)



(a) Intent

The Natural District (NA) is intended to promote the health and wellbeing of residents through interactions with nature. Existing development includes passive and active community parks. Desired forms of development and open space preservation include ball fields, playgrounds, natural passive areas, trails, and neighborhood parks. Trails should serve as gateways and connect key destinations within the City.

(b) Uses

- (1) Number of Uses per Lot. More than one (1) principal use is permitted per lot or building in the Natural District.
- (2) Accessory Uses. Accessory uses shall be permitted in accordance with accessory use regulations found in Chapter 1040.
- (3) Uses Restricted. No building or land within the Natural District (NA) shall be used for any purpose other than for a purpose included in the list of allowed uses below. Additional use regulations of Chapter 1040 shall apply.

TABLE 1030.09 (A): NA ALLOWED USES TABLE

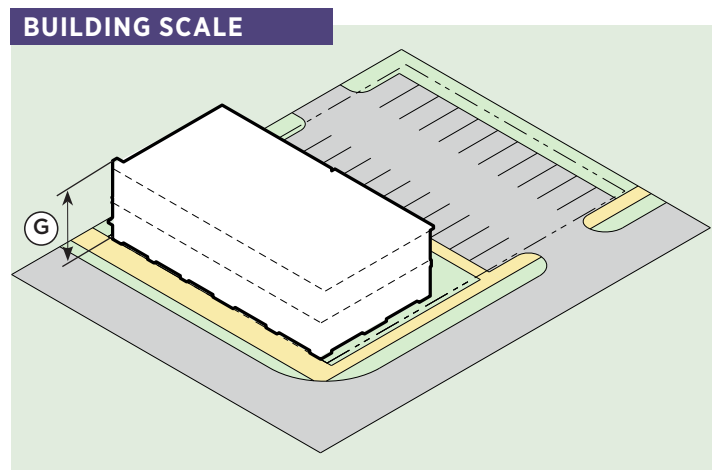
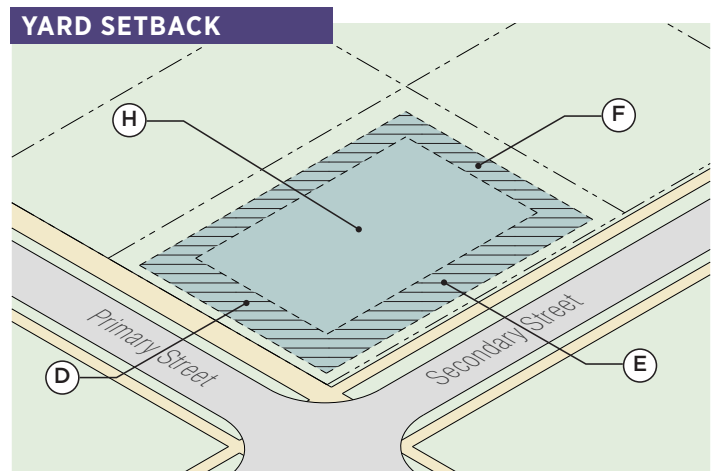
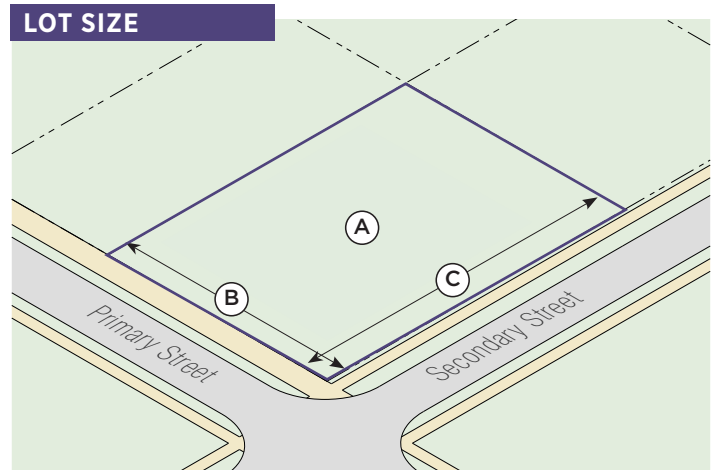
ALLOWED USES	REFERENCE
ALLOWED BY ZONING PERMIT	
General Utility	1040.03
General Right-of-Way	1040.04
Parks and Preserves	1040.05
Accessory	1040.06
Temporary	1040.07
Recreational	1040.08
ALLOWED BY CONDITIONAL USE APPROVAL	
None	

(c) Building Development Standards

- (1) No lot may be created which does not conform with the lot size standards listed below.
- (2) No building shall be erected or modified unless such building or the modified portion of such building conforms with the yard setback and building scale standards listed below.

TABLE 1030.09 (B): NA BUILDING DEVELOPMENT STANDARDS TABLE

LOT SIZE STANDARDS		
Lot Area	NA	(A)
Lot Width	NA	(B)
Lot Depth	NA	(C)
YARD SETBACK STANDARDS		
Front Yard Setback	25 ft. min.	(D)
Side Yard Setback	A side yard setback is required on each of two sides of the building; 25 ft. min.	(E)
Rear Yard Setback	25 ft. min.	(F)
BUILDING SCALE STANDARDS		
Building Height	20 ft. max.	(G)
Lot Coverage	NA	(H)
NOTES		



**(d) Typologies**

- (1) The following Building, Frontage, Street, and Open Space Typologies are permitted. More detailed descriptions are found in Section 1030.10 to 1030.13.

**TABLE 1030.09 (C): NA TYPOLOGIES TABLE**

\* TYPOLOGY ALLOWED BY CONDITIONAL USE APPROVAL

ALLOWED TYPOLOGIES	REFERENCE
<b>BUILDING TYPOLOGIES</b>	
Small Flex Retail Building *	1030.10 (F)
Community Center Building *	1030.10 (M)
<b>FRONTAGE TYPOLOGIES</b>	
Yard	1030.11 (E)
<b>OPEN SPACE TYPOLOGIES</b>	
Greenway / Trail	1030.12 (A)
Green	1030.12 (D)
Pocket Plaza	1030.12 (F)
Sport Field	1030.12 (G)
Green Infrastructure	1030.12 (H)

**(e) Additional Regulations**

- (1) **Parking Areas.** Open Parking areas shall be surfaced with permeable materials, such as permeable asphalt, permeable pavers, or gravel.
- (2) **Screening.** Any outdoor storage of materials, utilities, mechanical equipment, and refuse storage areas shall not be located between the street and the front street wall of a building and shall be screened from view of any street or public right-of-way.
- (3) **Generally Applicable Regulations.** In addition to the provisions of this section, the provisions of Chapter 1050 Generally Applicable Regulations shall also apply. These provisions govern elements including, but not limited to: Parking and Loading Standards; Signage; Landscaping and Buffers. In the event of conflicting regulations, the regulations of this chapter shall apply.

## ZONING DISTRICTS

### Building Typologies

#### 1030.10: Building Typologies

The below-listed building typologies are permitted for new development in the districts described below.

TABLE 1030.10: PERMITTED BUILDING TYPOLOGIES	TR	SR	LAN	LAC	CC	CO	EF	IN	NA	USE DEFINITION & STANDARDS
Detached Single-Unit Residential Building (Suburban)	●	●	-	-	-	-	-	-	-	1030.10 (A1)
Detached Single-Unit Residential Building (Traditional)	●	●	-	-	-	-	-	-	-	1030.10 (A2)
Attached Single-Unit Residential Building	●	●	●	●	-	●	-	-	-	1030.10 (B)
Duplex Residential Building	●	-	●	●	-	●	-	-	-	1030.10 (C)
Multi-Unit Residential Building	-	-	-	-	●	●	●	-	-	1030.10 (D)
Multi-Unit Residential / Mixed-Use Commercial Complex	-	-	-	-	●	●	●	-	-	1030.10 (E)
Small Flex Retail Building	●	-	●	●	●	●	●	-	●	1030.10 (F)
Medium Flex Retail Building	-	-	-	●	●	●	●	-	-	1030.10 (G)
Large Flex Retail Building	-	-	-	-	●	●	●	-	-	1030.10 (H)
Institutional Flex Building	●	-	●	●	●	●	●	-	-	1030.10 (I)
Primary School Building	●	●	●	●	●	-	-	-	-	1030.10 (J)
School and Institutional Building	●	●	●	●	●	-	●	-	-	1030.10 (K)
Bed and Breakfast Building	●	-	●	●	●	●	-	-	-	1030.10 (L)
Community Center Building	●	-	●	●	●	●	-	-	●	1030.10 (M)
Office Building	-	-	-	●	●	●	●	●	-	1030.10 (N)
Office-Corporate Building	-	-	-	-	●	●	●	●	-	1030.10 (O)
Retail Large Format Building	-	-	-	-	●	-	●	●	-	1030.10 (P)
Industrial Building	-	-	-	-	-	-	●	●	-	1030.10 (Q)
Warehouse Building	-	-	-	-	-	-	-	●	-	1030.10 (R)
Assembly Use Building	-	-	●	●	●	●	●	●	-	1030.10 (S)
Maker Space or Live-Work Units	●	-	●	●	●	●	-	-	-	1030.10 (T)

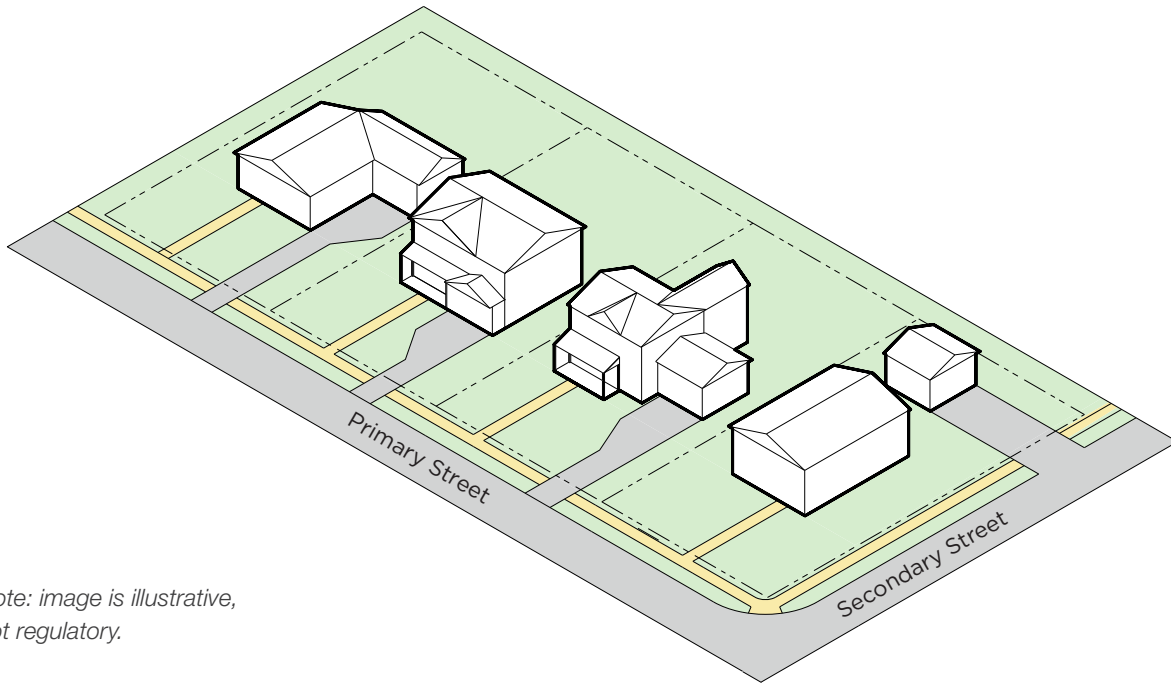
● Permitted    ● Allowed by Conditional Use Approval

The following illustrations of each development typology are for illustrative purposes only and are intended to supplement the regulations applicable to each district.



**(a1) Detached Single-Unit Residential Building (Suburban)**

**(1) Typical Lot Configuration**



**(2) Description**

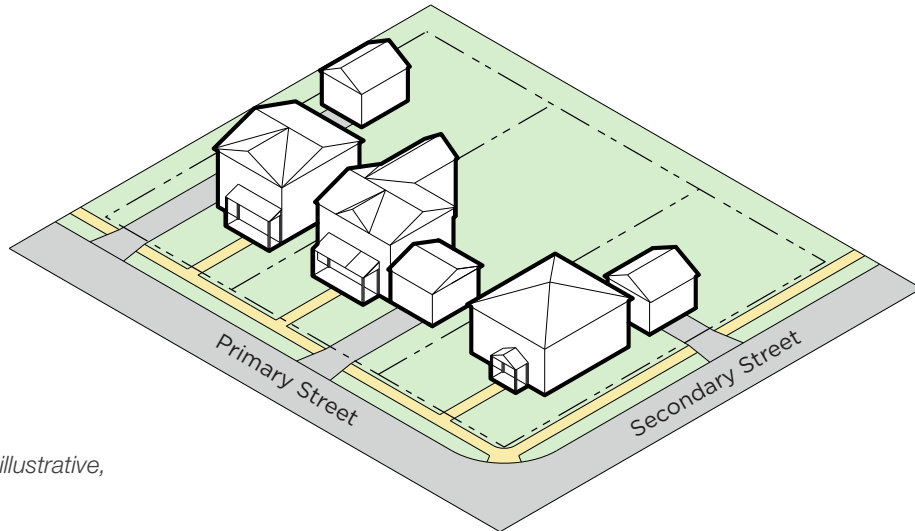
A detached structure with wide side and street setbacks. Garage access is typically from the street.



*Image: Detached Single-Unit Residential Building (Suburban)*

**(a2) Detached Single-Unit Residential Building (Traditional)**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

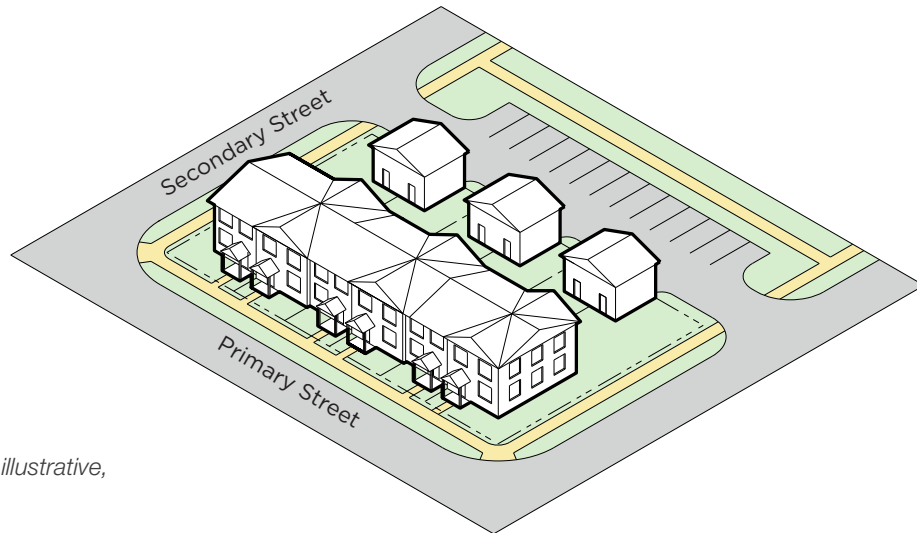
A detached structure with narrow side and street setbacks. Garage access is typically from the street, but garages are clearly subordinate to the principal structure.



*Image: Detached Single-Unit Residential Building (Traditional)*

**(b) Attached Single-Unit Residential Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A structure with common walls on either side and no units below or above. Garage access is typically from a shared parking area. A small side or rear yard is provided for each unit as private open space.

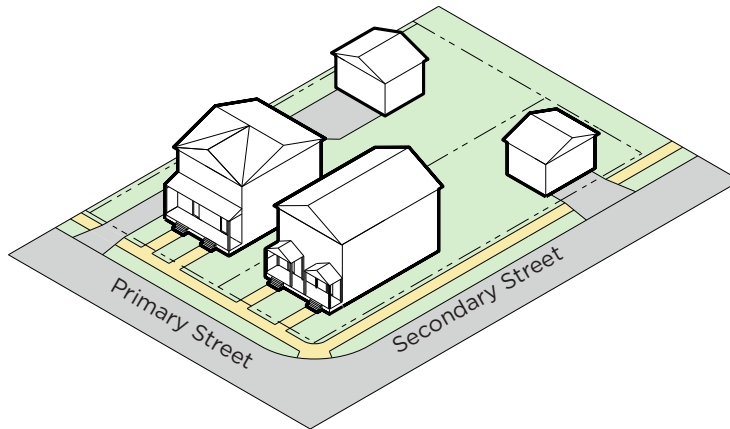


*Image: Attached Single-Unit Residential Building*



**(c) Duplex Residential Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A detached structure with two units that is massed as a single structure. Setbacks can range from small to large and units are typically side-by-side, but may be stacked.



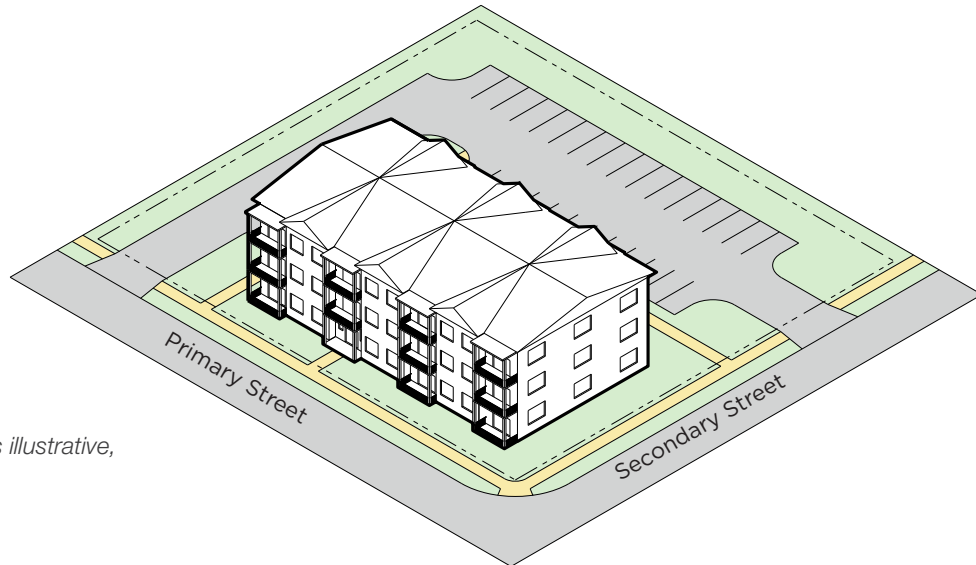
*Image: Duplex Residential Building*





**(d) Multi-Unit Residential Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

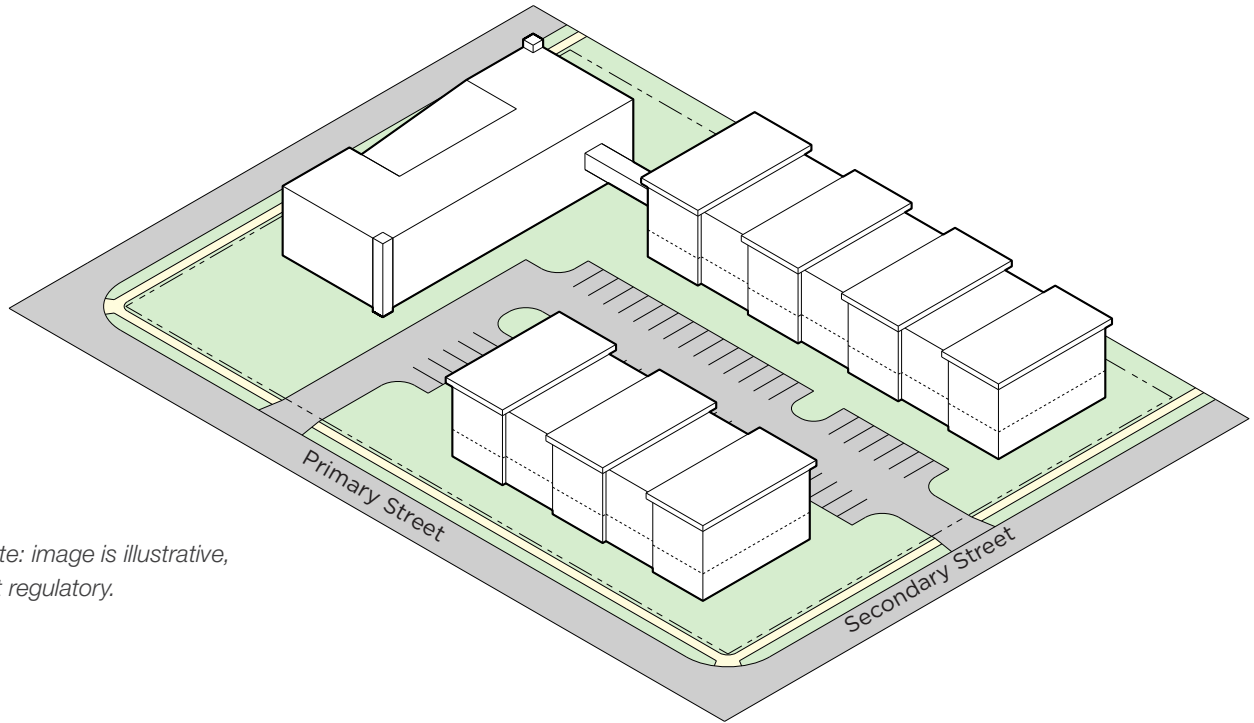
A building with multiple residential units that front on an interior corridor and have their main access from the primary street. Units can be next to each other (side-by-side units), or stacked on top of each other (top and bottom units).



*Image: Multi-Unit Residential Building*

**(f) Multi-Unit Residential / Mixed-Use Commercial Complex**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

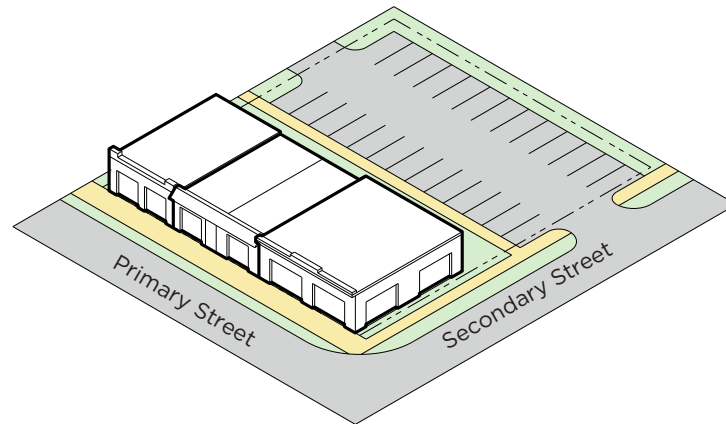
A collection of multi-unit buildings on adjoining pieces of land, generally owned by one (1) entity. The buildings often share common grounds and amenities, such as pools, parking areas, and a community clubhouse, used as leasing offices for the community.



*Image: Multi-Unit Residential / Mixed-Use Commercial Complex Building*

**(g) Small Flex Retail Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

Consists of attached or detached structures ranging from one (1) to three (3) stories. Structures can include single or mixed uses. Parking is located in the rear or side of the building.



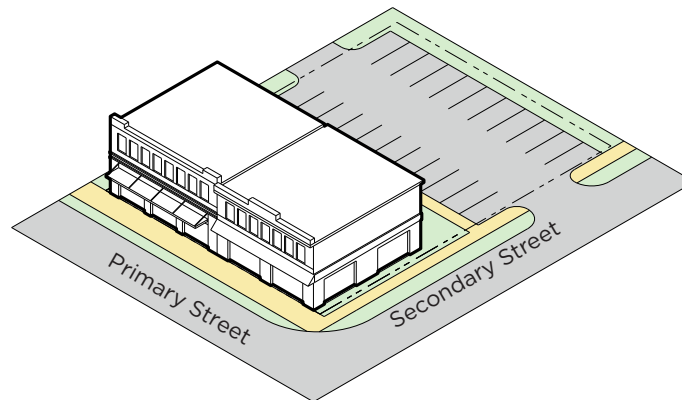
*Image: Small Flex Retail Building*





**(h) Medium Flex Retail Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

Consists of attached or detached structures ranging from one (1) to three (3) stories. Structures can include single or mixed uses. Parking is located in the rear or side of the building.



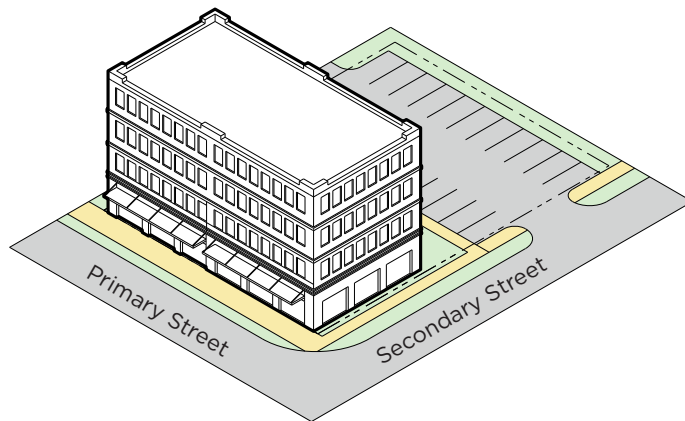
*Image: Medium Flex Retail Building*





**(i) Large Flex Retail Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

Consists of attached or detached structures that can include single or mixed-uses. Parking is located in the rear of the building.

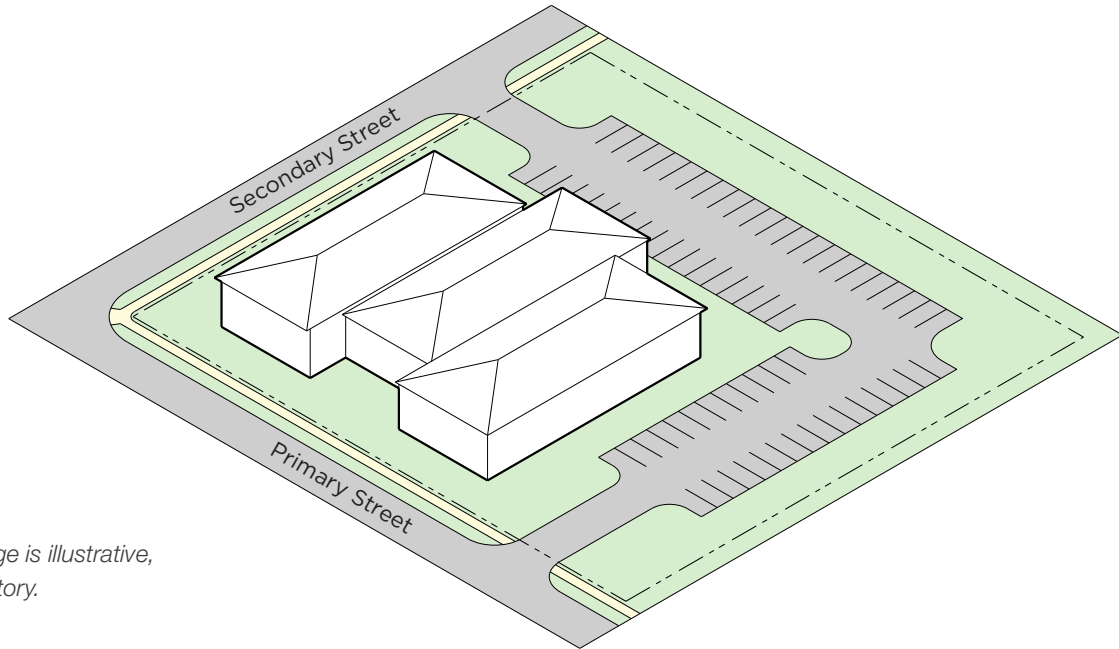


*Image: Large Flex Retail Building*



**(j) Institutional Flex Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

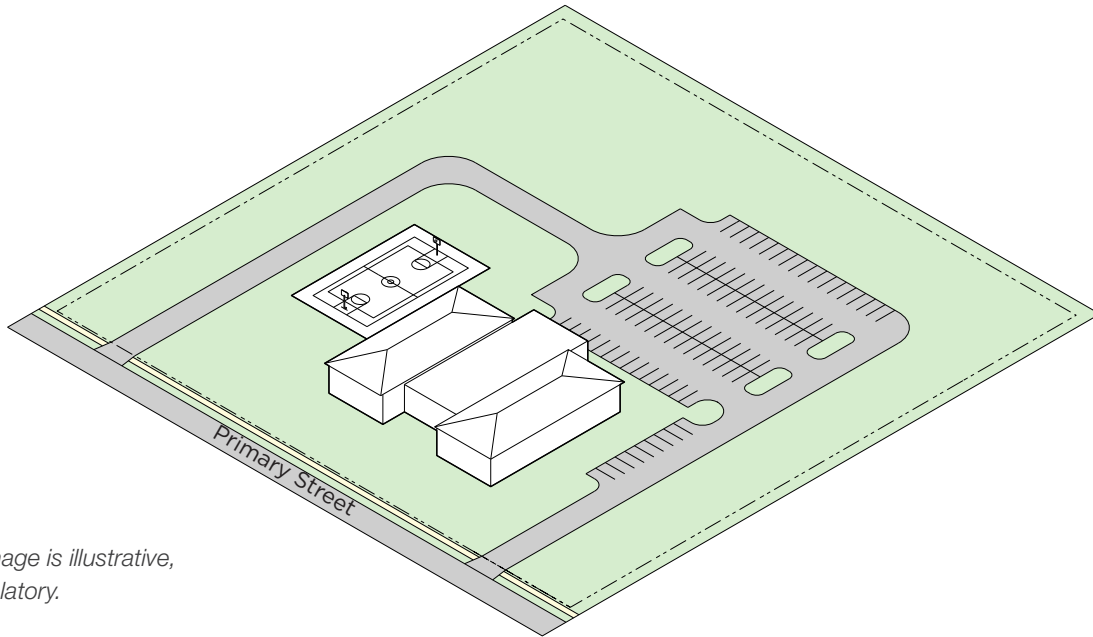
A building that can house uses of an institutional nature (i.e. government building, library, post office, etc.) with parking on the same lot and the main access from the primary street.



*Image: Institutional Flex Building*

**(k) Primary School Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A building designed to provide learning spaces and learning environments for the teaching of students from about four to eleven years old under the direction of teachers. The building has limited parking for staff and includes both outdoor and indoor recreational activity.



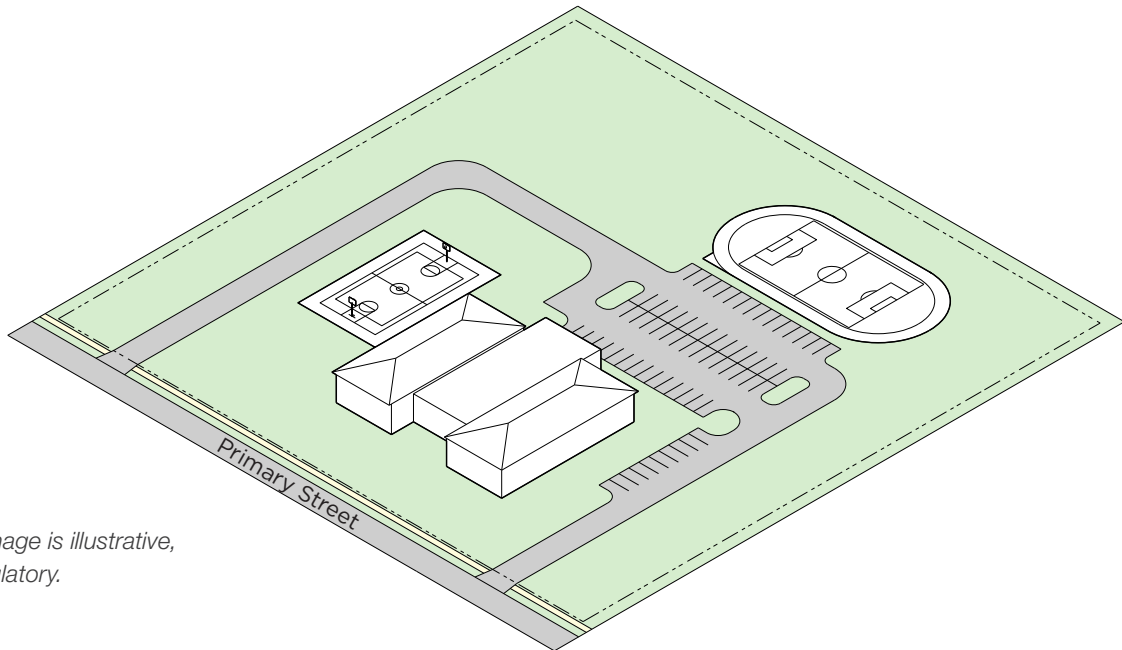
*Image: Primary School Building*





**(I) School and Institutional Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

An institution or place for instruction or education, which typically includes athletic fields and/or related assembly space and associated on-site parking. This will often be a junior high school or high school, but could be a larger elementary school that includes additional facilities.

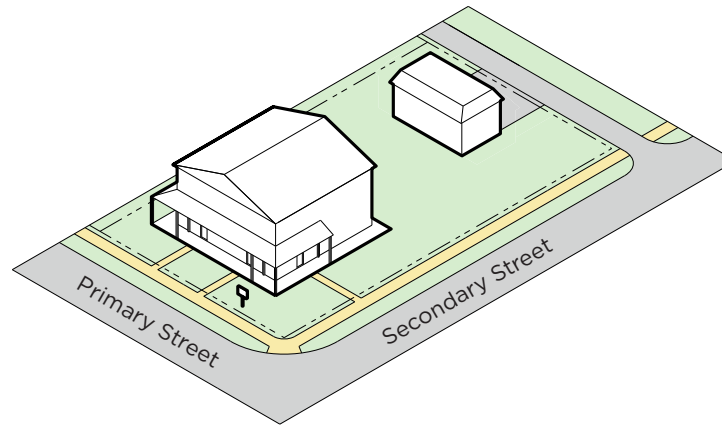


*Image: School and Institutional Building*



**(m) Bed and Breakfast Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A residential structure providing limited overnight lodging and meals for guests.

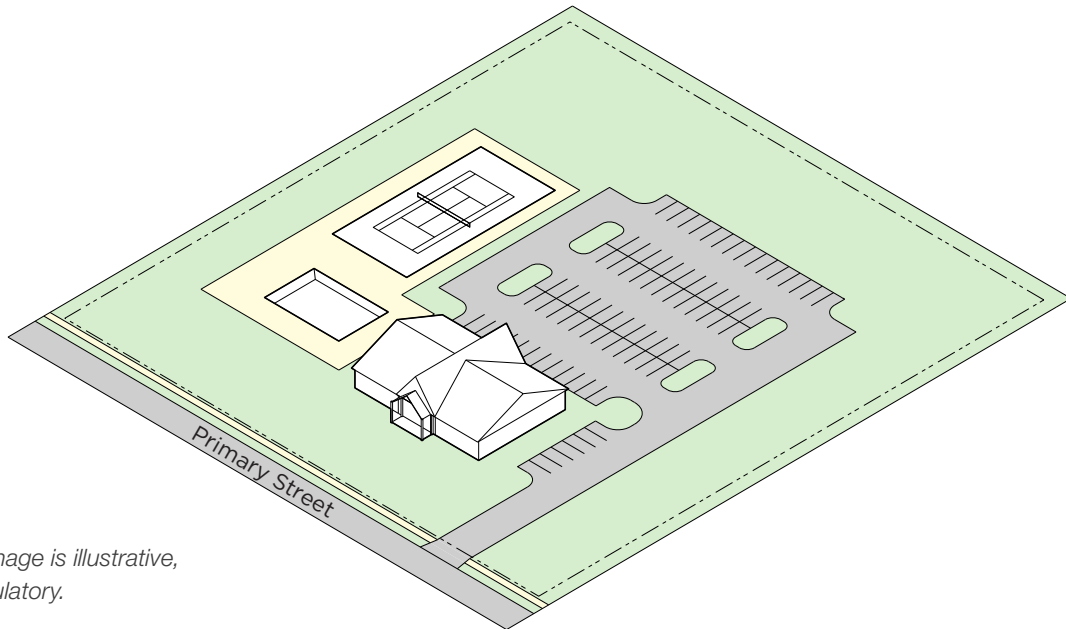


*Image: Bed and Breakfast Building*



**(n) Community Center Building**

**(1) Typical Lot Configuration**



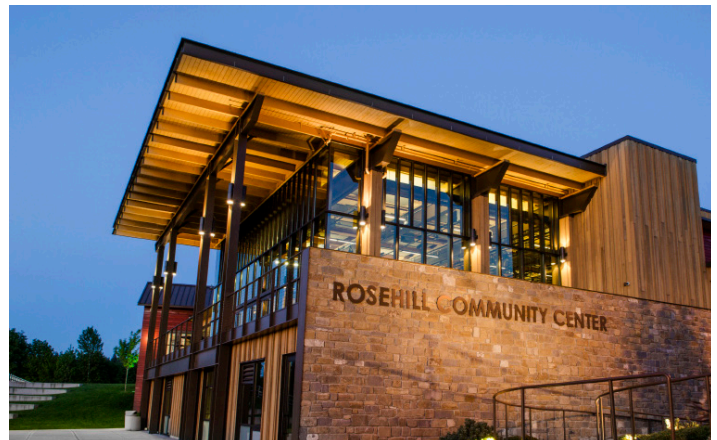
*Note: image is illustrative,  
not regulatory.*

**(2) Description**

Usually a public building where members of a community tend to gather for group activities, social support, public information, and other purposes. It can be open for the whole community or specialized groups (e.g. senior center) and can include both indoor and outdoor recreational facilities.

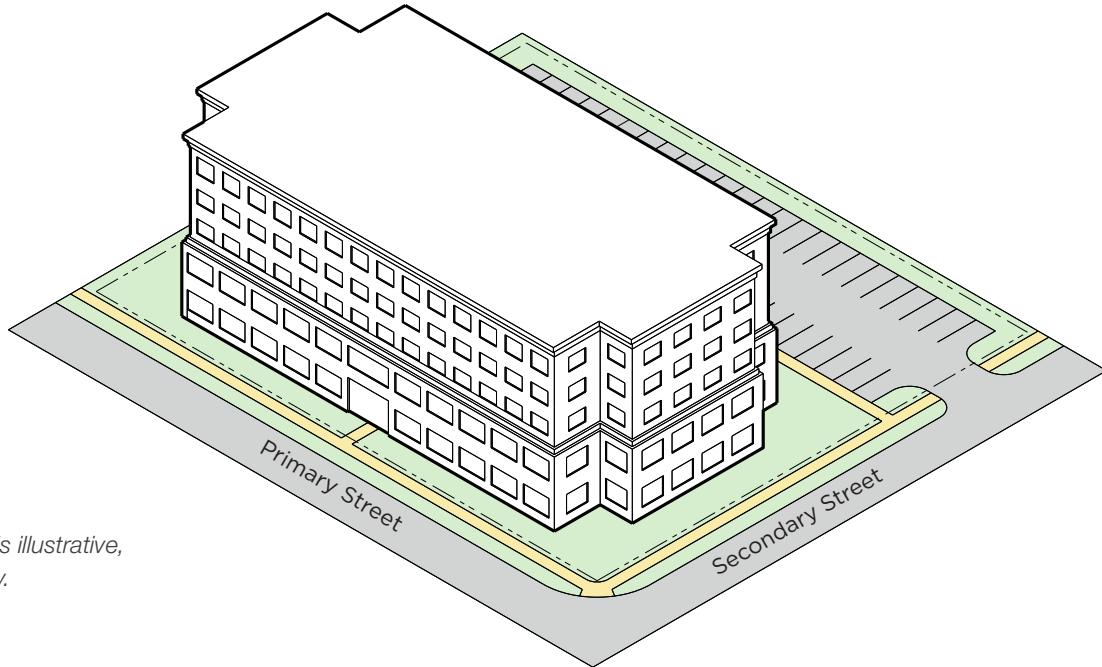


*Image: Community Center Building*



**(o) Office Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A building used primarily for conducting the affairs of multiple business, professional, service, industry, government, or like activity, which may include ancillary services for office workers with parking typically found on the same lot and the main access form the primary street.

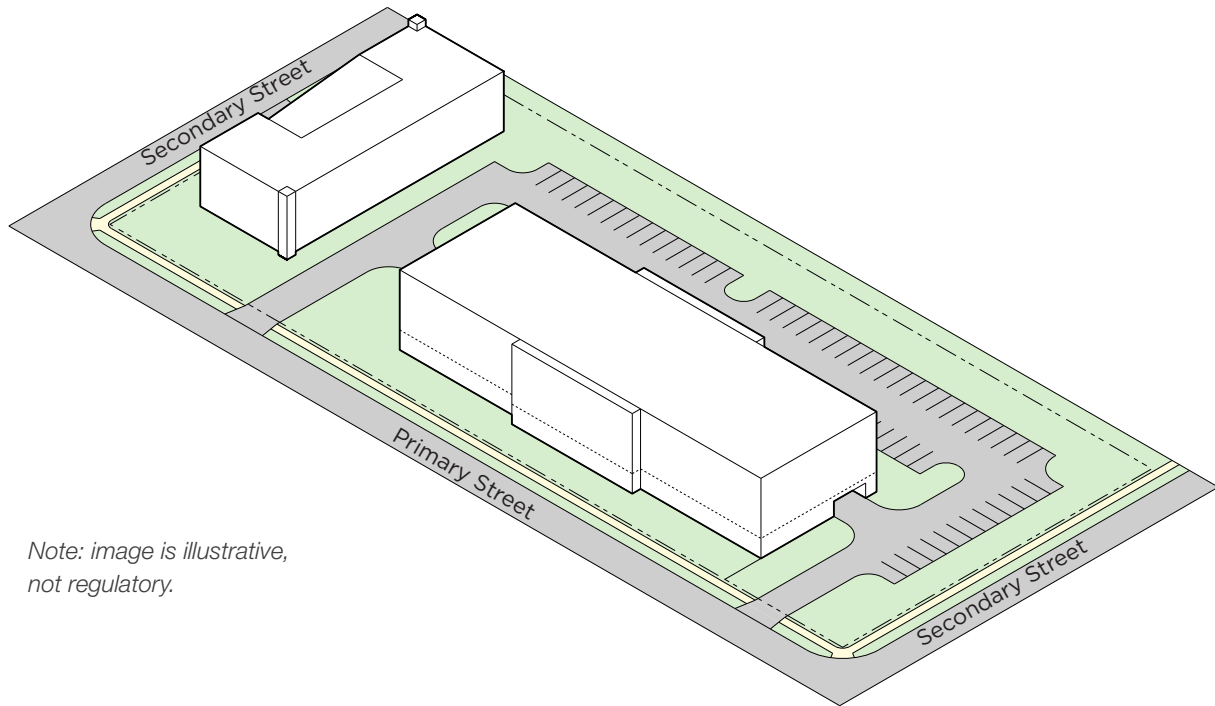


*Image: Office Building*



**(p) Office-Corporate Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A building used primarily for conducting the affairs of a single business, professional, service, industry, government, or like activity, which may include ancillary services for office workers with parking typically found on the same lot and the main access form the primary street.

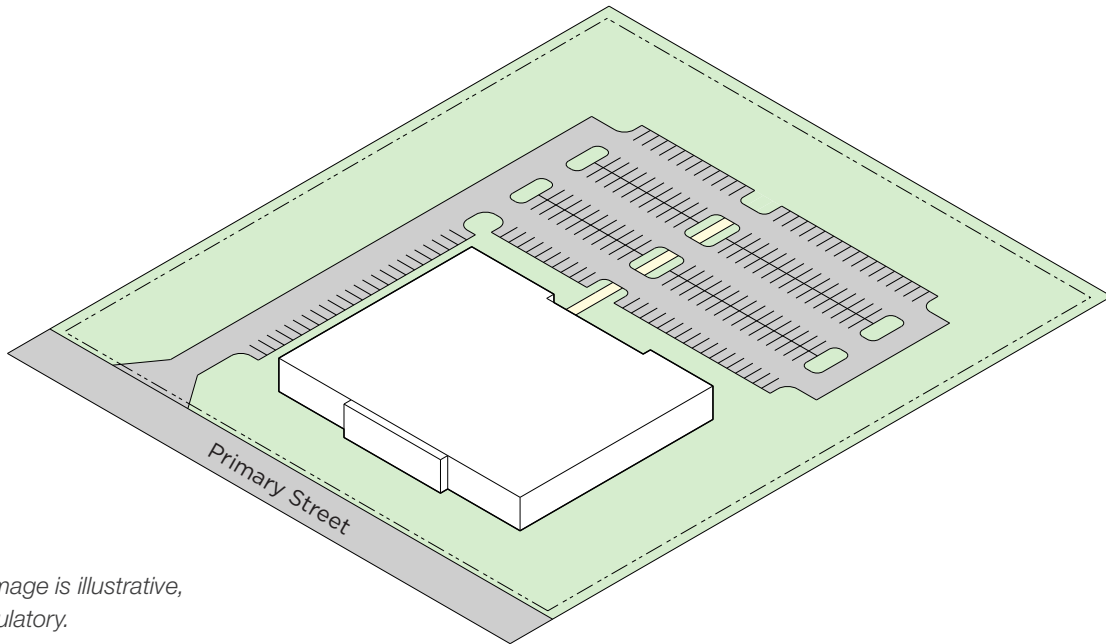


*Image: Office-Corporate Building*



**(q) Retail Large Format Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A single-use, typically large single-story commercial building primarily accessed by automobile with parking on the same lot with a combination of parking in the front, side, or rear yards.

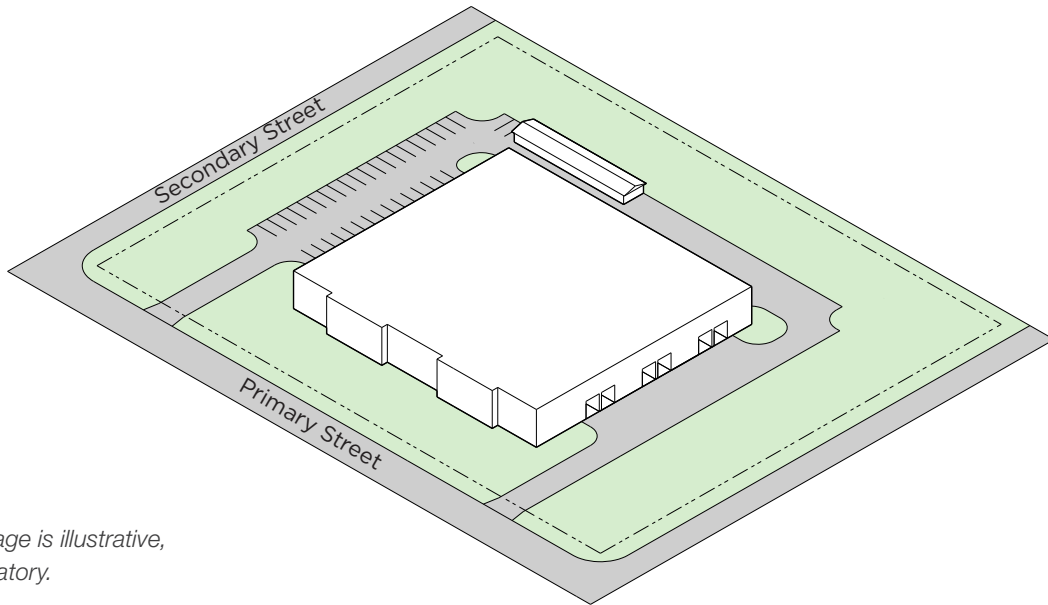


*Image: Retail Large Format Building*



**(r) Industrial Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

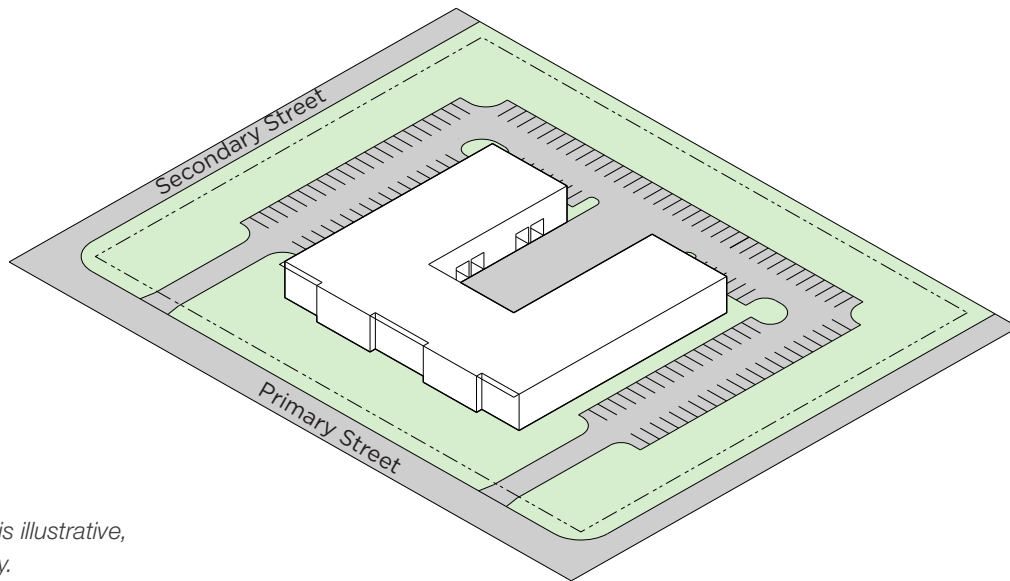
A building that houses manufacturing activity that uses moderate amounts of partially processed materials to produce items of relatively high value per unit weight. Facilities for loading and unloading are typically located in the side or rear yard with employee and visitor parking in the rear yard.



*Image: Industrial Building*

**(s) Warehouse Building**

**(1) Typical Lot Configuration**



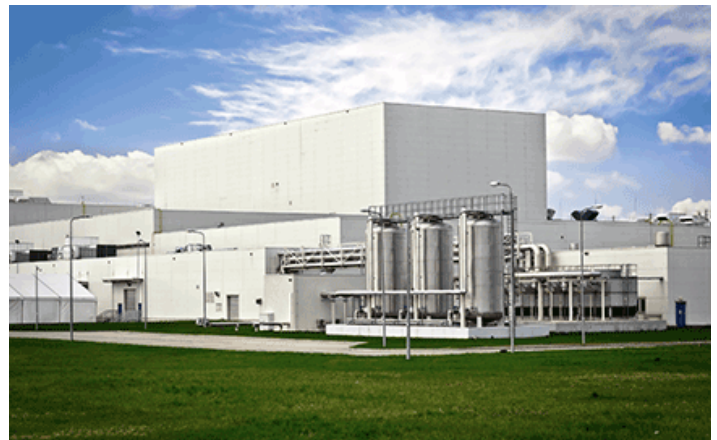
*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A building for storing goods with facilities for loading and unloading that are typically located in the side or rear yard with employee and visitor parking in the rear yard.



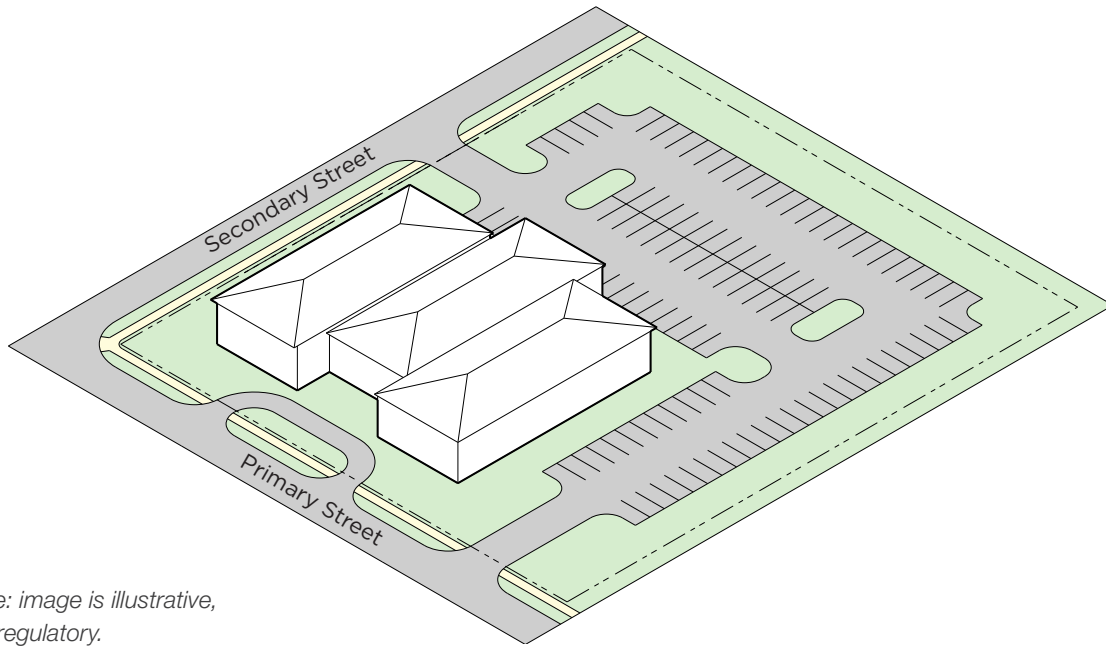
*Image: Warehouse Building*





**(t) Assembly Use Building**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

A building designed to house special events, including weddings, private parties, receptions, and other assembly uses.



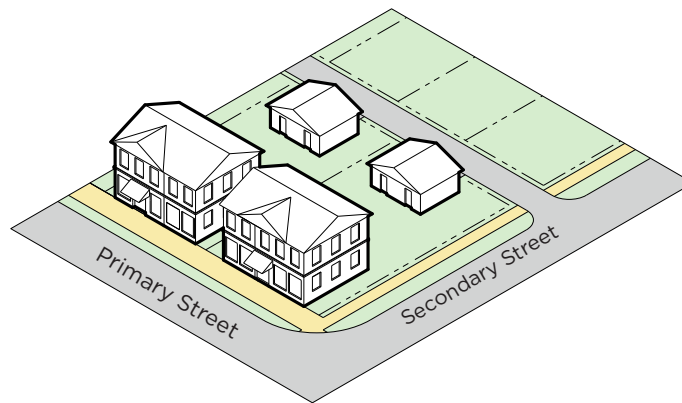
*Image: Assembly Use Building*





**(u) Maker Space or Live-Work Units**

**(1) Typical Lot Configuration**



*Note: image is illustrative,  
not regulatory.*

**(2) Description**

An attached building type which provides flexible space at the street level for a collaborative workspace, small scale retail or office, with a complete living unit above. The combination of these uses and building form lend well to serving as a transition between commercial or mixed-use areas and residential neighborhoods.



*Image: Maker Space or Live-Work Units*

## ZONING DISTRICTS

### Frontage Typologies

#### 1030.11: Frontage Typologies

The following Frontage Typologies cover the area between the building façade and the front lot line or right-of-way and intended to ensure projects that establish or reinforce the appropriate frontage character within the following districts.

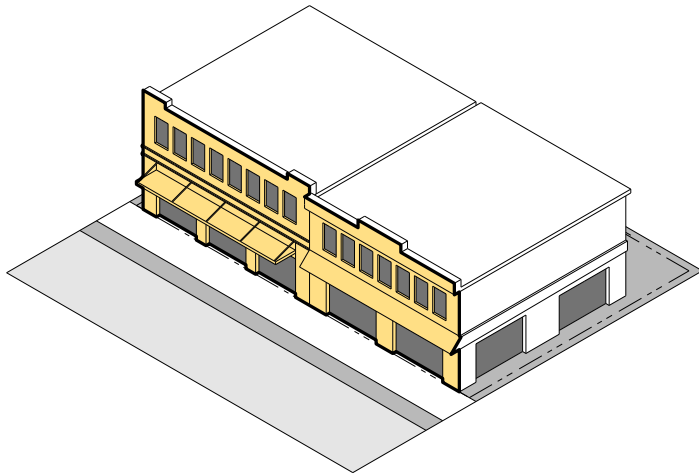
TABLE 1030.11: PERMITTED FRONTAGE TYPOLOGIES										USE DEFINITION & STANDARDS
	TR	SR	LAN	LAC	CC	CO	EF	IN	NA	
Shopfront	-	-	●	●	●	●	●	-	-	1030.11 (A)
Patio	-	-	●	●	●	●	●	-	-	1030.11 (B)
Gallery	-	-	●	●	●	●	●	-	-	1030.11 (C)
Arcade	-	-	●	●	●	●	●	-	-	1030.11 (D)
Yard	●	●	●	●	-	-	●	●	●	1030.11 (E)
Terrace	●	-	●	●	●	●	●	-	-	1030.11 (F)
Forecourt	●	-	●	●	-	-	-	-	-	1030.11 (G)
Streetwall	●	-	●	●	●	●	●	●	-	1030.11 (H)
Porch	●	●	●	●	-	-	-	-	-	1030.11 (I)
Stoop	●	●	●	●	-	-	-	-	-	1030.11 (J)

● Permitted

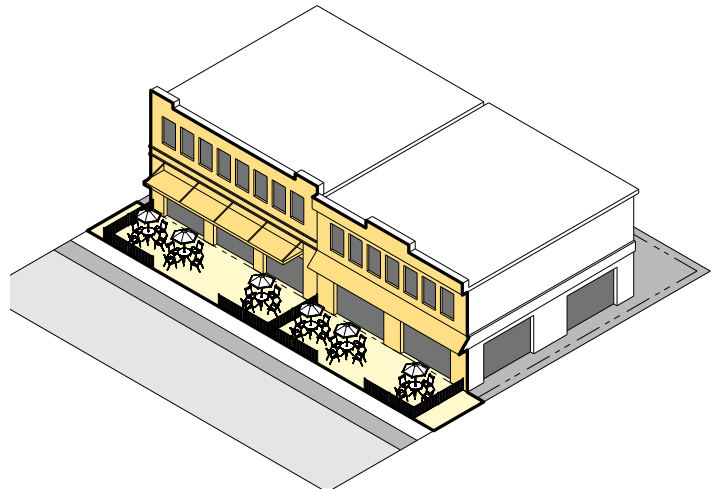
**(a) Shopfront**

**(b) Patio**

**(1) Typical Lot Configuration**



**(1) Typical Lot Configuration**



**(2) Description**

The shopfront is a traditional ground floor frontage treatment designed for active commercial uses (typically retail and dining) and a high degree of pedestrian activity between the public sidewalk and commercial spaces, outside the right-of-way. To be located within the right-of-way, the shopfront is subject to conditional review.

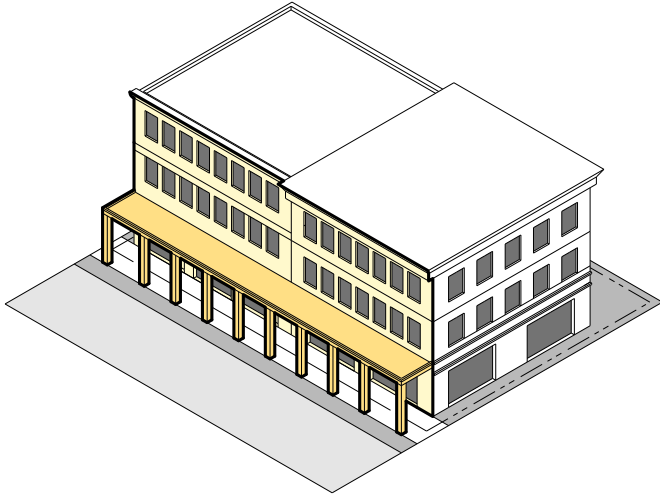
A shopfront treatment includes one (1) or more commercial tenant storefronts consisting of large windows and a direct tenant entrance from the sidewalk, typically at sidewalk grade. Storefront characteristics include prominent entrances, primarily composed of glass, and tenant signage. If not located in a zero lot line condition (immediately behind the sidewalk), the intervening front setback may be paved as an extension of the sidewalk streetscape to the building façade. All or portions of the setback may be designated for use as outdoor seating or dining/bar space. The setback may also include landscaping, either at grade with the sidewalk along the building foundation, or in raised beds or planters.

**(2) Description**

The patio frontage is used primarily to provide outdoor seating associated with ground floor dining uses within a building. The patio is a hardscaped area that may be located to the front or side of a building between the building and sidewalk, but outside of the right-of-way. To be located within the right-of-way, the patio is subject to conditional review.

**(c) Gallery**

**(1) Typical Lot Configuration**

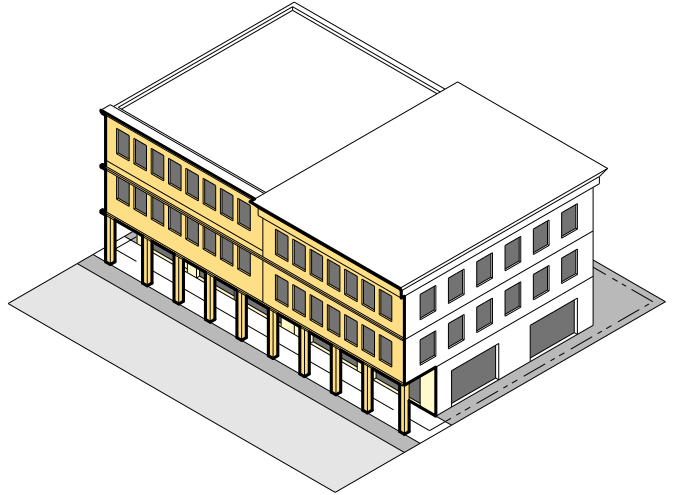


**(2) Description**

The main facade of the building is at the frontage line and the gallery element overlaps the sidewalk. This frontage type is intended for buildings with ground-floor commercial or retail uses and may be one (1) or two (2) stories. The gallery must extend close enough to the curb so that a pedestrian cannot bypass it. Due to the overlap of the right-of-way, an easement is usually required.

**(d) Arcade**

**(1) Typical Lot Configuration**



**(2) Description**

An arcade is a frontage type featuring a pedestrian walkway covered by the upper floors of a building. The ground story facade is setback and upper floors are supported by a colonnade or supports.

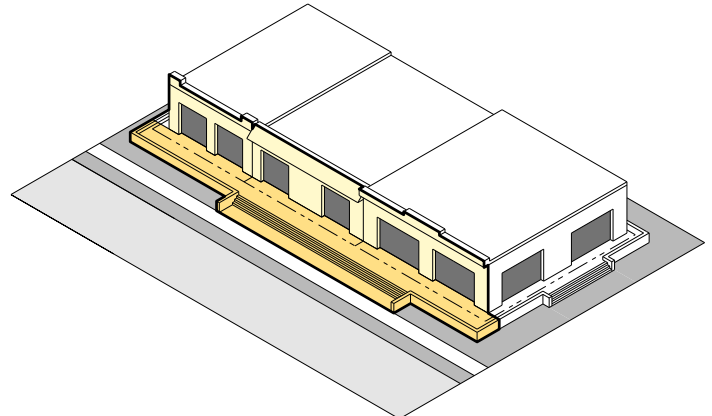
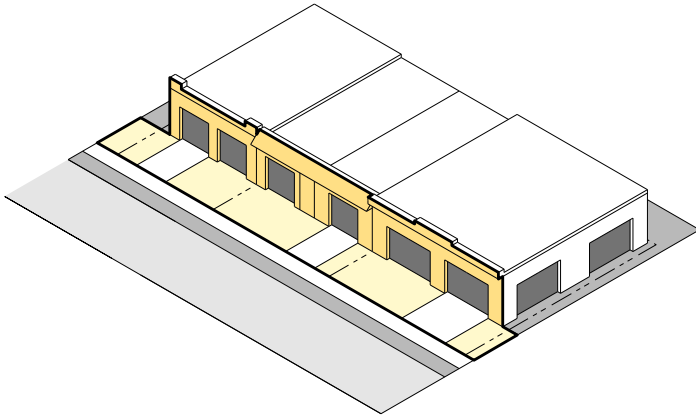


**(e) Yard**

**(f) Terrace**

**(1) Typical Lot Configuration**

**(1) Typical Lot Configuration**



**(2) Description**

The yard is a typical landscape setback which may consist of open lawn, landscape beds, or some combination of the two. It may contain hardscape elements as a secondary feature and may be edged by a low fence or masonry wall. Yards are typically at the same or similar grade as the adjacent sidewalk and include a front walk connecting the public sidewalk to the main entrance of a building (see Raised Yard as a variation). This is the common frontage treatment for houses and other neighborhood-scale residential buildings, and is typically combined with other a porch or stoop building frontage. A yard may also be used for flex building types designed for any combination of uses.

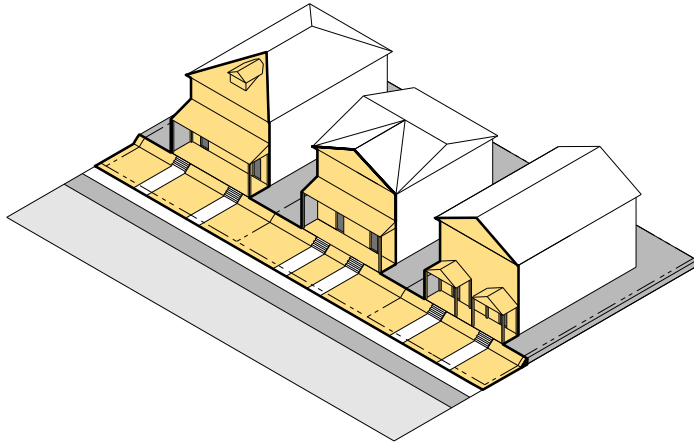
**(2) Description**

In the Terrace Frontage Type, the main facade is at or near the property line with an elevated terrace providing public circulation along the facade. This Type can be used to provide at-grade access while accommodating a grade change and is frequently used together with a shopfront. Frequent steps up to the terrace are necessary to avoid dead walls and maximize access. A terrace treatment differs from the Raised Yard Frontage type in that the building is typically located closer to the sidewalk and the terraced setback is architecturally integrated with the building façade, consisting of more hardscape materials. Raised planters may be incorporated as part of a terrace frontage.

(g) Forecourt

(h) Streetwall

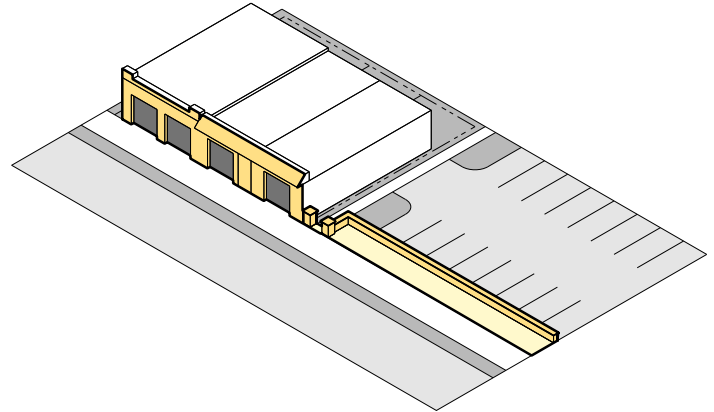
(1) Typical Lot Configuration



(2) Description

The forecourt frontage treatment allows for a portion of a building façade to be set farther back from the street, creating a courtyard condition with street frontage. A forecourt condition may also be created through the composition of three separate buildings, oriented with the central building setback farther from the others. A forecourt may include open access to the public sidewalk with one (1) or more entrances into the building, or may be fenced and elevated as a semi-private space, partially visible from the public realm. The forecourt area typically includes a combination of landscape and hardscape treatments, and may include outdoor amenities and seating areas associated with the building(s).

(1) Typical Lot Configuration

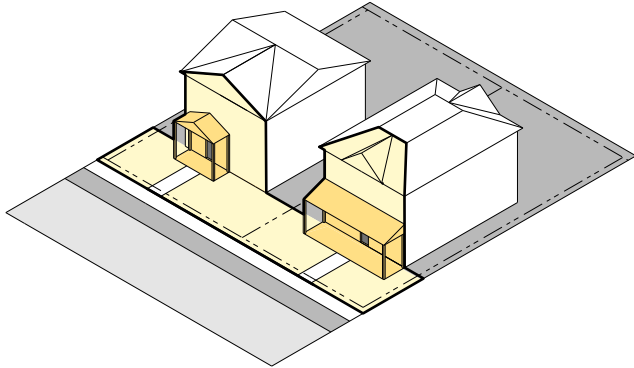


(2) Description

The streetwall frontage is used to create a continuous and defined edge along parking lots where located in close proximity to a street and sidewalk. Streetwalls are typically low (at or below waist height of a passing pedestrian) and may be composed entirely of masonry, a combination of decorative metal fencing with masonry columns, raised planters, a landscape hedge treatment, or some combination of these. Masonry street walls are typically designed to coordinate with the principal building architecture and often are physically connected to the building façade. Street walls may be interrupted with a pedestrian walk connection to the public sidewalk. For new projects or redevelopment, street walls are intended for use along any portion of lot frontage in which side or rear parking is located adjacent to or near the public sidewalk, but are secondary to other frontage types associated with the principal building and should not dominate the entire lot frontage. Streetwalls are also an effective design approach to improve existing auto-oriented sites for which all or substantial portions of a primary frontage consist of parking.

**(i) Porch**

**(1) Typical Lot Configuration**

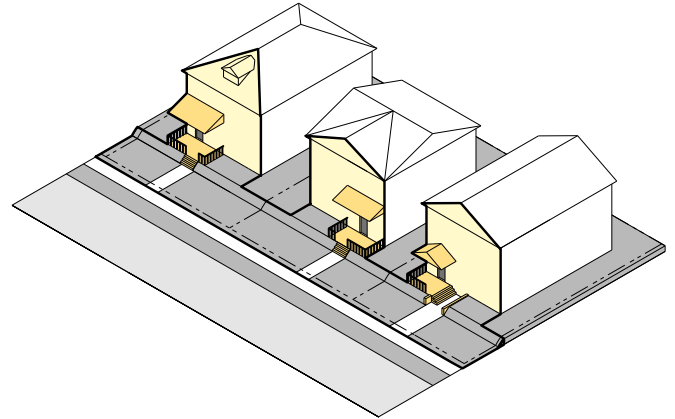


**(2) Description**

The porch is a common frontage type for residential buildings. Porches should be an extension of the internal living space and provide access to a building entry. Porches may have a roof or be exposed, and are typically more than fifty percent (50%) open around the perimeter. Porches generally extend at least half (1/2) the length of the front facade, but may extend the entire length, and protrude no greater than half the distance to the Front Lot Line.

**(j) Stoop**

**(1) Typical Lot Configuration**



**(2) Description**

The stoop is a frontage component featuring a set of stairs with a landing leading to the entrance of a building. While porches can accommodate more activities, stoops are generally smaller in area and primarily used for entering and exiting the building.

## ZONING DISTRICTS

### 1030.12: Open Space Typologies

The following Open Space Typologies cover land that is intended to be undeveloped within the following districts.

TABLE 1030.12: PERMITTED OPEN SPACE TYPOLOGIES										USE DEFINITION & STANDARDS
	TR	SR	LAN	LAC	CC	CO	EF	IN	NA	
Greenway / Trail	●	●	●	●	●	●	●	●	●	1030.12 (A)
Plaza	●	-	●	●	●	●	●	-	-	1030.12 (B)
Square	●	-	●	●	●	●	●	-	-	1030.12 (C)
Green	●	●	●	●	●	●	-	-	●	1030.12 (D)
Passage	●	-	●	●	●	●	●	-	-	1030.12 (E)
Pocket Plaza	●	-	●	●	●	●	●	-	●	1030.12 (F)
Sport Field	●	●	-	-	-	-	-	-	●	1030.12 (G)
Green Infrastructure	●	●	●	●	●	●	●	●	●	1030.12 (H)

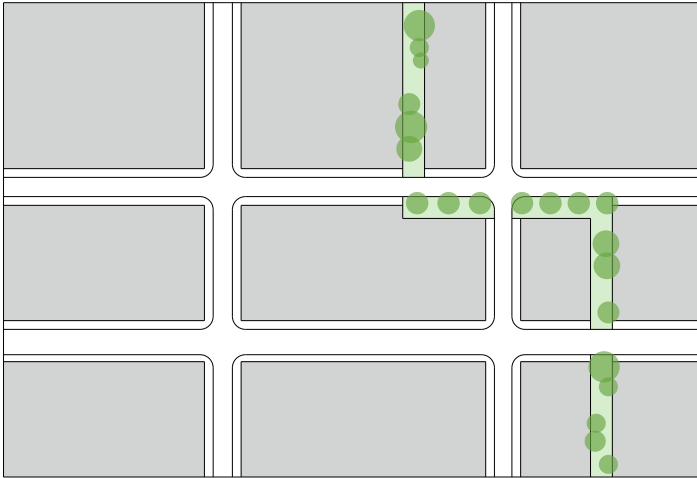
● Permitted



**(a) Greenway / Trail**

**(b) Plaza**

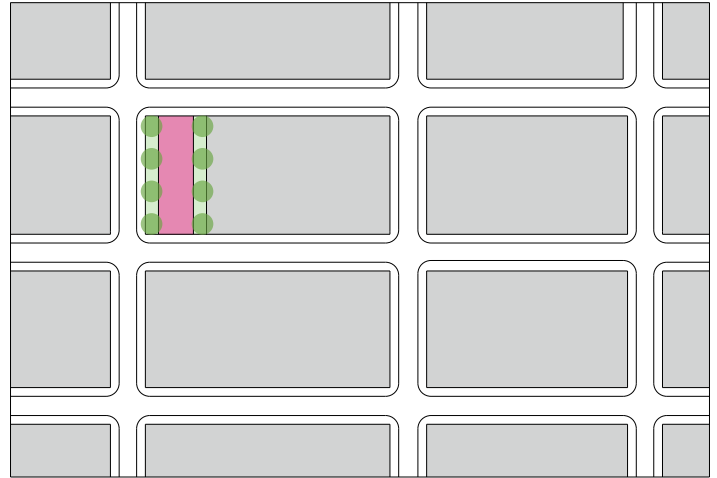
**(1) Typical Lot Configuration**



**(2) Description**

Greenways are primarily linear open spaces that connect other types of open spaces as part of a larger open space system. They typically include a path or trail as a primary feature. The greenway and trail open space is most effective when connecting to another open space type.

**(1) Typical Lot Configuration**



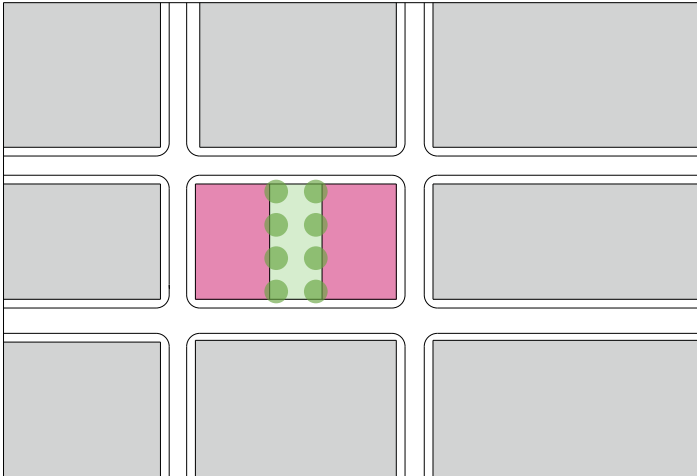
**(2) Description**

Plazas are spaces available for civic purposes and commercial activities intended to add to the vibrancy of streets and neighborhoods. Building frontages typically define the edges of these spaces. The landscape consists of primarily hardscape. If trees are included, they are formally arranged and of appropriate scale to the space.

(d) Square

(e) Green

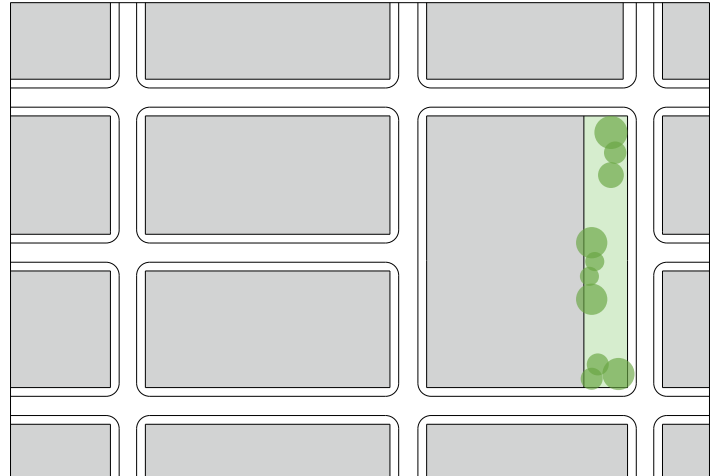
(1) Typical Lot Configuration



(2) Description

Squares are medium scale formal open spaces designed to serve as gathering spaces in prominent commercial, civic and mixed-use settings. Squares are typically rectilinear and framed on all sides by streets. They are typically designed with a combination of both hardscape and landscape areas and contain amenities including, but not limited to benches and seating areas, planting areas, walking paths, gazebos or pavilions, fountains, and public art.

(1) Typical Lot Configuration

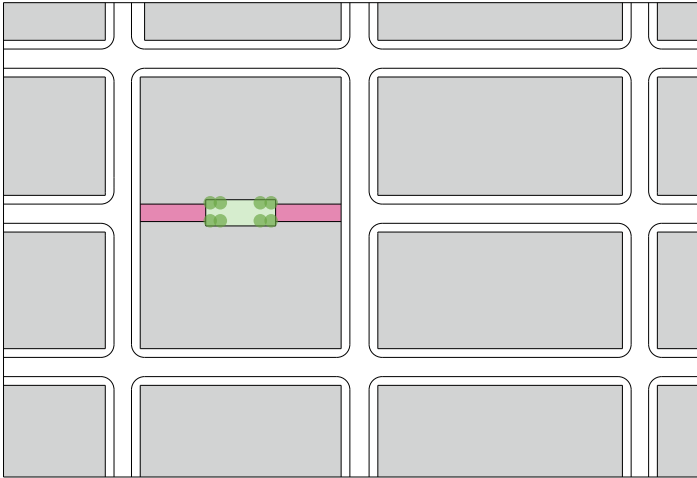


(2) Description

Greens are medium-scale, informal open spaces designed to provide for active or passive recreation in neighborhood settings, including some landscape areas and is generally for those who live within walking distance.

**(f) Passage**

**(1) Typical Lot Configuration**

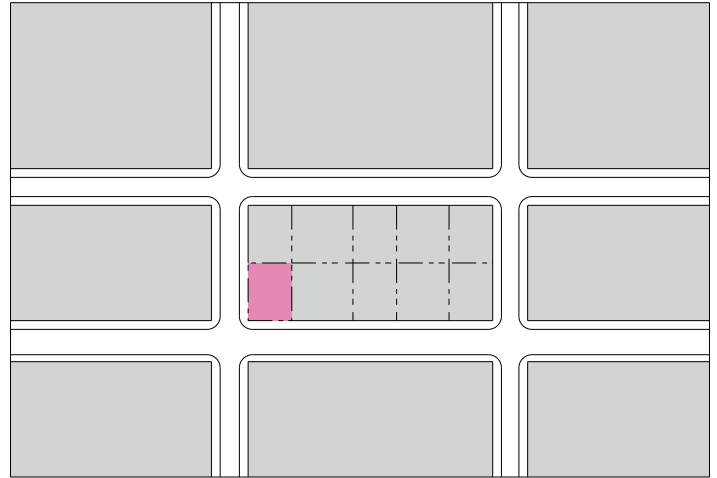


**(2) Description**

A passage is an informal or formal gathering space that serves equally as a pedestrian connector between other gathering places or between streetscapes. Passages are near the middle of a block, providing easy walking access through the block. A passage provides additional frontage opportunities for the shops and/or houses along its edges.

**(g) Pocket Plaza**

**(1) Typical Lot Configuration**



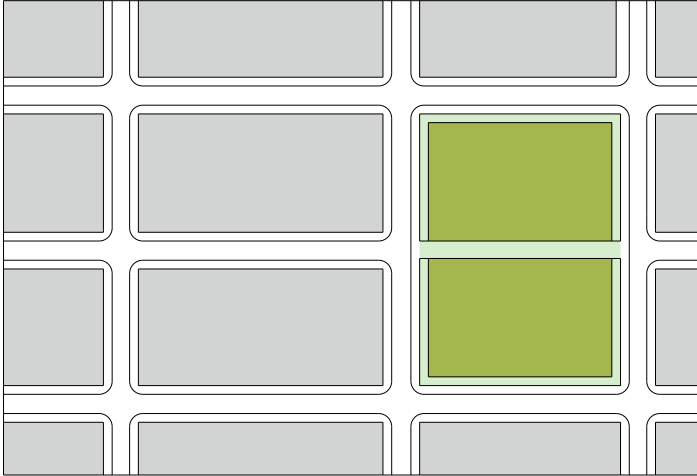
**(2) Description**

Pocket plazas are small-scale, primarily hardscaped open spaces designed to provide opportunities for impromptu gathering and resting areas for passersby and for those who live or work in adjacent buildings or nearby destinations. Pocket plazas are typically designed as an extension from the public sidewalk, but clearly delineated as a separate space using features including, but not limited to landscaping and/or seating walls. Pocket Plazas are typically located along highly trafficked streets and in commercial areas with frequent pedestrian activity.

**(h) Sport Field**

**(i) Green Infrastructure**

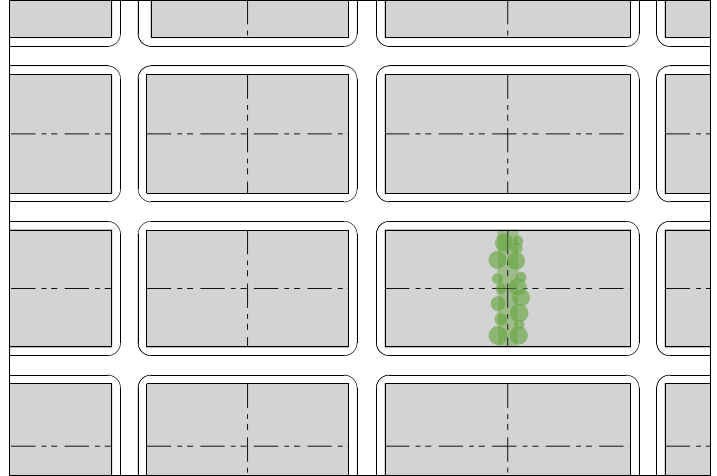
**(1) Typical Lot Configuration**



**(2) Description**

A Sports Field typology is a space or series of open spaces designed for sports activities. Sports fields often accommodate several individual sports games at the same time and may feature a concession area and seating for spectators. Due to the larger amounts of people attracted to this type, sports fields are located to maintain compatibility with adjacent neighborhoods. Landscaping may be required as deemed appropriate by the Review Authority.

**(1) Typical Lot Configuration**



**(2) Description**

Green infrastructure in the form of bioswales are linear, vegetated ditches which allow for the collection, conveyance, filtration and infiltration of stormwater. They can also be referred to as “grass swales,” “vegetated swales,” or “filter strips.” A bioswale replaces the traditional concrete gutter with an earthen one. Because they behave like a gutter, these trenches are best suited along roadsides or parking lots, but are less practical for dealing with stormwater that falls on rooftops.



# 1040

## Use Regulations

### Sections

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1040.04: Use-Specific Standards for General Right-of-Way Uses .....	1040-4
1040.05: Use-Specific Standards for Parks and Preserves Uses .....	1040-4
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### 1040.01: Introduction to Use Regulations

- (j) Approval Required. No land or structure shall be put to use except when a Zoning Permit or Conditional Use Approval has been granted by the City. Nonconforming uses may be continued where such uses meet the conditions described in Chapter 1051 Nonconformities.
- (k) Uses Restricted. No land, bodies of water, buildings, structures, or other premises are allowed to be put to use in the City unless the use of the land, body of water, building, structure, or other premises constitutes one (1) of the following:
  - (2) Allowed by Zoning Permit. “Allowed by Zoning Permit” Uses are uses that shall be allowed through the zoning permit process as described in Chapter 1052 Administration and Procedures. The “Allowed by Zoning Permit” uses are conventionally labeled as “by-right” uses. “Allowed by Zoning Permit” uses shall be subject to all district-specific standards for the district in which the use is proposed; all use-specific standards; all generally applicable regulations, such as parking requirements, outdoor lighting requirements, and buffering and landscaping requirements; as well as standards from outside of the Development Code, including the building code.

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- (3)** Allowed by Conditional Use Approval. “Allowed by Conditional Use Approval” uses are those uses that may be allowed through the Conditional Use approval process, a process described in Chapter 1052 Administration and Procedures. “Allowed by Conditional Use Approval” uses are conventionally labeled as “conditional” uses. “Allowed by Conditional Use Approval” uses are subject to all district-specific standards for the district in which the use is proposed; all use-specific standards; all generally applicable regulations, such as parking requirements, outdoor lighting requirements, and buffering and landscaping requirements; as well as standards from outside of the Development Code, including the building code. Additionally, “Allowed by Conditional Use Approval” uses are subject to specific standards as applied by the Planning Commission during the conditional use approval process.
- (l)** Uses Not Listed. No land or structure may be used for any purpose not expressly listed in the Development Code as “Allowed by Zoning Permit” or “Allowed by Conditional Use Approval,” unless the unlisted use constitutes one (1) of the following:

  - (1)** Unlisted Uses Considered Nonconforming Uses. Uses lawfully established prior to the effective date of this Development Code or uses defined as nonconforming uses by the previously effective Development Code may constitute nonconforming uses and may be allowed to continue where such uses meet the conditions described in Chapter 1051 Nonconformities.
  - (2)** Unlisted Uses Similar in Definition and Impact to Listed Uses. Uses neither listed as “Allowed by Zoning Permit” or as “Allowed by Conditional Use Approval” may be permitted where the Planning Director or designee determines that the unlisted use is similar in definition to a listed use and is similar in impact to neighboring properties to a listed use. Impacts to neighboring properties that may be considered by the Planning Director or designee may include, but are not limited to, the following: generation of street traffic, generation of parking demand, generation of odors and emissions, generation of vibrations, generation of outdoor noise, and size of use. Where the unlisted use is similar in definition and impact to an “Allowed by Zoning Permit” use, the Planning Director or designee may treat the unlisted use as an “Allowed by Zoning Permit” use. Where the unlisted use is similar in definition and impact to an “Allowed by Conditional Use Approval” use, the Planning Director or designee may treat the unlisted use as an “Allowed by Conditional Use Approval” use but shall not treat the unlisted use as an “Allowed by Zoning Permit” use.
  - (m)** Use-Specific Standards. Each use being conducted in the City must conform with the standards applicable to such use as described in the applicable Use-Specific standards section of this chapter. However, in some cases, nonconforming uses may be permitted to continue operation without complying with certain Use-Specific standards; see Chapter 1051 Nonconformities for more information.
  - (n)** Definitions of Uses. Each use is defined in Chapter 1053 Glossary.

1040.02: **Comprehensive Use Table**

- (a) The Comprehensive Use Table, below, sets forth which uses are “Allowed by Zoning Permit,” which uses are “Allowed by Conditional Use Approval,” and which uses are prohibited in each of the City’s districts. Such uses are also listed under each district in the preceding chapter; in the case of conflict, this table shall govern.

TABLE 1040.02: COMPREHENSIVE USE TABLE										USE DEFINITION & STANDARDS
	TR	SR	LAN	LAC	CC	CO	EF	IN	NA	
General Utility	●	●	●	●	●	●	●	●	●	1040.03
General Right-of-Way	●	●	●	●	●	●	●	●	●	1040.04
Parks and Preserves	●	●	●	●	●	●	●	●	●	1040.05
Accessory	●	●	●	●	●	●	●	●	●	1040.06
Temporary	●	●	●	●	●	●	●	●	●	1040.07
Recreational	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	ⓘ	●	1040.08
Civic and Institutional	●	●	●	●	●	●	-	-	-	1040.09
Single-Unit Residential	●	●	●	●	-	●	-	-	-	1040.10
Two-Unit Residential	ⓘ	-	ⓘ	ⓘ	-	ⓘ	-	-	-	1040.11
Three-to-Eight-Unit Residential	ⓘ	-	ⓘ	ⓘ	-	ⓘ	ⓘ	-	-	1040.12
Nine-Plus-Unit Residential	ⓘ	-	ⓘ	ⓘ	-	ⓘ	ⓘ	-	-	1040.13
Neighborhood Commercial	ⓘ	-	ⓘ	●	●	●	ⓘ	-	-	1040.14
Regional Commercial	-	-	-	-	●	ⓘ	ⓘ	-	-	1040.15
Vehicle-Oriented	-	-	-	-	-	ⓘ	●	●	-	1040.16
Artisanal Industrial	-	-	-	●	●	●	●	-	-	1040.17
Light Industrial	-	-	-	-	-	●	●	●	-	1040.18
Heavy Industrial	-	-	-	-	-	-	-	●	-	1040.19
Agricultural	-	ⓘ	-	-	-	-	-	-	-	1040.20
Outdoor Arena	-	-	-	-	-	-	ⓘ	ⓘ	-	1040.21
Weapons-Related	-	-	-	-	-	-	-	ⓘ	-	1040.22
Sexually Oriented	-	-	-	-	-	-	ⓘ	-	-	1040.23
Telecommunications Tower	-	-	-	-	-	-	ⓘ	●	-	1040.24
Aerospace-Related	-	-	-	-	-	-	ⓘ	●	-	1040.25

● Permitted ⓘ Allowed by Conditional Use Approval

## USE REGULATIONS

### 1040.03: Use-Specific Standards for General Utility Uses

- (a) Definition of General Utility Uses. See Chapter 1053 Glossary.
- (b) Explosive Fluids Restricted for General Utility Uses. General Utility Uses shall not store or transport flammable, explosive, volatile, or unstable fluids in quantities that may pose a threat to neighboring occupants or the environment. Where such storage may pose a threat to neighboring occupants or the environment, the use shall be considered a Heavy Industrial Use, not a General Utility Use.

### 1040.04: Use-Specific Standards for General Right-of-Way Uses

- (a) Definition of General Right-of-Way Uses. See Chapter 1053 Glossary.
- (b) Food Trucks. Food trucks, where not established at a permanent location, shall be treated as Temporary Uses, not General Right-of-Way Uses.
- (c) Right-of-Way Encroachment Permit Required. A right-of-way encroachment permit are required for certain activities within a government-controlled right-of-way, such as a public street and/or sidewalk and are issued by the Building Commissioner (or designee) or Director of Public Safety.

### 1040.05: Use-Specific Standards for Parks and Preserves Uses

- (a) Definition of Parks and Preserves Uses. See Chapter 1053 Glossary.
- (b) Specific Standards for Parks and Preserves Uses. City-owned Parks and Preserves are mandatory referrals to the Planning Commission.

### 1040.06: Use-Specific Standards for Accessory Uses

- (a) Definition of Accessory Uses. See Chapter 1053 Glossary.
- (b) Standards for All Accessory Uses. All Accessory Uses and all accessory structures shall meet all of the following conditions:
  - (1) Accessory Uses on Same Lot as Principal Use. All Accessory Uses and all accessory structures shall occur on the same lot as the principal use and principal structure with which they are associated.
  - (2) Setbacks for Accessory Uses. Accessory Uses shall maintain setbacks from all lot lines as governed for principal uses, unless otherwise regulated in this section, such as for accessory structures of residential uses or for solar energy systems.
  - (3) Fences Regulated Elsewhere. Fences are regulated in Section 1050.04.
- (c) Standards for Accessory Parking.
  - (1) Parking as Accessory Use. Parking shall be considered an accessory use of the principal use of the lot.
  - (2) Parking Regulated Elsewhere. Parking is regulated in Section 1050.01.
- (d) Standards for Accessory Structures of Residential Uses.
  - (1) Accessory Structures Allowed with Residential Uses. Accessory structures shall be allowed on lots with principal residential uses where such accessory structures are customarily associated with residential living and are intended for use primarily by the residents of the property, as determined by the Building Commissioner (or



designee). Only two accessory structures are allowed with each residential use. Such accessory structures shall include:

- A. Permanent basketball hoops and courts, tennis courts, and other sports courts;
- B. Treehouses;
- C. Gazebos, pergolas, patios, decks, porches, and awnings;
- D. Car ports and garages;
- E. Electric vehicle charging stand, not permitted within the right-of-way;
- F. Sheds and other equipment storage structures, as permitted;
- G. Swimming pools and hot tubs, swimming pool patios, and swimming pool pumps and houses;
- H. Amateur radio antennas; and
- I. Flag poles and flag lighting.

- (2) Permit Required for Accessory Structures Associated with Residential Uses. A zoning permit shall be required for the installation or placement of any accessory structure associated with a residential use where such accessory structure exceeds eighteen (18) feet in height or one thousand seventy (1070) square feet in building footprint.
- (3) Setbacks for Accessory Structures Associated with Residential Uses. Accessory structures in association with principal residential uses shall maintain setbacks from all lot lines as indicated in the table below. If the setbacks of a particular accessory structure are regulated elsewhere in this Development Code, those setbacks shall govern.

TABLE 1040.01: SETBACKS FOR ACCESSORY STRUCTURES ASSOCIATED WITH RESIDENTIAL USES

ACCESSORY USE	SETBACK FROM FRONT LOT LINE	SETBACK FROM ALL OTHER LOT LINES
Amateur Radio Antennas	No less than the lesser of: (1) the setback of the principal dwelling, or (2) 100 ft.	No less than 110% of the heights of the antenna
Dog Kennels and Other Domestic Animal Housings	No less than the lesser of: (1) the setback of the principal dwelling, or (2) 100 ft.	10 ft. min.
Flag Poles and Flag Lighting	2 ft. min.	10 ft. min.
All Other Accessory Structures Associated with Residential Uses	No less than the lesser of: (1) the setback of the principal dwelling, or (2) 100 ft.	3 ft. min.

- (4) Limits to Heights of Accessory Structures Associated with Residential Uses. The height of accessory structures in association with principal residential uses shall not exceed the heights indicated in the table below. If the height limit of a particular accessory structure is regulated elsewhere in this Development Code, that height limit shall govern.

TABLE 1040.02: LIMITS TO HEIGHTS OF ACCESSORY STRUCTURES ASSOCIATED WITH RESIDENTIAL USES

ACCESSORY USE	HEIGHT
Amateur Radio Antennas	40 ft. max.
Flag Poles and Flag Lighting	40 ft. max.
All Other Accessory Structures Associated with Residential Uses	20 ft. max.

## USE REGULATIONS

- (5) Accessory Structures Associated with Residential Uses as Contributing to Lot Coverage. Accessory structures associated with residential uses shall contribute to lot coverage calculations only when the accessory structure has a ground coverage of greater than nine (9) square feet and when the accessory structure does not permit rain to pass through to soil directly below it. As examples, the following accessory structures shall contribute to lot coverage calculations: paved patios, roofed porches, roofed gazebos, garages, carports, and sheds. As examples, the following accessory structures shall not contribute to lot coverage calculations: the water area of a swimming pool, bird baths, little library kiosks, basketball hoops, gardens, and unroofed decks built over bare soil.
- (6) Fences Regulated Elsewhere. Fences are regulated in Section 1050.04.
- (7) Accessory Dwelling Units Regulated Elsewhere. Accessory dwelling units are regulated in Section 1040.06 (f).
- (8) Home Occupations Regulated Elsewhere. Home occupations, which are considered an accessory use as opposed to an accessory structure, are regulated in Section 1040.06 (e).
- (e) Standards for Accessory Wind and Solar Energy Systems.

  - (1) Wind Energy Systems. Wind energy systems shall not be permitted.
  - (2) Solar Energy Systems. Solar energy systems shall be considered a permitted use in any zoning district, subject to the requirements of this section and the requirements of any other applicable section of this Development Code.
- (f) Standards for Home Occupations

  - (1) Definition of Home Occupation. A home occupation is an occupation or profession which is conducted within a structure (1) where the structure is principally a residence, (2) where the person conducting the occupation or profession is the permanent resident of the residence or is an employee of the permanent resident of the residence, and (3) where the occupation or profession is compatible with the residential use of the property and surrounding residential uses, as determined by the Planning Director or designee. Examples of home occupations may include fabrication of window treatments or upholstery; paralegal services; licensed massage therapy services; state-licensed family day-care home services; and online tutoring.
  - (2) Home Occupations as Accessory to a Residential Use. A home occupation shall be conducted only where the use of the property or portion of the property is principally as a residence and where the portion of the structure or property is principally configured for use as a residence.
  - (3) Permitting Required for a Home Occupation. A home occupation shall require a permit from the City:

    - A. The home occupation involves a non-resident employee or colleague to visit the property of the home occupation and residence at any time in order to conduct business; or
    - B. The home occupation involves in-person customer interactions, such as drop-off of children for day care services, client visits for massage therapy appointments, or customer pickup of upholstery goods.
  - (4) Limits on Number of Employees of Home Occupations. No Dwelling Unit may have more than one (1) non-resident employee or colleague present at any given time in association with the Dwelling Unit's home occupation(s).
  - (5) Limits on Number of Customers Visiting a Home Occupations. No dwelling unit may have more than two customer present at any given time in association with the dwelling unit's home occupation(s). However, children of a state-licensed family day-care home shall not count as customers for the purposes of this regulation; the parents of such children, during drop-off and pick-up, shall not count as customers for the purposes of this regulation.
  - (6) Limits on Public Hours of Home Occupations. No dwelling unit may be open for visitation by customers in association with a home occupation between the hours of 7:00PM and 7:00AM.

- (7) Limits on Outdoor Storage in Association with a Home Occupation. No material, equipment, merchandise, or other products associated with the home occupation may be stored outdoors, except in the case that the equipment is a vehicle licensed or registered with the state, such as a limousine or fishing boat, in which case it shall be parked in compliance with this Development Code's parking regulations in Section 1050.01, and except that child play equipment in association with a state-licensed family day-care home shall be permitted to be stored outdoors in a rear yard.
- (8) Limits on Deliveries in Association with a Home Occupation. No Home Occupation may necessitate the delivery or pick-up of parcels, materials, or equipment by a freight hauler where such freight hauler is not customarily associated with the delivery or pick-up of goods to or from single-unit dwellings.
- (9) Limits on Signage in Association with a Home Occupation. A home occupation shall be allowed to display a sign only where this Development Code allows such types and sizes of signs in the district in which it is displayed. See Section 1050.08 for sign regulations.
- (10) Limits on Emissions of Noise, Vibrations, Odors, and Smoke in Association with a Home Occupation. No Home Occupation may cause the transmission of noise, vibration, odor, or smoke to adjacent residences at a level exceeding what is typically associated with a residential use. As examples, the opening and closing of a door, the use of a snow blower or other snow-removal equipment, the venting of a residential stove, or the venting of one (1) residential laundry dryer shall be considered typical of a residential use.

See Section 1052.03 (d) for procedures applicable to applying for a zoning permit.

- (c) Zoning Permit Exempted Temporary Uses. The following temporary uses shall be allowed without securing a zoning permit: yard sales or garage sales, sidewalk sales or tent sales. In such cases, a Building Permit may still be required; contact the Building Department to inquire. A public right-of-way encroachment permit shall be secured wherever such temporary activity encroaches upon the right-of-way.
- (d) Duration Limited for Temporary Uses. The Planning Director or designee shall, during the processing of the zoning permit application, assign a date at which the temporary permit must cease or seek zoning permit renewal. The date shall be assigned based on the proposed temporary use's probable impacts on the nighttime tranquility of any neighboring residential uses and the probable demands on City services. The decision of the Planning Director or designee may be appealed to the Board of Zoning and Building Appeals as regulated in Section 1052.03.

#### 1040.08: Use-Specific Standards for Recreational Uses

- (a) Definition of Recreational Uses. See Chapter 1053 Glossary.
- (b) Sound Amplification Prohibited. Recreational Uses may not amplify sound in outdoor settings.
- (c) Tall Outdoor Lighting Structures Prohibited. Outdoor lighting used in conjunction with Recreational Uses may not project from poles, towers, or any other structures that exceed fifteen (15) feet in height.

#### 1040.07: Use-Specific Standards for Temporary Uses

- (a) Definition of Temporary Uses. See Chapter 1053 Glossary.
- (b) Zoning Permit Required for Temporary Uses. Temporary structures and temporary uses shall require a zoning permit, except where specifically exempted below.

#### 1040.09: Use-Specific Standards for Civic and Institutional Uses

- (a) Definition of Civic and Institutional Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Civic and Institutional Uses. There are no specific standards for Civic and Institutional Uses other than those established during a conditional use approval process.

## USE REGULATIONS

### 1040.10: Use-Specific Standards for Single-Unit Residential Uses

- (a) Definition of Single-Unit Residential Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Single-Unit Residential Uses. There are no specific standards for Single-Unit Residential Uses.

### 1040.11: Use-Specific Standards for Two-Unit Residential Uses

- (a) Definition of Two-Unit Residential Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Two-Unit Residential Uses. There are no specific standards for Two-Unit Residential Uses.

### 1040.12: Use-Specific Standards for Three- to Eight-Unit Residential Uses

- (a) Definition of Three- to Eight-Unit Residential Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Three- to Eight-Unit Residential Uses. There are no specific standards for Three- to Eight-Unit Residential Uses.

### 1040.13: Use-Specific Standards for Nine-Plus-Unit Residential Uses

- (a) Definition of Nine-Plus-Unit Residential Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Nine-Plus-Unit Residential Uses. There are no specific standards for Nine-Plus-Unit Residential Uses.

### 1040.14: Use-Specific Standards for Neighborhood Commercial Uses

- (a) Definition of Neighborhood Commercial Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Neighborhood Commercial Uses. There are no specific standards for Neighborhood Commercial Uses.

- (c) A discount store must be located at least one (1) mile from another discount store.

### 1040.15: Use-Specific Standards for Regional Commercial Uses

- (a) Definition of Regional Commercial Uses. See Chapter 1053 Glossary.
- (b) Storage of Recreational Vehicles at Self-Storage Centers. Personal vehicles, such as boats and recreational vehicles, that are stored at a self-storage center must be screened from public view with an opaque fence or wall of at least six (6) feet in height and adequate landscaping.

### 1040.16: Use-Specific Standards for Vehicle-Oriented Uses

- (a) Definition of Vehicle-Oriented Uses. See Chapter 1053 Glossary.
- (b) Standards for All Vehicle-Oriented Uses.
  - (1) Permanent Storage of Inoperable Vehicles in Association with Vehicle-Oriented Uses. No permanent storage of inoperable vehicles shall be permitted on the site of a Vehicle-Oriented Use.
  - (2) Temporary Storage of Inoperable Vehicles in Association with Vehicle-Oriented Uses. The temporary storage of inoperable vehicles shall be permitted for certain Vehicle-Oriented Uses, such as vehicle repair and body shops, where such vehicles are made operable within six months, where such vehicles are limited to one (1) vehicle per one thousand (1,000) square feet of lot area, and where such vehicles are stored on paved surfaces.
- (c) Standards for Vehicle Refueling Stations.
  - (1) Distance from Dwellings. No pump dispensing gasoline, diesel, kerosene, natural gas, propane, or other hydrocarbon shall be located within one hundred (100) feet of any lot occupied by a dwelling.
  - (2) Side Setbacks for Refueling Stations. Vehicle refueling stations, including those dispensing gasoline, diesel, hydrogen, but not including those



dispensing only electrical charge, shall provide a side setback of at least twenty (20) feet or a side setback of a greater distance where required in the district in which the use is located.

- (3) Buffering of Refueling Stations. Vehicle refueling stations, including those dispensing gasoline, diesel, hydrogen, but not including those dispensing only electrical charge, shall be buffered from adjacent residential uses according to buffering standards described in Chapter 1050 Generally Applicable Regulations.
- (d) Standards for Vehicle Towing and Impounding Uses.
  - (1) Screening Required. An eight (8)-foot-high, one hundred (100) percent-opaque fence shall be required to screen all activities on the property.
  - (2) Buffering Standards Applying to Vehicle-Oriented Uses. Buffering standards may apply to Vehicle-Oriented Uses on lots abutting residential districts; see Section 1050.03 "Buffering Standards."
  - (3) Vehicle Processing, Recycling, or Disposal Prohibited. No open burning, cutting, or processing is permitted

#### 1040.17: Use-Specific Standards for Artisanal Industrial Uses

- (a) Definition of Artisanal Industrial Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Artisanal Industrial Uses. There are no specific standards for Artisanal Industrial Uses.

#### 1040.18: Use-Specific Standards for Light Industrial Uses

- (a) Definition of Light Industrial Uses. See Chapter 1053 Glossary.
- (b) Buffering Standards Applying to Light Industrial Uses. Buffering standards may apply to Light Industrial Uses on lots abutting residential districts; see Section 1050.03 "Buffering Standards."

#### 1040.19: Use-Specific Standards for Heavy Industrial Uses

- (a) Definition of Heavy Industrial Uses. See Chapter 1053 Glossary.
- (b) Buffering Standards Applying to Heavy Industrial Uses. Buffering standards may apply to Heavy Industrial Uses on lots abutting residential and commercial districts; see Section 1050.03 "Buffering Standards."

#### 1040.20: Use-Specific Standards for Agricultural Uses

- (a) Definition of Agricultural Uses. See Chapter 1053 Glossary.
- (b) No Specific Standards for Agricultural Uses. There are no specific standards for Agricultural Uses.

#### 1040.21: Use-Specific Standards for Outdoor Arena Uses

- (a) Definition Outdoor Arena Uses. See Chapter 1053 Glossary.
- (b) Temporary Uses at Outdoor Arena Uses. Where an Outdoor Arena Use has received a zoning permit, and where the Outdoor Arena Use has been established, no temporary use permit shall be required by the City for the property owner to conduct temporary events in association with that Outdoor Arena Use, such as a race at a racetrack or a concert festival at a fairgrounds.
- (c) Tall Outdoor Lighting Structures Restricted. Outdoor lighting used in conjunction with Outdoor Arena Uses may not project from poles, towers, or any other structures that exceed fifteen (15) feet in height, except where such uses are more than one thousand (1000) feet from a Residential District.

#### 1040.22: Use-Specific Standards for Weapons-Related Uses

- (a) Definition of Weapons-Related Uses. See Chapter 1053 Glossary.

## USE REGULATIONS

- (b) Buffering Standards Applying to Weapons-Related Uses. Buffering standards may apply to Weapons-Related Uses on lots abutting residential districts; see Section 1050.03 “Buffering Standards.”

### 1040.23: Use-Specific Standards for Sexually Oriented Uses

- (a) Definition of Sexually Oriented Uses. See Chapter 1053 Glossary.
- (b) Location Restricted. A sexually oriented use shall be located only in accordance with the following restrictions:
- (1) No sexually oriented use shall be located on any parcel within one thousand (1,000) feet of a property in a Residential District;
  - (2) No sexually oriented use shall be located within one thousand (1,000) feet of the boundaries of the City;
  - (3) No sexually oriented use shall be located within one thousand (1,000) feet of any adjoining city or township;
  - (4) No sexually oriented use shall be located on any parcel within one thousand (1,000) feet of any library, any private or public elementary or secondary school, any pre-school, any day care center, any public park, or any church, inclusive of any library, school, day care center, park, or church located outside of the boundaries of the City; and
  - (5) No sexually oriented use shall be located on any parcel within one thousand (1,000) feet of another sexually oriented use located within the boundaries of the City or any adjoining city or township.
- (c) Measuring Distances from Sexually Oriented Uses.
- (1) For the purposes of subsections b(1-4) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of any structure located on the premises of a sexually oriented use, to the nearest property line of the premises of a church, public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot.

- (2) For the purposes of subsection b(5) hereof, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

- (d) Exceptions. Nothing in this section shall be construed to prohibit or limit the display, sale, or rental of descriptive, printed, film, or video material or any live performance which, taken as a whole, contains serious literary, artistic, political, medical, educational, or scientific value.
- (e) Nonconforming Sexually Oriented Uses. Notwithstanding Chapter 1051 Nonconformities, any sexually oriented use lawfully operating on the effective date of this chapter that is in violation of this chapter shall be deemed a nonconforming use. A sexually oriented use lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a church, public or private elementary or secondary school, public park or library within one thousand (1,000) feet, or a Residential District or use within five hundred (500) feet, of the sexually oriented business.
- (f) Abandonment of Nonconforming Sexually Oriented Uses. When a nonconforming sexually oriented use of a structure or premises is voluntarily discontinued or abandoned for more than six months, the structure, building, or premises shall not thereafter be used except in conformity with this Development Code.
- (g) Buffering Standards Applying to Sexually Oriented Uses. In addition to location restrictions applying to Sexually Oriented Uses, buffering standards may apply to Sexually Oriented Uses on lots abutting residential districts; see Section 1050.03 “Buffering Standards.”

### 1040.24: Use-Specific Standards for Telecommunications Towers Uses

- (a) Definition of Telecommunications Towers Uses. See Chapter 1053 Glossary.
- (b) Purpose. These regulations governing wireless telecommunication facilities are established to provide for the construction, erection, maintenance, extension and removal of such facilities in certain zoning districts

in the City and are related to certain applications of technology and engineering in the field of wireless telecommunication. The purpose of these regulations is to balance the competing interests created by the Federal Telecommunications Act of 1996 (Public Law 104-104) and the interests of the City in regulating wireless telecommunication towers and related facilities for the following reasons:

- (1) To provide for orderly development within the City,
  - (2) To protect property values,
  - (3) To maintain the aesthetic appearance of the City, including, but not limited to, its residential character, unobstructed open spaces, and attractive commercial areas,
  - (4) To protect residential properties, parks, open spaces and the nonintensive commercial zoning districts which are characteristic of the City from the adverse effects of towers and related facilities,
  - (5) To promote collocation of wireless telecommunication facilities in order to decrease the total number of towers in the City, and
  - (6) To provide for and protect the residents and visitors of the City.
- (c) Applicability. No person shall construct, erect, maintain, extend, or remove a wireless telecommunication facility in the City without compliance with the provisions of this section.
- (d) Minimum Standards for Construction, Erection, Maintenance, Extension and Removal. All wireless telecommunication facilities shall comply with the following standards:
- (1) Use Regulations.
    - A. A wireless telecommunication facility may only be permitted as a conditional use in the following zoning districts: Commercial Center, Employment Flex, Industrial, or Natural. A wireless telecommunication facility is not permitted in any other zoning district in the City.
  - (2) Collocation.
    - A. All applicants for construction or erection of wireless telecommunication towers shall be required to construct the tower on a base tower structure and structure foundation that are designed to be buildable up to, but not including, two hundred (200) feet above grade. Such structure shall be designed to have sufficient structural loading capacity to accommodate at least three antenna platforms or antenna arrays of equal loading capacity for three separate providers of service to be located on the structure when constructed to the maximum allowable height. The wireless telecommunication facility shall also be designed to show that the applicant has enough space on its site plan for an equipment shelter large enough to accommodate at least three separate users of the facility. If an equipment shelter is initially constructed to accommodate only one (1) user, space shall be reserved on site for equipment shelter expansions to accommodate up to at least three separate users. Agreement to the provisions of this subsection must be included in the applicant's lease with the property owner, if different from the owner/user of the tower. Written documentation must be presented
  - B. The installation of a wireless telecommunication antenna, where the construction or erection of a tower is not proposed by the applicant, shall be permitted as an accessory use on existing towers or on existing buildings or structures being a minimum of five (5) stories in height from grade and where such towers, buildings or structures are located in the following zoning districts: Commercial Center, Employment Flex, Industrial, or Natural. To the extent the remaining standards of this subsection are applicable to the situation involving the installation of a wireless telecommunication antenna on an existing tower, building or structure, such standards shall govern the installation.

## USE REGULATIONS

to the Building Commissioner (or designee) evidencing that the property owner of the property on which the tower is to be located has agreed to the terms of this subsection. As an additional condition of issuing a conditional use permit, the owner/user shall respond in writing to any inquiries regarding collocation of another user of the facility within thirty (30) days after receipt of written inquiry. Copies of all written requests to collocate and all written responses shall be sent to the Building Commissioner (or designee).

B. The applicant requesting permission to install a new tower shall provide:

1. Evidence that there is no technically suitable space for the applicant's antenna(s) and related facilities reasonably available on an existing tower, building or structure within the geographic area to be served; and
2. Subject to economic and technical feasibility, evidence that the most current technology in the field of personal wireless services is being utilized in the application. With its application, the applicant shall also identify the location of every tower, building, or structure that could support the proposed antenna(s) or the area where it would be technically suitable to locate so as to allow it to serve its intended function. As part of its application, the applicant shall provide a scaled map of all of its existing, proposed, or planned antenna locations within a five-mile radius of the site which is the subject of the application.

C. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building, or structure. If an existing tower, building or structure is technically suitable, the applicant must demonstrate that it has made written request to collocate on the existing tower, building, or structure and the request was rejected by the owner of the tower, building,

or structure. In all circumstances, owners of existing towers shall promptly respond in writing to requests for collocation, but in no event shall they respond more than thirty (30) days from the date of receipt of a written request for collocation. If another telecommunication tower is technically suitable, the applicant must further show that it has offered to allow the owner of that other tower to collocate an antenna on another tower within the City which is owned or controlled by the applicant, if available, on commercially reasonable terms and the offer was not accepted.

- (3) Spacing. There shall be a separation of a minimum of one-quarter (1/4) mile between wireless telecommunication towers.
- (4) Height. The maximum height of a free-standing wireless telecommunication tower, including its antenna and all appurtenances, shall be less than two hundred (200) feet above grade. The maximum height of any wireless telecommunication antenna installed pursuant to 1040.24 (c)(1) "Installation of an Antenna on an Existing Tower or Building" hereof, shall be no greater than the height of the existing tower, building, or structure to which it is attached. The height of any equipment shelter shall not exceed fifteen (15) feet from grade.
- (5) Setbacks. All wireless telecommunication towers shall be set back from property lines of residentially zoned or residentially used properties a distance of at least one-hundred ten (110) percent of the height of the tower. In all cases, all towers and related facilities shall be a minimum of forty (40) feet from the front, rear and side property lines. In no event shall a wireless telecommunication tower or facility be located in front of the principal building on the lot.
- (6) Design.
  - A. All wireless telecommunication towers shall be of a monopole design, as opposed to a lattice design.



- B. All wireless telecommunication facilities shall be subject to review by the Design Review Board for the purpose of enhancing the compatibility of the facilities with their surroundings.
  - C. The color of a wireless telecommunication tower and/or antenna shall be as determined by the Design Review Board for the purpose of minimizing its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (7) Landscaping. Landscaping shall be consistent with requirements provided in Chapter 1050 Generally Applicable Regulations.
- (8) Engineering Report. A report shall be prepared and submitted by a qualified and licensed professional engineer and shall provide proof of compliance with all applicable Federal, State, County and City regulations. The report shall include a detailed description of the telecommunication tower, antenna(s), equipment shelter, and appurtenances, and shall certify that radio frequency (electromagnetic) emissions are in compliance with the regulations of the Federal Communications Commission (FCC).
- (9) Maintenance.
  - A. The applicant shall submit a plan documenting how the wireless telecommunication facility will be maintained on the site in an ongoing manner that meets industry standards.
  - B. On each biennial anniversary of the issuance of the building permit for a wireless telecommunication facility, or not more than ninety (90) days prior thereto, the owner/user shall submit to the City a report prepared by a licensed professional engineer which shall verify continued compliance of the facility with all governmental requirements, including, but not limited to, the structural integrity and stability of any towers or antennas, electrical safety standards, and auxiliary power source safety standards.
- (10) Lighting Prohibited. Except as required by law, an antenna, or a tower shall not be illuminated and lighting fixtures or signs shall not be attached to the antenna or tower. If lighting is required by Federal Aviation Administration (FAA) regulations, the most visually nonobtrusive state-of-the-art lighting available shall be used, unless otherwise required by the FAA.
- (11) Security.
  - A. A security fence not less than eight (8) feet in height shall fully enclose those portions of the wireless telecommunication facility which come in contact with the ground. Gates shall be locked at all times.
  - B. A permanent warning sign with a minimum size of two (2) square feet and a maximum size of six (6) square feet shall be posted on the site, as well as an emergency telephone number of the owner/user of each set of antennas on the site. The owner/user shall also provide the Building Commissioner (or designee), the City Fire Department, and the City Police the owner's telephone number in event of an emergency.
- (12) Advertising Prohibited. No advertising signs or devices shall be permitted anywhere on a wireless telecommunication facility site.
- (13) Outdoor Storage. There shall be no outdoor storage of equipment or other items on the wireless telecommunication facility site except during the facility construction period and to supply emergency power to the facility only during a power outage.
- (14) Access to Facility. The access driveway to the wireless telecommunication facility shall, whenever feasible, be provided along with circulation driveways of the existing use on the lot, if any. Where use of an existing driveway is not feasible, the driveway to the facility shall be a minimum of eighteen (18) feet in width with a minimum overhead clearance of eleven (11) feet and shall be set back a minimum of twenty (20) feet from the nearest side or rear lot line. This driveway shall meet the load limitations for fire equipment.

## USE REGULATIONS

If the access road to the facility is more than one-thousand five-hundred (1,500) feet from the public right-of-way, a turnaround shall be provided for emergency vehicles at the site and a by-pass, adequate for emergency vehicles, with an approachable access, shall be provided for each additional one-thousand five-hundred (1,500) feet of the driveway. There shall be a maximum of one (1) off-street parking space on the facility site.

be dismantled and removed from the site within that same ninety (90)-day period at the cost of the owner/user. The owner/user of the wireless telecommunication facility shall, on no less than an annual basis from the date of issuance of the building permit, file a declaration with the Building Commissioner (or designee) as to the continuing operation of each of its facilities within the City.

**(15)** Accessory Equipment Shelter. The maximum cumulative total size of all equipment shelters accessory to a telecommunication tower or antenna on a lot shall be seven-hundred fifty (750) square feet and their maximum height shall not exceed fifteen (15) feet from grade. Only one (1) equipment shelter, or the configuration of more than one (1) shelter to appear that there is one (1) shelter, shall be permitted on a lot. Where it is technically feasible and reasonably practical to do so, an existing building or structure on a lot shall be used to shelter equipment associated with a wireless telecommunication facility.

**(16)** Underground Utilities. All utility lines from the utility source to the wireless telecommunication facility shall be underground.

**(17)** Time Limit for Commencement and Completion. After issuance of a building permit to construct a wireless telecommunication facility, the applicant shall commence construction within six (6) months and shall complete construction within one (1) year, or the building permit shall expire.

**(18)** Abandonment and Removal of Facilities

A. If at any time the use of the wireless telecommunication facility is discontinued for one-hundred eighty (180) consecutive days, said facility shall be deemed abandoned. The Building Commissioner (or designee) shall notify the owner/user in writing and advise such owner/user that the facility must be reactivated within ninety (90) days or it must

B. The applicant for the wireless telecommunication facility shall be required, as a condition of issuance of a building permit, to post a cash or surety bond acceptable to the Director of Law of not less than \$100.00 per vertical foot from grade of the wireless telecommunication facility, which bond shall insure that an abandoned, obsolete, or destroyed wireless telecommunication antenna or tower shall be removed within one-hundred eighty (180) days of cessation of use or abandonment. Any successor-in-interest or assignee of the applicant shall be required to additionally execute such bond, as principal, to insure that the bond will be in place during the period of time that the successor-in-interest or assignee occupies the facility.

**(e)** Exemption of Certain City Property. Regardless of the provisions of this section, a wireless telecommunication facility may be permitted on any property owned or controlled by the City and used for public services and shall be constructed, erected, maintained, extended, and removed under such conditions, standards, and regulations as required by Council. The design shall be approved by the Design Review Board prior to construction.

**(f)** Buffering Standards Applying to Telecommunications Tower Uses. Buffering standards may apply to Telecommunications Tower Uses on lots abutting residential districts; see Section 1050.03 "Buffering Standards."

## 1040.25: **Use-Specific Standards for Aerospace-Related Uses**

- (a) Definition of Aerospace-Related Uses. See Chapter 1053 Glossary.
- (b) FAA Approval Required. The City shall not grant a zoning permit or a conditional use approval for an aerospace-related use until it has received evidence that the proposed use will not conflict with traffic patterns of existing aircraft and airports or interfere with FAA-approved instrument landing procedures.
- (c) Fences Permitted for Aerospace-Related Uses. Aerospace-Related Uses shall be exempt fence standards in Section 1050.04 where such fence standards do not allow for adequate security or safety for Aerospace-Related Uses.
- (d) Buffering Standards Applying to Aerospace-Related Uses. Buffering standards may apply to Aerospace-Related Uses on lots abutting residential districts; see Section 1050.03 “Buffering Standards.”

## **USE REGULATIONS**

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# 1050

## Generally Applicable Regulations

### Sections

1050.01: Parking and Loading Standards.....	1050-1
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### 1050.01: **Parking and Loading Standards**

- (a) Purpose of Parking and Loading Standards. These parking and loading standards are intended to mitigate the negative impacts of motor vehicle parking on government interests, including impacts on neighborhood aesthetics, pedestrian safety, and stormwater management.
- (b) Parking Limited to Parking Areas. No parking of any motor vehicle or of any accessory to a motor vehicle, such as a trailer or camper, shall occur except on a parking area or on a driveway as defined by this section.
- (c) Location of Parking Areas
  - (4) Parking Areas Limited in Actual Front Yards.
    - A. In the Commercial Center District and the Lake Anna Corridor District, no motor vehicle parking area shall be located in the actual front yard, which is defined as the space between the front lot line and the front building line extended to the side lot lines.
    - B. In the Corridor District, no more than one (1) motor vehicle parking space per twenty (20) feet of lot frontage may be permitted in the actual front yard.
    - C. In the Employment Flex District, no motor vehicle parking area shall be located in any yard in new development fronting Wooster Road.
    - D. In the Suburban Residential District and the Traditional Residential District, no parking area shall be located in an actual front yard except on a driveway as regulated in this section.
  - (5) Parking Areas to Maintain Setbacks. All portions of a motor vehicle parking area, except for any accessway from the right-of-way to the parking area, must maintain front, side, and rear setbacks equal to or greater than those required for principal structures in the district in which the parking area is located; however, in no case shall a parking area be located within six (6) feet of a Front Lot Line, and in no case shall a parking area be located within three (3) feet of an adjacent lot, except where a parking area accessway connects the parking area to the parking area on the adjacent lot.
- (d) Driveway and Parking Area Accessway Standards.
  - (1) Driveway Regulations. A driveway is an improved vehicle pathway that leads from a right-of-way to a single-unit dwelling, two-unit dwelling, three-to-eight-unit dwelling, or nine-plus-unit dwelling. A driveway may lead to a side yard or a rear yard, or may lead to the entrance of a garage of a single-unit dwelling or two-unit dwelling. No driveway may exceed sixteen (16) feet in width or the width of a garage that it leads to, whichever is greater. No driveway may be located within three (3) feet of a Side Lot Line.

## GENERALLY APPLICABLE REGULATIONS

- (2)** Parking on a Driveway. Parking on a driveway is permitted, even if the driveway is located in the actual front yard.
- (3)** Parking Area Accessways Regulations. Parking area accessways are improved vehicle pathways connecting a right-of-way and a parking area, where such parking area is not intended for single-unit dwelling, two-unit dwelling, three-to-eight-unit dwelling, or nine-plus-unit dwelling. No parking area accessway may exceed thirty (30) feet in width along its main pathway or forty (40) feet at its delta with the right-of-way. No parking area accessway may be located within three (3) feet of a Side Lot Line.
- (e)** Parking Areas Contribute to Lot Coverage Calculation. Motor vehicle parking areas and motor vehicle accessways shall contribute to the lot coverage, which is regulated by district-specific building development standards.
- (f)** Landscaping within Parking Areas. Landscaping, such as trees and shrubs, are required for all new parking areas, as described in Section 1050.05 “Tree and Landscaping Standards.”
- (g)** Parking Areas with Electric Vehicle Charging Stations. Any parking space of any motor vehicle parking area or driveway may contain an electric vehicle charging station, provided that any electric vehicle charging station is set back behind any lot line by at least three (3) feet.
- (h)** Parking Area Paving Material. Motor vehicle parking areas and their associated driveways and accessways shall be paved in a dustless, all-weather surface, such as asphalt, concrete, permeable pavers, a turf or gravel stabilizing interlocking paver system, or pervious asphalt. Parking of motor vehicles and their associated trailers shall not be permitted on unimproved ground, except in association with approved temporary use activities, such as festivals.
- (i)** Micro-vehicle Parking. Micro-vehicles are any small vehicles that (1) do not use internal combustion engines, that (2) weigh less than three-hundred (300) pounds, that (3) do not have the capacity to generate twenty (20) horsepower or greater, and shall include bicycles, unicycles, push scooters, electric scooters, and electric bicycles. Micro-vehicle parking is permitted as an accessory to any use and may be located in any location on any lot in any district, provided it does not cause an obstruction to ingress, egress, or the safe passage of pedestrians.
- (j)** Parking of Commercial Vehicles.

  - (1)** Applicability. The requirements shall apply to all commercial vehicles, as defined herein.
  - (2)** Residential Districts

    - A. Restricted Vehicles: There shall not be parked or stored on a lot in the Traditional Residential or Suburban Residential District:

      - 1. Any commercial vehicle weighing more than nine thousand (9,000) pounds unloaded, or
      - 2. Over one (1) commercial vehicle below such weight per dwelling unit, or
      - 3. Any trailer not used for recreational purposes, such as to tow a boat or snowmobile.
    - B. Exceptions. Any vehicle specified may be parked or stored:

      - 1. In an enclosed building that conforms to regulations applicable in the District, or
      - 2. Temporarily for loading or unloading of household belongings for the purpose of moving a residence, or
      - 3. Temporarily for deliveries, repairs, construction, landscaping, earth moving, maintenance, garbage pickup, or utility or service calls.
    - C. Other Regulations. No vehicle of any kind parked or stored in any Residential District shall by virtue of its contents or of the activities associated with it create health or safety hazards or nuisances affecting neighboring properties.
  - (3)** In Other Districts. There shall be no restrictions on parking or storage of commercial vehicles in non-residential districts.

## GENERALLY APPLICABLE REGULATIONS

**(k)** Temporary Storage of Inoperable Vehicles. The temporary storage of inoperable vehicles shall be limited to one (1) inoperable vehicle per lot and shall be stored on a paved surface. For the purposes of this regulation, “temporary” shall be interpreted to mean three days or less in duration.

**(l)** Parking Space Count:

**(1)** The minimum required parking spaces by building function are as follows:

- A. Residential: The number of dwellings on each lot is limited by the requirement of one (1) parking place for each dwelling.
- B. Lodging: The number of bedrooms available on each lot for lodging is limited by the requirement of one (1) assigned parking place for each bedroom, up to twelve (12).
- C. Office: The building area available for office use on each lot is limited to the first story of the principal building and/or to the accessory building, and by the requirement of two (2) assigned parking places per one thousand (1,000) square feet of net office space.
- D. Retail/Service: The building area available for retail use is limited to three (3) assigned parking places per one thousand (1,000) square feet of net retail space.
- E. Industrial: One (1) parking place per business vehicle, and:
  - 1. One (1) parking place for every one thousand (1,000) square feet of gross floor area for buildings up to twenty thousand (20,000) square feet.
  - 2. One (1) parking place for every five thousand (5,000) square feet of gross floor area for buildings twenty-thousand and one (20,001) to one-hundred twenty thousand (120,000) square feet.
  - 3. One (1) parking place for every ten thousand (10,000) square feet of gross floor area for buildings over one-hundred twenty thousand (120,000) square feet.

F. Recreation: Four (4) parking places per one thousand (1,000) square feet.

G. Institutional: Four (4) parking places for every one thousand (1,000) square feet of gross floor area up to two thousand (2,000) square feet; plus one (1) parking place per employee on the largest shift.

H. Hospital/Medical Center/Clinic: Four (4) parking places per one thousand (1,000) square feet, plus one (1) parking place per employee on the largest shift.

I. Automotive Service: Three (3) parking places for every one thousand (1,000) square feet of gross floor area plus two (2) parking places for each service bay/gas pump.

**(2)** Joint Use.

- A. A building or group of buildings containing two (2) or more uses even if a use in the building(s) is under the same ownership, operating during the same hours and which have different off-street parking requirements, may jointly provide spaces for not less than the sum of the spaces required for each use.
- B. Two or more nonresidential uses may jointly provide and use parking spaces when their hours of operation do not normally overlap, provided that a written agreement approved by the Building Commissioner or designee shall be filed with the application for a zoning permit.

### 1050.02: Vision Triangle Clearance Standards

- (a)** Purpose of Vision Triangle Clearance Standards. These vision triangle clearance standards are intended to reduce visual obstructions and mitigate the dangers associated with motor vehicles turning onto streets and to advance the government’s interests in public health and safety.

## GENERALLY APPLICABLE REGULATIONS

- (b) **Applicability.** These vision triangle clearance standards shall apply at any street-and-street intersection and any street-and-driveway intersection.
- (c) **Vision Triangle Defined.** For any street-and-street intersection, the vision triangle shall be defined as the area bounded by the street property lines of corner lots and a line joining points along said street lines twenty (20) feet from their point of intersection. For any street street-and-driveway intersection, the vision triangle shall be defined as the area bounded by the street property line and the edge of the driveway and a line joining points along said street and driveway twenty (20) feet from their point of intersection.
- (d) **Vision Triangle to Remain Clear.** No structure, vegetation, sign, or other visual obstruction shall be placed within the vision triangle except where the structure, vegetation, or sign fulfills one (1) of the following conditions:
  - (1) The structure, vegetation, or sign does not exceed three feet of height above the crest of the driveway, or more minor of the streets at a street-and-street intersection; or
  - (2) The structure, vegetation, or sign presents a visual obstruction of a pole-type nature, such as a support beam or a tree trunk, where the pole-type visual obstruction is less than one (1) foot in diameter, with no greater visual obstruction between three and eight feet of height above the crest of the driveway, or more minor of the streets at a street-and-street intersection.

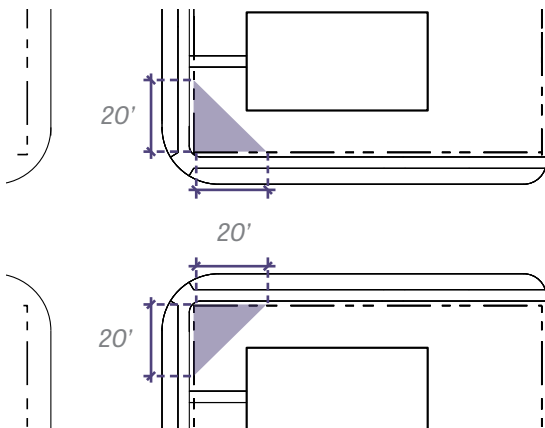


Figure 1050.01: Vision triangle at the intersection of two streets

### 1050.03: Buffering Standards

- (a) **Purpose of Buffering Standards.** These buffering standards are intended to reduce the negative health effects associated with light and heavy industrial uses.
- (b) **Applicability of Buffering Standards.** These buffering standards shall apply in the following circumstances:
  - (1) Where any of the following uses is commenced after the enactment of this Development Code:
    - A. Vehicle-Oriented Use
    - B. Light Industrial Use
    - C. Heavy Industrial Use
    - D. Weapons-Related Use
    - E. Sexually Oriented Use
    - F. Telecommunications Tower Use
    - G. Aerospace-Related;
  - (2) And where such use is conducted on a lot that abuts a lot within a residential district (Traditional Residential District or Suburban Residential District), where the abutting lot within the residential district is being put to residential use or has the potential to be put to residential use. Weapons-Related Uses shall be located not within seven hundred (700) feet from a residential district (Traditional Residential District or Suburban Residential District) and shall not be required to satisfy the buffering requirement.
  - (3) For the purposes of this regulation, “has the potential to be put to residential use” shall be interpreted to mean a property that could reasonably develop a residential use without the granting of a conditional use approval, without the abandonment of governmental or utility right-of-way ownership or easement, and without an annulment of any current deed restrictions or covenants that may prevent a residential use from being developed.



## GENERALLY APPLICABLE REGULATIONS

**(c)** Buffering Area Required. Where buffering is required per Section 1050.03 (b) "Applicability of Buffering Standards," the following buffering area shall be provided: a twenty five (25)-foot-strip along the entire lot line that abuts such residential use or residential district.

**(d)** Location of Buffering Area. The buffering area shall be required only along that portion of the applicable lot that abuts a neighboring lot within a residential district that is being put to residential use or, considering any applicable deed restrictions or covenants, has the potential to be put to residential use. Portions of the applicable lot that do not border lots within residential districts shall not be required to supply a buffering area.

**(e)** Buffering Areas Containing Streets, Parking Areas, or Driveways.

**(1)** Where a street or other public right-of-way is located in the area between the applicable use's lot and the abutting residential lot, such street or other public right-of-way may be used to satisfy the buffering area requirement on a per-foot-width basis. For example, if a right-of-way of fifteen (15) feet in width forms the border between an applicable use's lot and a residential use's lot, the right-of-way shall reduce the width of the buffering area on the applicable use's lot by fifteen (15) feet; however, the vegetation requirements shall still apply on a linear foot basis.

**(2)** Where a private parking area, driveway, or other vehicle accessway is located on the lot containing the applicable use near the lot line abutting the residential use's lot, such private parking area, driveway, or other vehicle accessway shall not be permitted to satisfy the required buffering area.

**(f)** Buffering Areas Containing Utility Easements. Where the required buffering area contains an underground or overhead utility easement, where such utility easement is recognized by the City and is maintained by a state-authorized utility company or agency, where such utility makes the planting of shade trees impractical, the requirement for planting shade trees shall be automatically waived for that portion of the buffering area.

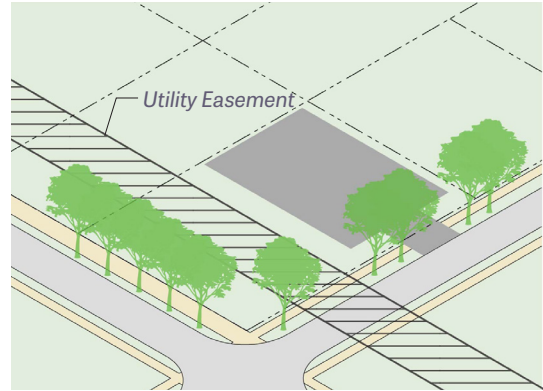


Figure 1050.02: Shade tree planting waived within utility easement

**(g)** Contents of Buffering Area. The buffering area shall contain the following vegetation:

- (1)** One shade tree or evergreen tree per forty (40) linear feet or fraction thereof; and
- (2)** One shrub per five (5) linear feet or fraction thereof.
- (3)** The remainder of the buffering area shall consist of fencing, mounding, landscaping, rock-scaping, or other impervious surface.
- (4)** No buildings shall be located within the buffering area.
- (5)** No use-related activities, such as sales, manufacturing, storage of employee or commercial vehicles, or storage of products or materials, shall be performed within the buffering area.

**(h)** Condition of Vegetation at Planting Time within Buffering Area. Shade trees and evergreen trees shall be of at least two (2) inches diameter at breast height at the time of planting. Shrubs shall be of at least two (2) feet in height at the time of planting. All vegetation shall be disease free at the time of planting.

**(i)** Maintenance of Buffering Area. The property owner shall be responsible for maintaining the health of the vegetation required within the buffering area. If required plant material dies, it shall be the responsibility of the property owner to replace such required vegetation within twelve (12) months of the plant's death. Other maintenance, such as mowing, weeding, mulching, and litter clean-up, shall be performed by the property owner.

## GENERALLY APPLICABLE REGULATIONS

### 1050.04 Fencing Standards

- (a) Purpose of Fencing Standards. By regulating fence heights, locations, materials, and upkeep, the City intends to promote the government interests of safety, security, and neighborhood aesthetics.
- (b) Applicability of Fencing Standards. These fence regulations shall apply to all lots in all districts.
- (c) Location of Fences. Fences are not required to adhere to the setbacks established for principal or accessory structure; however, fences shall comply with the following setbacks:
  - (1) Where a Fence Is Entirely within a Lot. Fences located entirely within a lot shall maintain at least two (2) feet of setback from adjacent lots to allow for maintenance of the fence and control of vegetation; gates may swing open over public sidewalks and internal drives.
  - (2) Where a Fence Is Located Along a Lot Line. Fences located along a lot line shall only be permitted where a signed agreement between the two lots' owners and a professional survey are submitted to the City at the time of fence permit application. The agreement shall indicate fence height, material, installation and maintenance responsibilities, and a process for the termination of the agreement and removal of the fence. The professional survey shall indicate where the lot line exists between the properties where the fence will be installed.
- (d) Fences Located on Easements. Fences may be located on easements, such as water or gas line easements, at the fence owner's risk and subject to other requirements herein and subject to requirements imposed by the easement agreement.
- (e) Fence "Finished Side" Orientation. The "finished side" of a fence shall face outward from the lot on which it is located. In the case of a fence located along a lot line, the finished side shall face away from the installer. Posts and supports shall be located opposite the "finished side."
- (f) Fence Materials. New wood fences must be pressure-treated wood.

- (g) Fence Color Standards. The entirety of each different material used in the construction of a fence shall display either its natural color(s) or shall be painted or stained a single tint or shade of a single color.
- (h) Fence Height Limits. Fences shall not exceed the following heights:

TABLE 1050.01: FENCE HEIGHT LIMITS		
DISTRICT	FENCE LOCATION	FENCE HEIGHT MAXIMUM
Industrial District	Any Location	8 ft. max.
Employment Flex District	Within 30 ft. of Wooster Road	4 ft. max.
	Outside 30 ft. of Wooster Road	6 ft. max.
All Other Districts	Within minimum front yard setback	4 ft. max.
	Outside minimum front yard setback	6 ft. max.

- (i) Fence Standards for Swimming Pools and Hot Tubs.
  - (1) In-ground swimming pools and hot tubs shall be equipped with full-perimeter fencing of at least four (4) feet in height and no horizontal slats or openings of greater than one and three-quarter (1 3/4)-inch in width or height. Any gate leading to the swimming pool or hot tub shall be equipped with an automatic-closing hinge and a self-locking latch that shall be accessible only from the inside of the fenced area or at a height of at least five (5) feet.

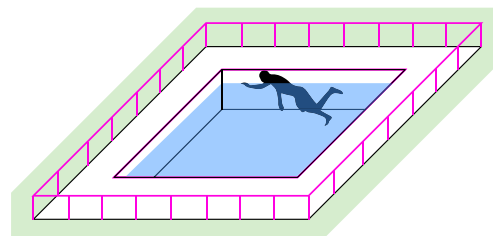


Figure 1050.03: Fencing located around an in-ground swimming pool

## GENERALLY APPLICABLE REGULATIONS

- (2) For above-ground pools, no perimeter fencing shall be required if the sidewall of the pool and any perimeter fencing extending above such sidewall are at least four feet in height and completely encircle the pool, or, where a deck comprises a portion of that perimeter fencing, the deck is at least four (4) feet in height or completely enclosed by a fence of at least four (4) feet in height above grade and is accessed only through a gate with an automatic-closing hinge and a self-locking latch that shall be accessible only from the inside of the fenced area or with an exterior latch at least five feet above grade or accessible via a ladder or step system that is made unclimbable when the pool is not in use and is not able to be unlatched except from the decked area or at a height of at least five (5) feet above grade.

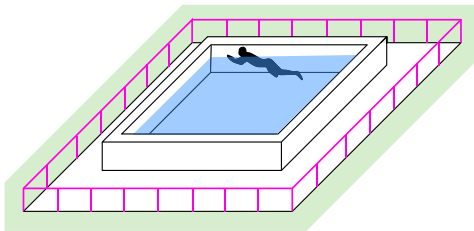


Figure 1050.04: Fencing around an aboveground swimming pool

- (3) These swimming pool and hot tub fencing requirements shall not be required for small wading pools with designed and actual water depths of less than twelve (12) inches.
- (4) These swimming pool and hot tub fencing requirements shall not be required for decorative fountains, fish ponds, or rain gardens.
- (j) Fences within the Vision Triangle. All fences within the vision triangle, as described in Section 1050.02, shall conform to the height and vision requirements therein.
- (k) Fence Maintenance Required. The property owner on which a fence is installed shall maintain and repair the fence in such a manner that it does not:
- (1) Encroach upon the property of others; or
  - (2) Exist in a condition likely to collapse or cause personal injury or damage to the property of others; or

- (3) Display rotting, rusted, corroded, dented, or damaged materials, dead vegetation, or worn or eroded ground cover or otherwise become unsightly or in a blighted condition.

- (l) Temporary Fences. Fences in association with a temporary use, such as construction activities or a festival, shall be permitted as accessory to the temporary use, provided that the temporary fences do not encroach upon the right-of-way, do not obstruct the vision triangle, do not pose a safety risk during heavy winds, and do not remain after the temporary use has ceased.
- (m) Signs on Fences. Any sign affixed to a fence or consisting of a fence shall conform to all sign height, sign area, sign setback, sign number, sign type, and sign permitting regulations as regulated by Section 1050.08.
- (n) Fences Impairing Drainage. No fence shall adversely affect drainage or create or significantly aggravate runoff problems on abutting lots.
- (o) Conflict with Buffering Regulations. In any case in which the regulations of this section and the provisions of Section 1050.03 "Buffering Standards" conflict, the provisions of Section 1050.03 "Buffering Standards" shall govern.

### 1050.05: Tree and Landscaping Standards

- (a) Landscaping within Parking Areas Required.
- (1) Purpose of Parking Area Landscaping. To help mitigate the heat island effects and stormwater impacts caused by parking areas, the following standards have been implemented.
  - (2) Applicability of Parking Area Landscaping Requirements. Any lot containing more than three thousand (3,000) square feet of off-street motor vehicle parking area shall provide parking area landscaping.
  - (3) Parking Area Landscaping Requirements. Parking areas meeting the above applicability standards shall supply parking area landscaping as indicated below:
    - A. One interior landscaping island of at least three hundred (300) square feet shall be supplied per three thousand (3,000) square feet of off-street motor vehicle parking area or

## GENERALLY APPLICABLE REGULATIONS

fraction thereof, where each interior parking island must contain at least one (1) shade tree, as defined by this Development Code; and

- B. A perimeter landscaping strip, which shall be at least six feet in width and which shall surround at least fifty (50) percent of the perimeter of the parking area and which shall contain at least one (1) shade tree per forty (40) linear feet of landscaping strip or fraction thereof; and
- C. Any parking area landscaping, whether in the form of interior landscaping island or perimeter landscaping strip, shall permit stormwater effluence from the parking area to drain to and be retained by the landscaping area and shall be equipped with stormwater-tolerant vegetation, stormwater-permeable substrate, and stormwater overflow prevention drains.

- (4) Maintenance of Parking Area Landscaping. Any parking area landscaping required by this Development Code shall be maintained by the property owner, including the replacement of deceased vegetation and the removal of litter.

### (b) Street Trees Required.

- (1) Purpose of Street Tree Requirements. To help mitigate heat island effects and stormwater impacts caused by development, and to encourage pedestrian safety and comfort in developing areas, the following street tree requirements have been implemented.
- (2) Applicability of Street Tree Requirements. These street tree requirements shall apply to any new development, any expansion of an existing structure by more than fifty (50) percent of its gross floor area, or any demolition of an existing structure and erection of a new structure.
- (3) Exemption of Street Tree Requirements. Any of the applicable development activities described in this section's applicability statement but which do not include at least a fifteen (15)-foot front yard setback and which do not include tree lawn between

the sidewalk and the street, or any applicable development activities which do not have adequate areas for tree plantings due to underground utility easements, shall be exempt from these street tree requirements.

- (4) Street Tree Planting Requirements. For any applicable development, one (1) street tree of an approved species shall be planted, at the developer's expense, within the tree lawn of the public right-of-way or on the development lot within ten (10) feet of the public right-of-way per forty (40) feet of lot frontage of the lot upon which the development occurs. Trees shall be approximately evenly spaced from one another and from existing trees along the street frontage, except where safety concerns exist, such as near the vision triangle, or except where tree survival concerns exist, such as where soil conditions may change along a frontage. In calculating this requirement, any fraction of forty (40) feet of frontage shall be rounded up to the nearest multiple of forty (40) feet; for example, a development on a lot with one hundred (100) feet of lot frontage shall be required to plant three (3) street trees.
- (5) Existing Street Trees. Where any tree of an approved species that exists at the time of development and remains intact and healthy after development and where such tree is located within the tree lawn of the right-of-way or on the development lot within ten (10) feet of the public right-of-way, such tree shall fulfill the street tree planting requirement on a tree-by-tree basis.
- (6) Street Trees Required within Buffering Areas. Where any tree is required to be planted and maintained by these street tree requirements but a tree is planted and maintained in that particular location in fulfillment of a buffering area requirement as required by Section 1050.03 "Buffering Standards," the required planting of that particular street tree shall be waived.
- (7) Street Tree Maintenance and Replacement Responsibilities. The perpetual maintenance and replacement of deceased trees fulfilling this requirement, where such trees are planted on private property, in the tree lawn, or otherwise within the right-of-way, are the responsibility of the private property owner.



## GENERALLY APPLICABLE REGULATIONS

(8) **Street Tree Species and Size Requirements.** Street trees planted or retained to fulfill this requirement shall be of a species approved by the City. Street trees planted or retained to fulfill this requirement shall be at least four feet tall at the time of planting.

(9) **Recommended Street Tree Species.**

A. Medium trees for lawn widths of six (6) feet to eight (8) feet, mature size twenty-five (25) feet to forty (40) feet in height.

1. Freeman Maple
2. American Hornbeam
3. Black Gum
4. Little Leaf Linden
5. Patriot Elm

B. Large trees for lawn widths of eight (8) feet or greater, mature size forty (40) feet and over in height.

1. Red Bud
2. Golden Rain Tree
3. Norway Maple
4. Crimson King Maple
5. Bald Cypress
6. Silver Linden

(c) **Landscaping Maintenance**

(1) **Landscape Maintenance Required by Property Owner.** Each property owner is responsible for maintaining their property in a safe and clean manner, including the removal of litter and the removal or reinforcement of structures and trees that are at obvious risk of causing injury.

(2) **Weed Management Required.** For any property in any district, except the Natural District, lawn grasses within three feet of an adjacent property must be maintained below eight (8) inches in height.

lighting that aids in safety and security while mitigating the negative impacts of outdoor lighting, including nuisances, glare, detriments to wildlife, and human physiological effects.

(b) **Applicability of Outdoor Lighting Standards.** These outdoor lighting standards shall apply to all outdoor lighting associated with all uses in all zoning districts. Lighting as illumination of signage is regulated elsewhere; see Section 1050.08 (i).

(c) **Height of Outdoor Lighting.** No outdoor lighting shall be mounted at a height greater than the maximum height allowed for principal structures in the district in which they are located. In the case that the district does not list a maximum height for principal structures, no outdoor lighting shall be mounted at a height greater than thirty five (35) feet.

(d) **Night Sky Protections.** No outdoor lighting shall be installed, unless such outdoor lighting fixture is equipped with full-cutoff shielding, which prevents any light from shining in any direction upward of horizontal.

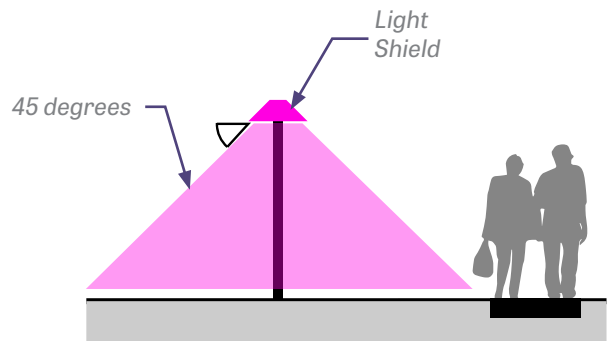


Figure 1050.05: Shielding that prevents light from being emitted within 45 degrees of a horizontal plane

(e) **Glare Prohibited.** No outdoor lighting shall be permitted, whether existing prior to the enactment of this Development Code or newly installed, where such outdoor lighting causes glare on neighboring properties or causes a safety risk to motor vehicles or pedestrians.

### 1050.06: Outdoor Lighting Standards

(a) **Purpose of Outdoor Lighting Standards.** These outdoor lighting standards are intended to permit outdoor

## GENERALLY APPLICABLE REGULATIONS

### 1050.07: Outdoor Storage and Display Standards

- (a)** Purpose of Outdoor Storage and Display Standards. These outdoor storage and display standards are intended to limit the negative aesthetic impacts of outdoor storage and display of goods and materials and to promote the governmental interest of neighborhood aesthetics.
- (b)** Applicability of Outdoor Storage and Display Standards. These outdoor storage and display standards shall apply to the storage or display of materials, products, merchandise, equipment, refuse, fuels, and vehicles in outside-of-enclosed-buildings settings and shall apply to all lots in all districts.
- (c)** Sign Standards for Outdoor Displays. Outdoor displays shall conform to sign standards as set forth in Section 1050.08 "Sign Standards."
- (d)** Outdoor Storage and Display in Association with Residential Uses.

  - (1)** Outdoor Storage or Display in Association with Home Occupations. Outdoor storage or display in association with home occupations shall conform to the regulations in Section 1040.06 (e)(7) "Limits on Outdoor Storage in Association with a Home Occupation."
  - (2)** Outdoor Storage of Inoperable Vehicles in Association with Residential Uses. No permanent storage of inoperable vehicles shall be permitted on the site of a Residential Use.
  - (3)** Outdoor Storage of Recreational Vehicles on the Lot of a Residential Use. On a lot containing a Residential Use in a residential district, no more than one (1) recreational vehicle, as defined herein, shall be parked or stored per dwelling unit. No recreational vehicle may be parked or stored for longer than seventy two (72) hours in an actual front or corner side yard of a lot containing a Residential Use in a residential district; parking or storing a recreational vehicle for longer than seventy two (72) hours on a lot containing a Residential Use in a residential district shall occur only in a garage, carport, covered parking space, or on an approved surface in the actual rear yard or interior side yard behind the front building line and no less than three (3) feet from any lot line. No recreational vehicle shall be occupied for living or sleeping purposes while parked or stored on a lot containing a Residential Use in a residential district.
- (4)** Outdoor Storage of Landscaping Equipment on the Lot of a Residential Use. No landscaping equipment, such as a lawnmower, weed-whacker, or snowblower, shall be stored in the outdoors in the actual front yard, corner side yard, or interior side yard, of a lot containing a Residential Use.
- (5)** Outdoor Storage of Fuels on a Lot of a Residential Use. No storage of fuels, including firewood and heating oil or gas, shall occur in the actual front yard of a lot containing a Residential Use. No storage of liquid or gaseous fuels shall exceed one thousand (1000) gallons per dwelling unit per lot. Any storage of volatile fuels on a lot containing a Residential Use shall be contained within safe vessels, such as containers meeting the rules of the U.S. Consumer Product Safety Commission (CPSC) for gasoline storage.
- (6)** Outdoor Display of For-Sale Items on a Lot of a Residential Use. No lot containing a Residential Use shall display items for sale in the outdoors, except in the following circumstances:

  - A. The items for sale are limited to one (1) object or set, such as a vehicle or household appliance, that is limited in duration of display to fourteen (14) days per year; or
  - B. The items for sale are displayed only during a yard sale or garage sale that is limited in duration to three (3) days, or
- (e)** Outdoor Storage and Display in Association with Non-Residential Uses.

  - (1)** Outdoor Storage of Inoperable Vehicles on a Lot of a Non-Residential Use. The outdoor storage of inoperable vehicles in association with a Vehicle-Oriented Use is regulated by Section 1040.16 (b)(1) "Permanent Storage of Inoperable Vehicles in Association with Vehicle-Oriented Uses." The outdoor storage of inoperable vehicles in association with a Heavy Industrial Use is permitted.

## GENERALLY APPLICABLE REGULATIONS

- (2) Outdoor Storage of Commercial or Fleet Vehicles on a Lot of a Non-Residential Use. The outdoor storage of commercial vehicles or fleet vehicles on a lot of a non-residential use, where such vehicles are not for sale, shall be regulated according to Section 1050.01 (j) "Parking of Commercial Vehicles."
- (3) Outdoor Storage of Products, Materials, and Fuels on a Lot of a Non-Residential Use. The outdoor storage of products, materials, and fuels associated with an operating business on a lot of a non-residential use, where such products, materials, and fuels are not for sale, shall not be permitted except where such storage is screened by an opaque fence of at least six (6) feet in height. This regulation shall not apply if other state or federal law prohibits the screening of such storage, such as may be the case with the storage of certain flammable fluids.
- (4) Outdoor Display of For-Sale or For-Rent Items on a Lot of a Non-Residential Use. The outdoor display of products, materials, equipment, fuels, or vehicles on a lot of a non-residential use that are for sale or rent shall conform to all of the following regulations:
  - A. The display of vehicles for sale or rent, including cars, trucks, trailers, recreational vehicles, boats, motorcycles, off-road vehicles, farm or lawn equipment, and the like, but not including bicycles, mobility scooters, kick scooters, and the like, shall be parked in a parking area and shall conform to the parking requirements set forth in Section 1050.01 "Parking and Loading Standards."
  - B. Where products, materials, equipment, or fuels are displayed for sale or rent outdoors on a lot of a non-residential use, and where such objects are not considered vehicles, such as cars, trucks, trailers, recreational vehicles, boats, motorcycles, off-road vehicles, farm or lawn equipment, and the like, such displayed products, materials, equipment, or fuels shall be permitted only when the displayed products, materials, equipment, or fuels are set back from the right-of-way no less than ten (10) feet less than the front yard setback required by a principal structure in the district in which it is located.
  - C. The outdoor display of products, materials, equipment, fuels, or vehicles for sale or rent shall be permitted only where in association with a non-residential use that has been properly permitted by the City, except in the residential use cases as described in Section 1050.07 (d)(6)) "Outdoor Display of For-Sale Items on a Lot of a Residential Use."
- (f) Outdoor Storage and Display on Lots with Both Residential and Non-Residential Uses. Where a lot contains both residential and non-residential uses, outdoor storage and display shall be regulated according to the use most closely associated with the outdoor storage and display. For example, where a lot contains a business use on the ground floor and a residential use above, the outdoor display of products for sale by the business shall be regulated according to non-residential use regulations as described in Section 1050.07 (e)(4) "Outdoor Display of For-Sale or For-Rent Items on a Lot of a Non-Residential Use."

### 1050.08: Sign Standards

- (a) Purpose of Sign Standards. These sign standards are intended to regulate the time, place, and manner of signs displayed in the City to advance the governmental interests of neighborhood aesthetics and safety of pedestrians and drivers.
- (b) Sign Definition. For the purposes of these regulations and as defined in Chapter 1053 Glossary of Terms, a sign shall be interpreted as any visual or graphic device that is designed and/or used to communicate-primarily through use of words, numbers, characters, and/or proprietary symbols, as defined herein-a verbal and/or visual message. Such a device shall be considered a sign regardless of whether a message is currently displayed thereupon. Sign shells, embellishments, and support structures shall be considered part of the sign.
- (c) Applicability of Sign Standards. These sign standards shall apply to all signs in the City that have content that is visibly discernable from the public right-of-way. However, these sign standards shall not apply to the following signs, provided that such signs do not cause glare, safety, or health concerns for the users of nearby private properties:
  - (1) Signs that have content that is visibly discernable only from private premises;

## GENERALLY APPLICABLE REGULATIONS

- (2) Signs of less than one (1) square foot each in sign area, where such signs are not used together to effectively constitute a larger sign;
  - (3) Signs etched into cornerstones or masonry of buildings;
  - (4) Signs etched into cemetery headstones in a cemetery or in a cemetery headstone sales lot;
  - (5) Signs upon vending machines totaling less than twenty (20) square feet per commercial lot;
  - (6) Signs upon umbrellas in outdoor dining areas; and
  - (7) Signs comprising the exterior paint of a vehicle, where such a vehicle is currently registered and in operable condition and where such signs are not illuminated.
- (d) Sign Permitting Process.
- (1) Sign Types Requiring a Sign Permit. No sign shall be erected, relocated, expanded, made higher, or replaced or changed in illumination type, without a valid sign permit issued by the City. This requirement shall not apply to the maintenance of an existing sign where such maintenance does not require its relocation, expansion, or replacement. This requirement shall not apply to temporary signs, as described as not requiring a sign permit in the subsection below; and this requirement shall not apply to those signs under which these sign standards do not apply, as described in Section 1050.08 (c) "Applicability of Sign Standards."
  - (2) Sign Types Not Requiring a Sign Permit. Temporary signs, as defined in this Development Code, shall not require a sign permit in order to be erected, provided that they conform to the sign standards of this section, including maximum sign size, maximum sign height, and specific sign material and location regulations, and provided that they do not occupy the public right-of-way.
  - (3) Application Requirements for Sign Permits. Applicants wishing to erect, relocate, expand, or replace a sign, except for a sign type not requiring a sign permit per this section, or choosing to change a sign's illumination type shall submit a sign permit application to the City. Such sign permit application shall include the sign permit application fee, as indicated on a fee schedule as approved by the City. Such sign permit application shall indicate the following:
    - A. The exact location and orientation of the sign, including a to-scale map of the lot with detailed description of the proposed sign's setbacks from the public right-of-way, the side lot lines, and any existing structures on the lot, and including clarification as to whether the sign will project into or occupy parts of the public right-of-way;
    - B. The sign area, as measured according to the sign area measurement instructions in this Development Code, Section 1050.08 (f);
    - C. The sign height, as measured according to the sign height measurement instructions in this Development Code, Section 1050.08 (g);
    - D. The sign material;
    - E. The sign illumination type and intensity of illumination, if any;
    - F. The sign's mounting structure.
  - (4) Sign Permit Application Decisions. Within thirty (30) calendar days of the submission of a sign permit application, the City shall issue a written decision to the applicant for the proposed sign with indication of the reasoning. If a sign permit is granted, the applicant may proceed with the permitted erection, relocation, expansion, heightening, or replacement of a sign or the permitted change in the sign's illumination type.
- (e) Temporary Signs. Temporary use signs shall not require a Temporary Use Permit but shall require a Sign Permit. See Table 1050.01 for Temporary Sign Standards. The following sign types shall be allowed only as temporary signs:
- (1) A-frame and similar ground signs displayed on sidewalks along frontages where a principal building is located within two (2) feet of the street right-of-way, such as in the Downtown area.



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- (2) Search and beacon lights, except as required as permanent signs by government regulation.
- (f) Prohibited Signs. The following sign types shall be prohibited as both permanent signs and temporary signs for all land uses in all districts. Additional regulations may apply in the Design Review Board Boundary:
- (1) Air-activated signs;
  - (2) Festoons, except during recognized holiday periods or seasonal festivals or special;
  - (3) Community events during which the outdoor display of decorations is encouraged or is customary;
  - (4) Flags, as defined herein, within the right-of-way;
  - (5) Flashing signs, except on Canopy Signs;
  - (6) Moving signs;
  - (7) Vehicle signs;
  - (8) Signs on lighting or utility poles;
  - (9) Signs on trees;
  - (10) Street Bench Signs;
  - (11) Signs displayed on bus shelters;
  - (12) Cold-air inflatable balloon signs;
  - (13) Signs containing strobe lights visible beyond the property line;
  - (14) Temporary Ground Signs with changeable copy areas;
  - (15) Markings on street pavements, curbs, or sidewalks, except Government / Utility Signs or child play-related;
  - (16) Temporary markings;
  - (17) Signs that violate any City regulation on emission of noise, odor, or particulate or gaseous matter;
  - (18) Right-of-Way Signs;
  - (19) Roof Signs.

- (g) Measuring Sign Area. The sign area shall mean the total exposed surface on the largest single sign face of a sign, including sign background, but excluding purely decorative embellishments and any supporting structure that does not form part of the sign proper. The area of a "light box"-illuminated sign shall be the area enclosed within the cabinet. The area of a sign consisting solely of individual letters or symbols presented with no added background or decoration against a building wall or other surface that does not serve solely or principally as a sign, such as an awning or canopy, shall be the sum of the areas within rectangular envelopes completely enclosing each separate letter or symbol, excluding punctuation, or each attached group thereof. The sign area of a sign that displays messages on more than two (2) faces or on a single continuous surface that wraps around the sign (such as a spherical sign or balloon) shall include only such sign area as may be visible at any one (1) time from a point on the ground within two hundred (200) feet of the sign.

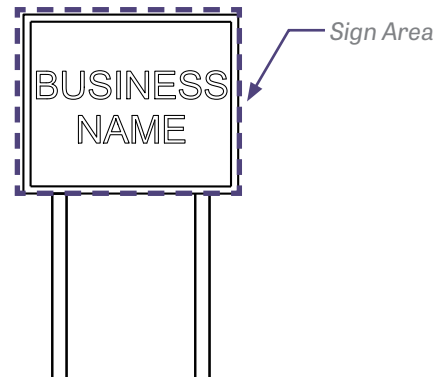


Figure 1050.06: How to Measure Sign Area

- (h) Measuring Sign Height. Sign height shall be measured as the vertical distance from the highest part of a sign, including support structures and embellishments, to:
- (1) The mean average grade of the land-or level of the roof in the case of a roof sign-abutting the base of or directly beneath the sign, for facade signs; awning and canopy signs; roof signs; projecting signs; and ground signs more than fifty (50) feet from the edge of a public street pavement; or
  - (2) The curb level, as defined herein, of the street from which the sign is intended to be viewed, for all other ground signs; or, in the case of a lot abutting more than one (1) street, the mean average of the curb levels of such streets.

## GENERALLY APPLICABLE REGULATIONS

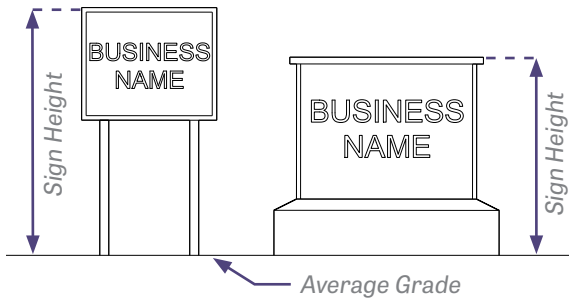


Figure 1050.07: How to measure sign height from the average grade

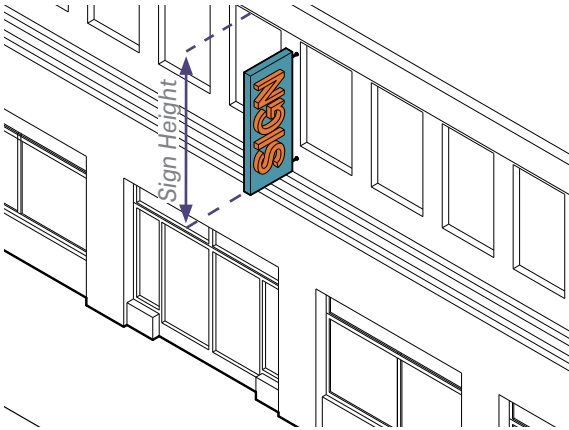


Figure 1050.08: How to measure sign height from the level of the roof

- (i) Signs in the Vision Triangle. Both permanent and temporary ground and projecting signs shall be set back from the street pavement as necessary to comply with the restrictions on obstructions within vision triangles, as described in Section 1050.02 "Vision Triangle Clearance Standards."

### (j) Sign Illumination Standards.

- (1) Sign Illumination Defined. Sign illumination shall be any lighting source, other than the sun, that illuminates the surface or interior of a sign. Lighting around the border of a sign, such as in the case of perimeter lighting around a window displaying a window sign or in the case of a border of lights around a marquee sign, shall be considered part of the sign illumination. Sign illumination shall not be construed as referring to any illumination of signs provided by light sources intended to illuminate an area in which a sign is located- such as street lights, facade lighting, or parking lot lighting- rather than specifically to illuminate the sign.

- (2) Prohibited Sign Illumination Types. The following sign illumination types shall be prohibited in all districts:
  - A. Sign illumination that causes glare to neighboring properties, vehicles, or pedestrians, such as bare-bulb illumination that is not properly shielded or diffused;
  - B. Sign illumination where the sign or portion of the sign is an LED screen, a backlit LCD screen, or other type of light-emitting monitor-sign, other than red-only script monitors, as described in this section; and
  - C. Sign illumination that blinks, shudders, or twinkles, or in any way is not constant and even in intensity and direction.
- (3) Permitted Sign Illumination Types. The following sign illumination types shall be allowed in specific districts (see district-specific sign regulations in Sections 1050.08 (p)(1) through 1050.08 (p)(6), provided that a sign permit is attained for the given sign illumination type:
  - A. Internal illumination, which includes the following types:
    - 1. Channel-letters: a type of internal illumination where each letter or symbol has a light source integrated within it, where such light shines out through a semi-translucent diffusing material on the surface of the letter or symbol; neon lighting and imitation neon lighting are included as examples of channel-letters;

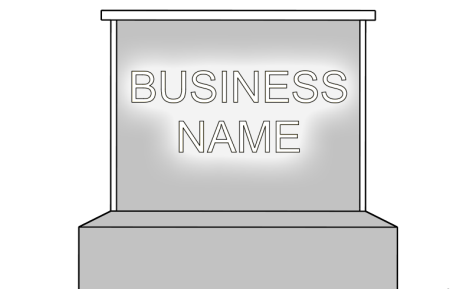


Figure 1050.09: Channel letters

## GENERALLY APPLICABLE REGULATIONS

2. Light-box: a type of internal illumination where a light source is integrated within a sign, rather than following the course of each letter or symbol, where such light shines out through a semi-translucent diffusing material on the surface of the sign;



Figure 1050.10: Light box letters

3. Halo-letters: a type of internal illumination where a light source is routed within each letter or symbol and shines towards the backdrop of the sign, creating the effect of a lit halo around each silhouetted letter or symbol; and



Figure 1050.11: Halo letters

- B. External illumination, which includes the following types:

1. Gooseneck lighting: a type of lighting involving a rigid arm extending horizontally away from the sign with a shielded lamp aiming light back towards the sign surface; and

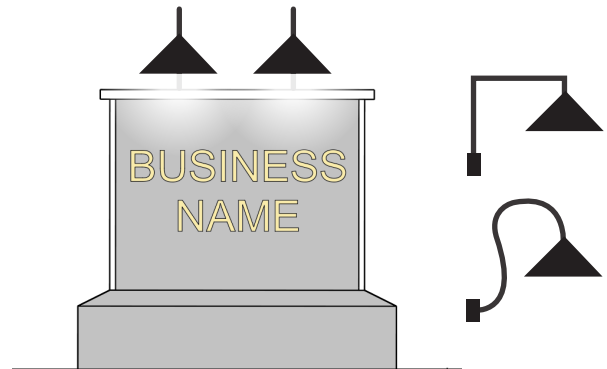


Figure 1050.12: Gooseneck lighting, shown in straight and sinuous styles

2. Ground lighting: a type of lighting involving a ground-mounted lamp projecting light at the sign surface.



Figure 1050.13: Ground-mounted lighting

- (k) Changeable Copy Sign Standards. Changeable copy signs shall be permitted on any sign type, provided that the copy of a sign is not changed more than once every 10 seconds and provided that the changing of the copy does not create a swiping, flying, blinking, swirling, or other visual effect.
- (l) Electronic Display Sign Standards. As listed in prohibited sign illumination types, no sign shall comprise an illuminated LED display, a backlit LCD display, or other light-emitting monitor, except where such a display comprises only red pixels on an unlit black background.

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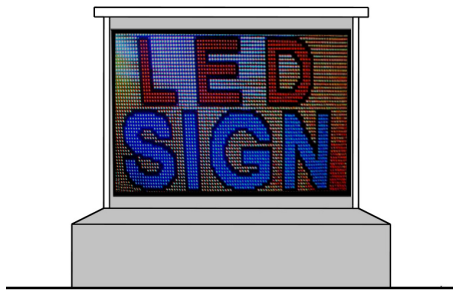


Figure 1050.14: Prohibited LED Sign



Figure 1050.15: Permitted Red-On-Black Background Sign, such as a Gas Station Sign

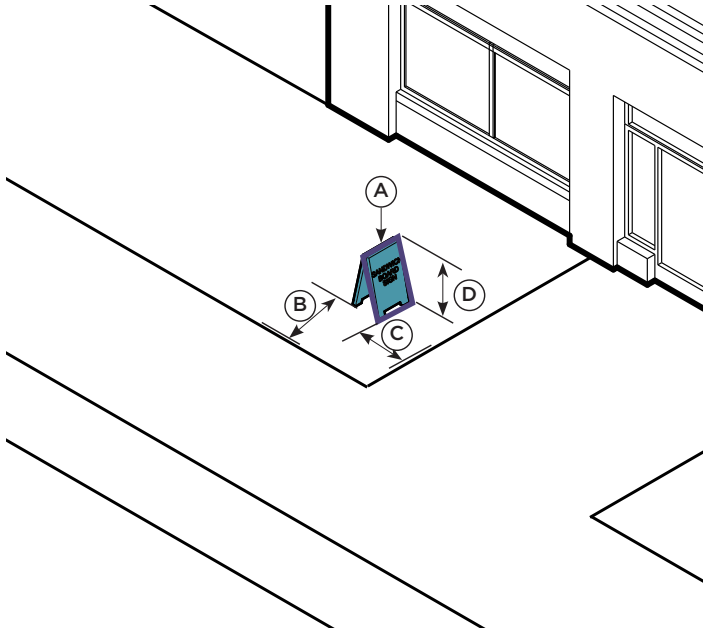
- (m) Signs in the Public Right-of-Way. Some signs may be desirable within or over the public right-of-way, such as in the case of a marquee sign projecting over a sidewalk, a sandwich board sign occupying the sidewalk outside of a café, or a wall sign that projects eight (8) inches from the face of a building with no setback from the public right-of-way. No sign may occupy the public right-of-way, including above the public right-of-way, without express permission from the City, typically indicated on the sign permit.
- (n) Sign Maintenance. Nothing in this section shall prohibit the maintenance of an existing sign, including the rewiring, repainting, change of copy, or reinforcement of structural elements, where such maintenance does not constitute a relocation, change in height, or enlargement of the sign and where such maintenance does not constitute a change of sign illumination type. Signs shall be maintained in a safe, working, and clean condition by the property owner. Signs which are deemed by the City to be dangerous to public health and safety shall be ordered by the City to be removed immediately at the property owner's expense.
- (o) Sign Replacement. The replacement of an existing permitted or legal nonconforming sign shall be permitted where the replacement constitutes no change in sign type, sign area, sign location and height, or sign illumination type.
- (p) Sign Removal. If there are no active businesses on the property, the property owner is responsible for removing any signage related to the business within sixty (60) day of business closure.
- (q) Nonconforming Signs.
  - (1) Existing signs which were erected legally prior to the enactment of this Development Code but which do not conform to the sign standards of this Development Code shall be deemed legal nonconforming signs. Likewise, signs deemed nonconforming by the previously enforced Development Code shall be considered legal nonconforming signs by this Development Code. However, a sign which is nonconforming for its use of nonconforming changeable copy animations, for its use of illumination that causes unhealthful glare on adjacent properties or passersby, or for its lack of maintenance in a safe, working, and clean condition shall not be considered a legal nonconforming sign and shall be made to conform to those standards or be deemed a violation.
  - (2) A legal nonconforming sign shall be allowed to continue to exist—including the changing of copy; the maintenance of the sign face, wiring, and structure; and the replacement of the sign—provided that no change is made to the sign type, sign area, sign height, sign location, and sign illumination type.
  - (3) Where a legal nonconforming sign is removed by order of the City due to it being a danger to public health or safety or where a legal nonconforming sign is destroyed by calamity, a sign of exact area, location, height, type, and illumination type may be erected within six (6) months of the date of removal or destruction, regardless of whether it meets this Development Code's sign standards, provided that the new sign does not present a danger to public health or safety, as determined by the City. The replacement sign shall be deemed a legal nonconforming sign by this Development Code. Where the sign is not replaced within six (6) months of the date of removal or destruction, the sign shall be considered abandoned by intent, and the legal nonconforming status shall be stripped from the sign.
- (p) Sign Standards in All Districts. Only the signs listed in the following pages shall be permitted within each district. Each lot shall have a maximum of two sign types, excluding temporary signs.



## GENERALLY APPLICABLE REGULATIONS

### (1) Temporary Sign

#### A. Typical Configuration



**B. Description.** A sign that is not permanently affixed to a structure or permanently embedded in the ground, and is designed to be displayed for a short period of time, specifically fewer than one-hundred eighty (180) days in a calendar year.

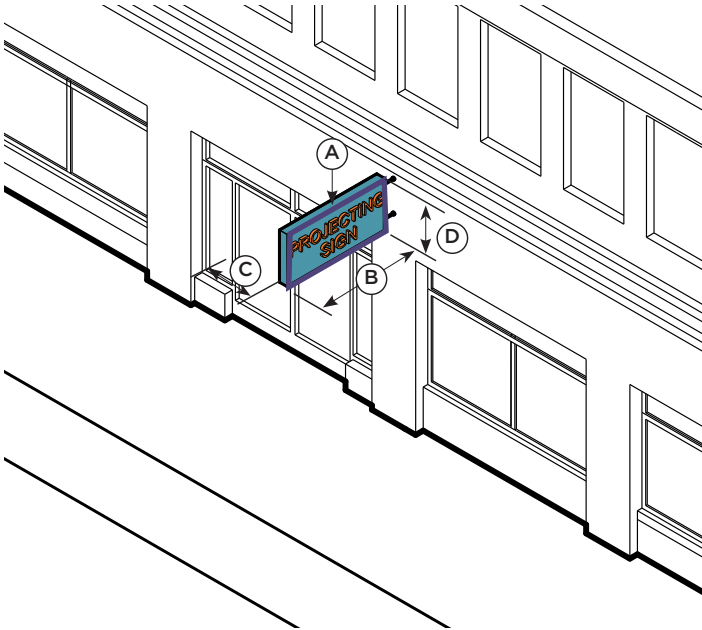
TABLE 1050.01: TEMPORARY SIGN STANDARDS	DISTRICTS								
	TR	SR	LAN	LAC	CC	CO	EF	IN	NA
Number of Signs Per Lot	2*	2*	2*	1	1	1	1	1	1
In Association with Which Land Uses	All	All	All	All	All	All	All	All	All
Sign Illumination Types	None	None	None	None	None	None	None	None	None
(A) Sign Area per Sign	15 sq. ft. max.	15 sq. ft. max.	15 sq. ft. max.	15 sq. ft. max.	15 sq. ft. max.	15 sq. ft. max.	15 sq. ft. max.	15 sq. ft. max.	15 sq. ft. max.
(B) Sign Front Setback	2 ft. min.	2 ft. min.	2 ft. min.	0 ft. min.	0 ft. min.	2 ft. min.	2 ft. min.	2 ft. min.	2 ft. min.
(C) Sign Side and Setback	2 ft. min.	2 ft. min.	2 ft. min.	2 ft. min.	5 ft. min.	2 ft. min.	2 ft. min.	2 ft. min.	2 ft. min.
(D) Sign Height	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.

\* Signs only allowed with a home occupation.

## GENERALLY APPLICABLE REGULATIONS

### (2) Projecting Sign

#### A. Typical Configuration



**B. Description.** Any permanent building sign attached perpendicular to a building wall and extending laterally more than twelve (12) inches but not more than forty eight (48) inches from the face of such wall.

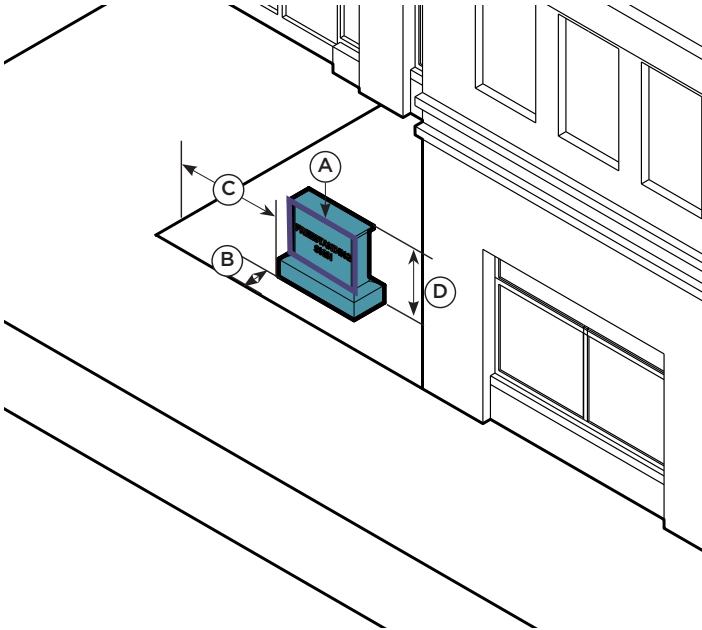
TABLE 1050.02: PROJECTING SIGN STANDARDS	DISTRICTS			
	LAC	CC	CO	EF
Number of Signs Per Lot	1*	1*	1*	1*
In Association with Which Land Uses	All	All	All	All
Sign Illumination Types	Internal or External	Internal or External	Internal or External	Internal or External
(A) Sign Area per Sign	12 sq. ft. max.	36 sq. ft. max.	20 sq. ft. max.	20 sq. ft. max.
(B) Sign Front Setback	0 ft. min	5 ft. min	0 ft. min	0 ft. min
(C) Sign Side and Setback	2 ft. min.	5 ft. min.	2 ft. min.	2 ft. min.
(D) Sign Height	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.

\* For a lot on a corner or multiple corners, such number of signs per lot per sign type shall be permitted to be twice that indicated in the table.

## GENERALLY APPLICABLE REGULATIONS

### (3) Freestanding Sign

#### A. Typical Configuration



**B. Description.** A sign that is attached to, erected on, or supported by some structure, such as a post, mast, or frame that is not itself an integral part of or attached to a building or other structure whose principal function is something other than support of a sign.

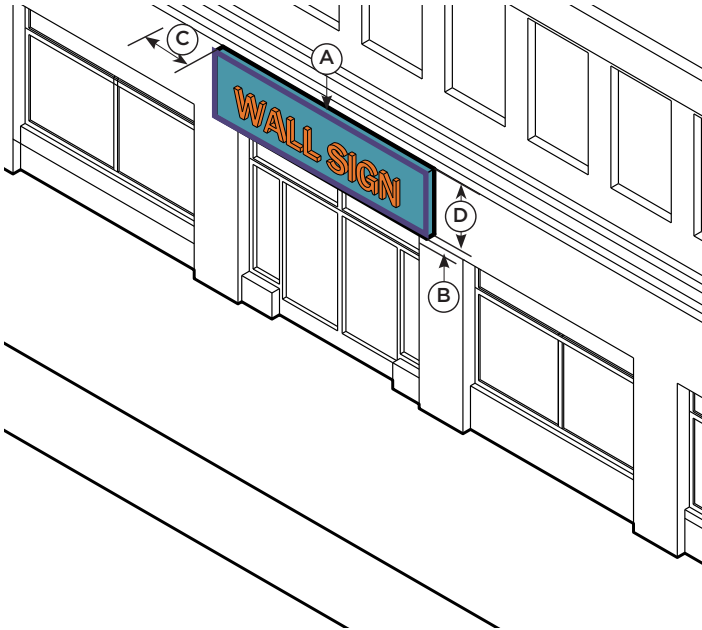
TABLE 1050.03: FREESTANDING SIGN STANDARDS	DISTRICTS					
	LAC	CC	CO	EF	IN	NA
Number of Signs Per Lot	1*	1*	1*	1*	1*	1*
In Association with Which Land Uses	Non-Residential	Non-Residential	Non-Residential	Non-Residential	Non-Residential	Non-Residential
Sign Illumination Types	Internal or External	Internal or External	Internal or External	Internal or External	Internal or External	Internal or External
(A) Sign Area per Sign	24 sq. ft. max.	40 sq. ft. max.	40 sq. ft. max.	40 sq. ft. max.	60 sq. ft. max.	40 sq. ft. max.
(B) Sign Front Setback	2 ft. min.	5 ft. min.	2 ft. min.	4 ft. min.	4 ft. min.	4 ft. min.
(C) Sign Side and Setback	2 ft. min.	5 ft. min.	2 ft. min.	2 ft. min.	2 ft. min.	5 ft. min.
(D) Sign Height	8 ft. max.	8 ft. max.	8 ft. max.	8 ft. max.	8 ft. max.	8 ft. max.

\* For a lot on a corner or multiple corners, such number of signs per lot per sign type shall be permitted to be twice that indicated in the table.

## GENERALLY APPLICABLE REGULATIONS

### (4) Wall Sign

#### A. Typical Configuration



**B. Description.** A sign attached flat or mounted parallel to the facade of a building that identifies a commercial establishment. Wall signs are intended to be viewed by pedestrians on the opposite side of street.

#### C. Standards

1. Sign should align with a buildings entablature, and placed to fit harmoniously with horizontal molding, friezes, sills, or other ornament.
2. Wall signs must generally be placed no higher than the window sills of the second floor
3. Wall signs may be placed under the window sills of upper stories by special permit.
4. Information displayed should be limited to business name, address and logo. Additional information is prohibited.

TABLE 1050.04: WALL SIGN STANDARDS	DISTRICTS					
	LAC	CC	CO	EF	IN	NA
Number of Signs Per Lot	1*	1*	1*	1*	1*	1*
In Association with Which Land Uses	All	All	All	All	All	Non-Residential
Sign Illumination Types	Internal or External	Internal or External	Internal or External	Internal or External	Internal or External	Internal or External
(A) Sign Area per Sign	40 sq. ft. max.	80 sq. ft. max.	50 sq. ft. max.	50 sq. ft. max.	100 sq. ft. max.	50 sq. ft. max.
(B) Sign Front Setback	0 ft. min	0 ft. min	0 ft. min	0 ft. min	0 ft. min	0 ft. min
(C) Sign Side and Setback	2 ft. min.	5 ft. min.	2 ft. min.	2 ft. min.	2 ft. min.	5 ft. min.
(D) Sign Height	25 ft. max.	25 ft. max.	25 ft. max.	25 ft. max.	25 ft. max.	10 ft. max.

\* For a lot on a corner or multiple corners, such number of signs per lot per sign type shall be permitted to be twice that indicated in the table.



## GENERALLY APPLICABLE REGULATIONS

### (5) Canopy / Awning Sign

#### A. Typical Configuration

**B. Description.** A sign located on an awning or canopy.

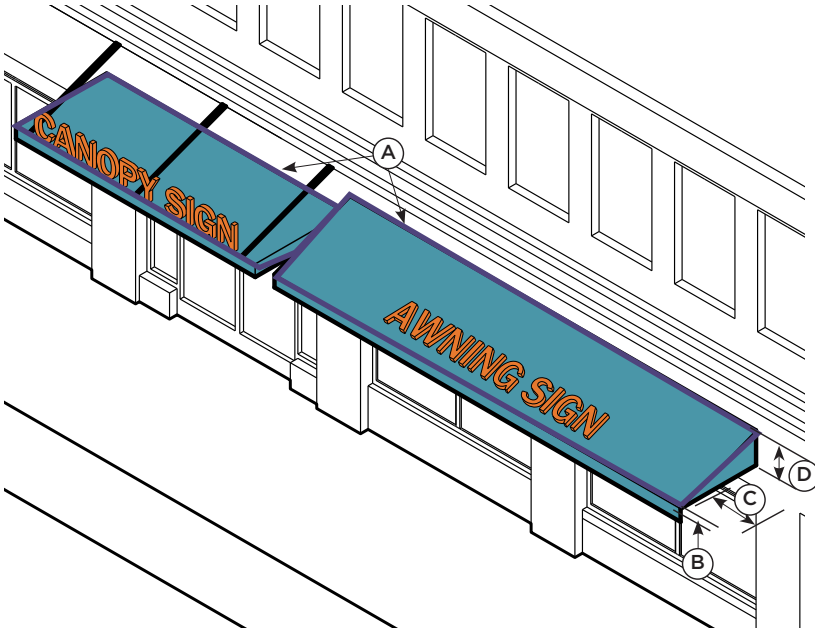


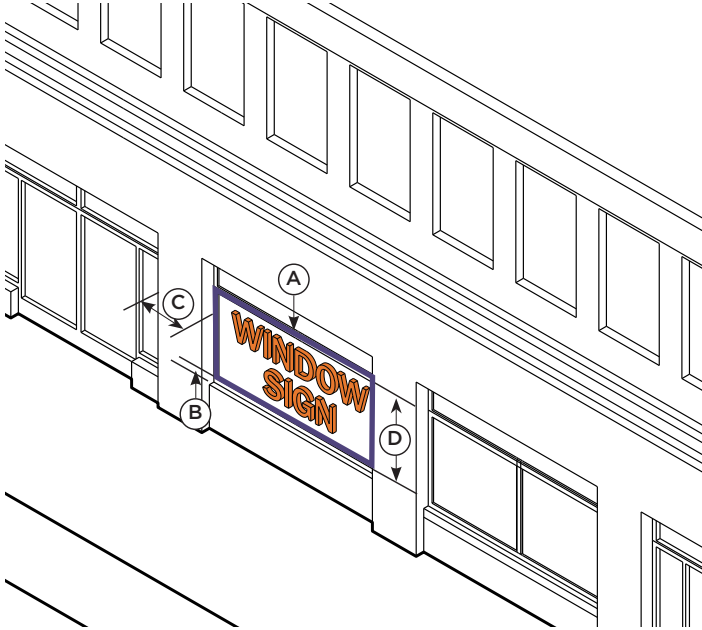
TABLE 1050.05: CANOPY / AWNING SIGN STANDARDS	DISTRICTS			
	LAC	CC	CO	EF
Number of Signs Per Lot	2*	2*	2*	2*
In Association with Which Land Uses	All	All	All	All
Sign Illumination Types	External	External	External	External
(A) Sign Area per Sign	16 sq. ft. max.	16 sq. ft. max.	16 sq. ft. max.	16 sq. ft. max.
(B) Sign Front Setback	0 ft. min.	0 ft. min.	0 ft. min.	0 ft. min.
(C) Sign Side and Setback	2 ft. min.	5 ft. min.	2 ft. min.	2 ft. min.
(D) Sign Height	15 ft. max.	15 ft. max.	15 ft. max.	15 ft. max.

\* For a lot on a corner or multiple corners, such number of signs per lot per sign type shall be permitted to be twice that indicated in the table.

## GENERALLY APPLICABLE REGULATIONS

### (6) Window Sign

#### A. Typical Configuration



**B. Description.** Individual letters, numerals, or a logo applied directly to the inside of a window or door to identify a commercial establishment. Window signs are intended to be viewed at close range by pedestrians.

#### C. Standards

1. Windows signs must be applied directly to inside of the windows glass, at or above eye level, and have a transparent background.
2. Information type is limited to business name, logo, hours of operations, and product types. Additional information and signs that flash or blink intermittently are prohibited.

TABLE 1050.06: WINDOW SIGN STANDARDS	DISTRICTS			
	LAC	CC	CO	EF
Number of Signs Per Lot	4*	4*	4*	4*
In Association with Which Land Uses	Non-Residential	Non-Residential	Non-Residential	Non-Residential
Sign Illumination Types	None	None	None	None
(A) Sign Area per Sign	16 sq. ft. max.	16 sq. ft. max.	16 sq. ft. max.	16 sq. ft. max.
(B) Sign Front Setback	0 ft. min	0 ft. min	0 ft. min	0 ft. min
(C) Sign Side and Setback	2 ft. min.	5 ft. min.	2 ft. min.	2 ft. min.
(D) Sign Height	10 ft. max.	10 ft. max.	10 ft. max.	10 ft. max.

\* For a lot on a corner or multiple corners, such number of signs per lot per sign type shall be permitted to be twice that indicated in the table.

# 1051

## Nonconformities

### Sections

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1051.02: Unlawful Lots, Uses, and Structures, Generally .....	1051-1
1051.03: Legal Nonconforming Status Attached to the Land .....	1051-1
1051.04: Undersized or Oversized Lots .....	1051-1
1051.05: Nonconforming Uses .....	1051-1
1051.06: Nonconforming Structures .....	1051-3
1051.07: Other Nonconformities .....	1051-3

### 1051.01: Purpose of Nonconformities Chapter

- (a) This chapter's regulations are intended to minimize governmental takings of private property rights resulting from the enactment of new land use regulations by this Development Code by permitting certain legal nonconforming uses, lots, and structures to continue to exist.

### 1051.02: Unlawful Lots, Uses, and Structures, Generally

- (a) This chapter does not allow for the perpetuation of uses or structures that were unlawfully established or constructed. Such uses or structures are not "legally nonconforming," but instead remain "unlawful," and are subject to all of the provisions of this Development Code and any other applicable law. Likewise, this chapter does not legitimize unlawful subdivisions of property.

### 1051.03: Legal Nonconforming Status Attached to the Land

- (a) The status of a use as a legal nonconforming use shall run with the land and be independent of the identity of the property owner and of the structure in which the nonconforming use is conducted. The status of a structure as a legal nonconforming structure shall run with the land and be independent of the identity of the property owner and of the use conducted within, around, or on such structure.

### 1051.04: Undersized or Oversized Lots

- (a) Undersized or Oversized Lots Definition. An undersized or oversized lot is any lot that was legally created prior to the enactment of this Development Code and has dimensions that do not comply with the minimum or maximum lot area, lot frontage, lot width, and/or lot depth standards required by this Development Code.
- (b) Undersized or Oversized Lots Continuance. An undersized or oversized lot shall be permitted to support structures that are legally situated or were legally situated at their time of erection, provided that the structure is not determined by the City to pose an immediate risk to public safety. An undersized or oversized lot shall be permitted to be put to use by any legal land use, provided that the lot has sufficient frontage on a public street to provide emergency response access that is appropriate for the proposed use, and shall be permitted to continue to be put to use by a legal nonconforming use, subject to the regulations of Section 1051.05 "Nonconforming Uses."

### 1051.05: Nonconforming Uses

- (a) Legal Nonconforming Uses Definition. For the purposes of this section, a legal nonconforming use shall be any use of a particular lot that fulfills one (1) of the following:
  - (b) The use of that lot was a permitted land use by the previously effective Development Code, either by right or as a Conditional Use, and was appropriately permitted by the City, but that use of land is no longer a permitted land use in the district in which it is located by this Development Code; or

## NONCONFORMITIES

- (9) The use of land was deemed a legal nonconforming use by the previously effective Development Code, but that use of land is no longer a permitted land use in the district in which it is located by this Development Code.
- (b) Abandonment of Use. Whenever a nonconforming use has been discontinued for a period of six (6) months, it shall be considered abandoned, and any subsequent use shall conform to the regulations of this Development Code.
- (c) Nonconforming Uses Burden of Proof. When ambiguity exists, it shall be the burden of the property owner to prove to the City that a particular land use on their property, which does not conform to the standards of this Development Code, was put into use on a date in which such land use was a permitted use under a former Development Code and that such land use has not since been intentionally abandoned.
- (d) Nonconforming Uses Continuance. A legal nonconforming use shall be permitted to continue, provided that all of the following conditions are met:
- (1) The legal nonconforming use was not considered intentionally abandoned on the effective date of this Development Code or at any point thereafter;
  - (2) The legal nonconforming use continues to occur on the same lot as was previously occupied by such land use, and the legal nonconforming use is not expanded to another lot;
  - (3) The specific nature of the legal nonconforming use is not changed, or the specific nature of the legal nonconforming use is changed in a manner consistent with Section 1051.05 (e) "Change of Legal Nonconforming Use"; and
  - (4) The legal nonconforming use is not expanded in its intensity, including hours of operation, average number of working hours per week, capacity for customers, and footprint of the lot area dedicated to the use, except where specifically permitted by the following subsection, Section 1051.05 (f) "Expansion of Nonconforming Uses."
- (e) Change of Legal Nonconforming Uses. No change to the specifications of a legal nonconforming use shall be permitted where such change, according to the City, may result in an increased risk to public safety. For example, a legal nonconforming industrial fluids storage use, which previously stored diesel fuels but chooses to shift to the storage of a more dangerous fluid, xylene, may be found by the City to be increasing its risk to public safety, and, in this case, the change of use shall not be permitted. In another example, a legal nonconforming restaurant use, which serves burritos and wishes to change its menu to crepes, including a name change to Le Creperie, would likely not be found by the City to be increasing its risk to public safety, and, in such case, shall be permitted to make the change from one (1) restaurant use to another restaurant use. In another example, a legal nonconforming office use specializing in home insurance sales may propose a change to office-based graphic design consulting services, and the City may find that the change of office use continues in a way that does not increase the risk to public safety, and, therefore, the change from one (1) office use to another office use shall be permitted.
- (f) Expansion of Nonconforming Uses. A legal nonconforming use shall not be expanded in its intensity, including in its hours of operation, average number of working hours per week, capacity for customers, and footprint of the lot area dedicated to the use, except that a nonconforming use shall be permitted to expand into a portion of the lot or structure that was manifestly arranged for such use while such legal nonconforming use was a conforming use of the land and was not abandoned, and such expansion shall permit a proportional increase in customer capacity and working hours. For example, a legal nonconforming event venue use, that, at the time of enactment of this Development Code, included an event space on the same lot that was arranged to hold events, including a catering assembly area, storage for seating and tables, and a bar, shall be permitted to expand its intensity of use by spreading into that space. However, in another example, a legal nonconforming brewery use chooses to expand its footprint by using several of its parking spaces for barley grain storage; as the parking spaces were not designed as a manufacturing material storage yard, the expansion of the legal nonconforming use into that area may not be permitted.



**1051.06: Nonconforming Structures**

- (a)** Legal Nonconforming Structures Definition. For the purposes of this chapter, a legal nonconforming structure is any structure that was existing and lawful as of the date of adoption of this Development Code, or in the case of amendment to this Development Code, then at the time of such amendment, and which does not now conform to the provisions of this Development Code or amendment thereto with respect to setback, height, building footprint or lot coverage, impervious coverage percentage, building type, or architectural design standards.
- (b)** Legal Nonconforming Structures Continuance.
  - (1)** A legal nonconforming structure shall be permitted to continue existing, provided that all of the following conditions are met:
    - A. The legal nonconforming structure does not pose an immediate risk to the public safety, as determined by the City;
    - B. The legal nonconforming structure is not reconstructed, repaired, or expanded, except according to the provisions described in this section.
  - (2)** All existing portions of a legal nonconforming structure may be put to use, provided that such use is not illegal and provided that such use does not violate this Development Code, including use-specific standards, and does not violate any other City, County, State, or Federal statute.
- (c)** Reconstruction or Repair of a Legal Nonconforming Structure. The reconstruction, repair, or maintenance of a legal nonconforming structure shall be permitted to occur, provided that the nonconforming feature is not enlarged, increased, or extended; that no new nonconforming feature is created; and that reconstruction or repair occurs within twelve (12) months of the legal nonconforming structure's disrepair, destruction, or demolition. If reconstruction, repair, or maintenance does not occur within twelve (12) months, a written request for extension may be submitted to the Building Commissioner or the Planning Director or designee.

- (d)** Expansion of a Legal Nonconforming Structure. A legal nonconforming structure may be expanded or reduced, provided that the expansion or reduction does not intensify the nonconforming nature of the structure and does not result in any additional nonconforming feature. For example, a structure that is legally nonconforming because it has a lesser front setback than required by this Development Code in the district in which it is located may be expanded, provided that the expansion does not occur within the required front yard setback and does not violate any other structure-focused provision, including height limits, building footprint limits, impervious coverage limits, minimum setbacks from lot lines, or design standards.

**1051.07: Other Nonconformities**

- (a)** Nonconforming Signs Regulated Elsewhere. Nonconforming signs are regulated by Section 1050.08 (c) "Nonconforming Signs."
- (b)** Nonconforming Landscaping. Nonconforming landscaping, including nonconforming parking lot landscaping, shall be considered a violation of this Development Code and shall be corrected according to planting and maintenance standards in Section 1050.05 "Tree and Landscaping Standards."
- (c)** Nonconforming Lighting. For the purposes of these regulations, nonconforming outdoor lighting, including lighting that does not conform to standards in Section 1050.06 "Outdoor Lighting Standards," shall be considered an architectural design feature and shall be regulated as a nonconforming structure.
- (d)** Nonconforming Parking
  - (1)** Any nonconforming parking behavior, including the parking of vehicles on areas of a lot where prohibited by the standards in this Development Code, shall be considered an immediate violation of this Development Code.
  - (2)** Any nonconforming impervious surface coverage caused in part by parking areas shall be regulated as a parking area infrastructure nonconformity according to the subsection below.

## **NONCONFORMITIES**

- (3)** All nonconforming parking area infrastructure on a lot, such as not providing the correct number of bicycle parking spaces or electric vehicle charging stations or building a number of parking spaces in excess of parking maximums, shall be permitted to continue, provided that such nonconformities are brought into conformity during any of the following occurrences:

  - A. The complete reconstruction of the principal structure on the lot, or the piecemeal reconstruction of such entire structure over the course of two (2) years or less; or
  - B. A net increase in vehicle parking area on the lot.

# 1052

## Administration and Procedures

### Sections

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### 1052.01: “What Approval Do I Need?”: An Introduction to the Administration and Procedures Chapter

- (a) Purpose of the Administration and Procedures Chapter. The Administration and Procedures Chapter intends to set forth processes for obtaining necessary approvals for activities related to zoning, enforcement of the provisions of the Development Code, and enforcement actions for violations of such provisions.
- (b) “What Approval Do I Need?” The below table describes the zoning approvals required for many common activities. If you are unsure of the approvals required for your project, please contact the City’s Planning Department.
- (c) “Who Do I Ask for Help?”
  - (4) Contact City. Please contact the City’s Planning Department regarding approvals and procedures.
  - (5) Request a Pre-Filing Conference. Prior to filing an application for any approval, an applicant may request a Pre-Filing Conference with the City or, as applicable, with the Planning Commission or Design Review Board. At the Conference, the applicant may outline their proposal and submit preliminary information. The officer, Commission, or Design Review Board shall advise the applicant concerning in what respects the applicant’s proposal appears to conform or not conform to applicable City plans and development regulations, applicable approval criteria, and desired standards of planning.

## ADMINISTRATION AND PROCEDURES

TABLE 1052.01: REQUIRED APPROVALS FOR COMMON ACTIVITIES

ACTIVITY	REQUIRED APPROVAL(S)
Erect a new building on an existing lot	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Zoning Permit</li> <li>• Certificate of Appropriateness (where the property is in the Design Review Board Boundary)</li> </ul>
Add an addition to an existing building	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Zoning Permit</li> <li>• Certificate of Appropriateness (where the property is in the Design Review Board Boundary)</li> </ul>
Change the internal configuration of a commercial building or a multi-tenant residential building that may affect ingress, egress, or maximum occupancy	<ul style="list-style-type: none"> <li>• Building Permit</li> </ul>
Demolish all or part of an existing building	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Certificate of Appropriateness (where the property is in the Design Review Board Boundary)</li> </ul>
Start a new use of a property or change the use of a property (no change to the building)	<ul style="list-style-type: none"> <li>• Zoning Permit</li> <li>• Conditional Use Approval (where the use is allowed by conditional use approval)</li> </ul>
Change the use of a property from a nonconforming use to another nonconforming use	<ul style="list-style-type: none"> <li>• Zoning Permit</li> <li>• Conditional Use Approval (where the use is allowed by conditional use approval)</li> <li>• See Section 1051 “Nonconformities”</li> </ul>
Change the use of a property from a nonconforming use to an allowed use	<ul style="list-style-type: none"> <li>• Zoning Permit</li> <li>• Conditional Use Approval (where the use is allowed by conditional use approval)</li> </ul>
Replace siding, roofing, windows, or other exterior elements of an existing building	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Certificate of Appropriateness (where the property is in the Design Review Board Boundary)</li> </ul>
Add an accessory structure, such as a shed, pool, or detached garage, to a lot with an existing main building	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Zoning Permit</li> <li>• Certificate of Appropriateness (where the property is in the Design Review Board Boundary)</li> </ul>
Add an accessory structure, such as a shed, pool, or detached garage, to a lot without an existing main building	Not permitted
Erect a new fence	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Certificate of Appropriateness (where the property is in the Design Review Board Boundary)</li> <li>• Survey</li> </ul>
Replace or repair an existing fence	<ul style="list-style-type: none"> <li>• Building Permit</li> </ul>



## ADMINISTRATION AND PROCEDURES

TABLE 1052.01: REQUIRED APPROVALS FOR COMMON ACTIVITIES (CONTINUED)

ACTIVITY	REQUIRED APPROVAL(S)
Erect a new sign (not a temporary sign)	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Certificate of Appropriateness (where the property is in the Design Review Board Boundary)</li> </ul>
Erect a new temporary sign	<ul style="list-style-type: none"> <li>• Sign Permit</li> </ul>
Replace or repair an existing sign	<ul style="list-style-type: none"> <li>• Building Permit</li> </ul>
Pave, repave, or add square footage to a parking area or driveway	<ul style="list-style-type: none"> <li>• Building Permit</li> <li>• Zoning Permit</li> </ul>
Start a temporary use, such as a festival, outdoor pop-up sale, or residential yard sale	<ul style="list-style-type: none"> <li>• Zoning Permit for residential yard sale</li> <li>• Building Permit (where the temporary use creates or changes ingress, egress, or human occupancy of an indoor area, such as in the case of a temporary haunted house)</li> </ul>
Subdivide a lot, or consolidate two or more lots	Survey and planning department approval
Edit the Development Code text	See Section 1052.11 “Amendments to the Text of the Development Code”
Rezone a property or group of properties on the Official Zoning Map	See Section 1052.12 “Rezoning; Amendments to the Official Zoning Map”
Appeal the decision of the City or the Board of Zoning and Building Appeals	Board of Zoning and Building Appeals
Seek a variance (an exception) to a particular requirement of the Development Code	Board of Zoning and Building Appeals

## ADMINISTRATION AND PROCEDURES

### 1052.02: Building Permit

- (a)** Building Permits Issued by the Building Department.  
Building Permits are not regulated by this Development Code; instead, Building Permits are regulated by Chapter 1444 of the Codified Ordinances.
- (b)** Applicability. A Building Permit is required in accordance with Chapter 1444 of the Codified Ordinances. While Chapter 1444 includes details on Building Permits, below is a list of projects that may require a Building Permit:
  - (1)** Demolition (partial or complete) of an existing structure;
  - (2)** Erection of a new structure or an addition to a structure (including permanent signs, fences, decks, driveways, solar panels, garages, and other accessory structures);
  - (3)** Replacement or repair of an existing structure;
  - (4)** Changes to the internal configuration of an existing structure that may affect ingress, egress, or maximum occupancy;
  - (5)** Changes to or replacement of external features of a structure, including siding, roofing, or windows;
  - (6)** Paving, repaving, or expansion of a driveway or parking area; and
  - (7)** Creation of a temporary use that involves new or modified internal areas that may affect ingress, egress, or maximum occupancy.
- (c)** Demolition Standards.
  - (1)** Purpose. The purpose of these standards is to ensure safe demolition practices within the City, to protect adjoining sites, and the City as a whole, from the negative impacts of incomplete razing actions. These regulations apply to property owners/contractors performing demolition, razing, grading, site clearance, and similar operations within the City.

### **(2)** General Regulations.

- A. Building Permit Required.
  - 1. In accordance with Chapter 1444 of the Codified Ordinances, a building permit is required prior to the commencement of any razing/demolition work.
  - 2. The building permit for a demolition shall be valid for ninety (90) days. Work must be completed within this timeframe. A one (1)-time additional ninety (90) day extension may be approved provided that a written request is submitted to the Building Department seven (7) days prior to the expiration of the original ninety (90) day time allowance.
- B. Performance Bond Required.
  - 1. Property owner/applicant is required to post a performance bond with the City in the amount of the contract for the demolition work plus ten (10) percent at the time of permit application.
- C. Standard Requirements for Structural Demolition.
  - 1. There shall be no remnants of structural demolition that include partial walls, beams, projections, partition walls, columns or similar items that are not specifically designed and engineered to act independently or support adjoining attachments/structures.
  - 2. Structures to be demolished that contain basements must have floors broken up into pieces not larger than one (1) square foot so that water cannot collect. The basement area shall be clean of all wood, combustibles, trash, spoil, debris, and all other-questionable material. Only clean material may be used as backfill.
  - 3. All site concrete, including parking areas, driveways, aprons, and similar areas must be fully removed and restored with proper vegetation. Where aprons are removed, a curb conforming to Building Department standards shall be installed. Public sidewalk is required to be protected. Public sidewalk damaged due to demolition activity shall be restored to Building Department standards.

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4. Accessory uses no longer in use, such as playgrounds, detached accessory structures, light poles, vacated utilities, underground storage tanks, cisterns, associated tank liquids, signs, and sign poles are required to be removed from the property.
  5. Both the sanitary and/or storm sewer leading from the building(s) being demolished must be sealed at the City right-of-way. It is responsibility of the property owner/contractor to contact the Utilities Department for an inspection of the sealed sewer lines.
  6. The property owner/contractor is responsible for ensuring that all utilities have been removed/disconnected at the demolition site. It is also the property owner/contractor's responsibility to ensure protection of all surrounding utilities and utilities that serve other parties. Utility poles and services that are to be no longer in use, regardless of whether they are located in the right-of-way are required to be removed by the property owner/contractor.
  7. Upon completion of the demolition, sufficient grading and filling shall be done to bring the area up to an elevation that matches the immediate surrounding area. Should such backfill jeopardize the structural integrity of surrounding structures, an engineered design shall be required for backfill.
  8. Dead trees and brush shall be required to be removed from the demolition site.
  9. Walls over ten (10) feet high of any length shall not remain standing after work hours unless adequate lateral support is provided.
  10. Where open excavations are left unfilled at the end of the work day, the property owner/contractor shall be responsible for fencing that adequately barricades the open excavation.
  11. The contractor shall take whatever steps necessary to control dust during demolition and removal of any debris falling on the haul road or public streets and keep said streets clean and free of dirt and debris, protect storm water and keep all inlets free of debris.
  12. The burning of combustible material at any time during demolition is strictly prohibited.
  13. The entire demolition site shall be cleared of all trash, junk, debris, rubbish, wood, spoil, fill, solid waste, hazardous waste, tires, furniture, toys equipment, and miscellaneous similar items at completion of site demolition.
  14. The property owner/contractor is responsible for maintaining all traffic flow during demolition activities. Any attempts to alter traffic flow must be approved by the Safety Director.
  15. Salvage demolition or partial demolition shall not leave wholly or partially exposed structures unless a building permit has been issued for immediate construction repair or redevelopment at the site that affects the partially demolished structure.
  16. Construction, excavation, repair, demolition, or alteration of any building or street or operation of any construction machinery or equipment other than Monday through Saturday 7:00AM to 7:00PM is prohibited.
  17. Proof of proper/legal disposal may be required by submittal of disposal tickets from a landfill, transfer station, or other accepted facility.
  18. A final inspection is required to be performed by the Building Department upon completion of all demolition/final grading at the site.
- ### 1052.03: Zoning Permit
- (a) Purpose of Zoning Permits. The requirement of zoning permits is intended to promote compliance with the provisions of the Development Code.
  - (b) Applicability of Zoning Permits. A Zoning Permit shall be required for any development project or change of use within City boundaries including, but not limited to, the following activities:
    - (1) Commencement of a new use of a structure or a lot;
    - (2) Commencement of a temporary use of a structure or a lot;

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- (3) Change of use of a structure or a lot, such as a change of a structure or lot from a parking area to an outdoor dining area;
  - (4) Paving or expanding a parking area;
  - (5) Erection of, modification of, or addition to a residential structure;
  - (6) Modification of a sign's location, height, area, sign type, or illumination type.
- (c) Activities for which Zoning Permits Are Not Required. For the following activities, a Zoning Permit shall not be required:
- (1) The replacement of windows, doors, roofs, walls, or accessory structures with identical or nearly identical elements shall not require a Zoning Permit. In such cases, a Building Permit may still be required; contact the Building Department to inquire.
  - (2) The replacement of an existing fence with a fence of the same height or shorter in its exact location shall not require a Zoning Permit. The new fence must still comply with the buffering requirements of the Development Code. In such case, a Building Permit may still be required; contact the Building Department to inquire.
  - (3) The replacement of a sign with a sign of exact area, sign type, location, height, and illumination type shall not require a Zoning Permit. In such case, a Building Permit may still be required; contact the Building Department to inquire.
  - (4) Modification of a fence, except where the modification is a reduction in the fence's height. In such case, a Building Permit may still be required; contact the Building Department to inquire.
  - (5) The erection of a new fence or sign shall not require a Zoning Permit, but requires a Building Permit.
  - (6) The erection of a temporary sign shall not require a Zoning Permit. The temporary sign must comply with the provisions of this Development Code's sign regulations in Section 1050.08.
- (d) Applying for a Zoning Permit
- (1) When to Apply for a Zoning Permit. The property owner shall apply for and secure a Zoning Permit prior to any operator of such property performing any of the activities described in Section 1052.03 (b) "Applicability of Zoning Permits".
  - (2) Who to Send or Ask Questions to Regarding a Zoning Permit. Any application for a Zoning Permit and any questions regarding such application shall be addressed to the Planning Department.
  - (3) Zoning Permit Application Materials. Any application for Zoning Permit shall include all information requested by the Zoning Permit application form. Such information shall include the following:
    - A. The property owner's name; the applicant's name; the applicant's legal agent; authorization by the property owner for the applicant, if different, to apply for the Zoning Permit;
    - B. A disclosure of interest; disclosures of interest are described in Section 1052.17 "Disclosure of Interest, Conflicts of Interest";
    - C. The name of the development project, if applicable;
    - D. Location of the subject property, and may require legal descriptions, using metes and bound or subdivision block and lot number, of the subject property or properties;
    - E. A description of the activity to be conducted on the property; and renderings of any proposed buildings, including building heights, floor areas, building footprints, and number of dwelling units; renderings may be required to be more detailed in the Design Review Board Boundary to evaluate conformity with approved design standards;
    - F. Application fee;
    - G. A plat of survey, if required for the particular activity; see the subsection below for a list of projects that may require a plat of survey; and

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H. A site plan, if required for the particular activity. Site plans are described in greater detail in a subsection below.

returned within fourteen (14) days of receipt by the City, it shall be interpreted as being complete and under review.

(4) Zoning Permit Application Fee Required. The City shall require a Zoning Permit application fee to be charged to any applicant of a Zoning Permit. Such fee shall be used to offset the administrative costs of administering and enforcing this Development Code. The amount of the fee shall be established by a fee schedule approved by Council.

(5) Plat of Survey Required for Certain Zoning Permit Applications. A plat prepared by a surveyor registered in the State of Ohio is required to be submitted with an application for a Zoning Permit for the following activities:

A. Installation of a fence; or

B. A subdivision of a lot, or the consolidation of two (2) or more lots.

(6) Site Plan Required for Certain Zoning Permit Applications. A site plan shall be required for the following Zoning Permit Applications:

A. An activity establishing more than one (1) principal building per lot;

B. An activity establishing a site condominium or site cooperative, both as defined herein, such as a homeowner's association; or are otherwise required by City regulations to be approved under Site Plan Review.

(7) Zoning Permit Review

A. Staff Review for Application Completeness. Zoning Permits applications shall be reviewed by the Planning Director or designee for completeness. Incomplete applications shall be returned within fourteen (14) working days to the applicant. The applicant shall be able to correct the incomplete element of the application and resubmit the application; if the application is resubmitted within thirty (30) working days from the date of notification of incompleteness, a new application fee shall not be required. If the application is not

B. Staff Review for Conformity with the Development Code. Within forty-five (45) working days of receiving a complete application for a Zoning Permit, the Planning Director or designee shall notify the applicant in writing or email that the application has been determined to be one (1) of the following:

1. Approved, and the activity, as described in the application, conforms to the Development Code provisions and a Zoning Permit shall be issued immediately; please note that, in such case, the activity may need other applicable approvals from other City, County, or special governmental bodies, such as a stormwater permit or a Building Permit;
2. Denied, and the activity, as described in the application, does not conform to the Development Code provisions, regardless of any additional approvals; in such case, the Planning Director or designee shall provide, in writing or email, the rationale for denial of the Zoning Permit; or
3. Conforms to the Development Code Except for Additional Approvals, such as a Conditional Use approval, a variance, or a Certificate of Appropriateness; in such case, the Planning Director or designee shall instruct the applicant on the steps to seek such additional approval(s); see Section 1052.03 (d)(7)(D). "Application Needing Additional Approvals Scheduled for Review Body Agenda."

C. Zoning Permit Issuance Without Additional Approvals. If the Zoning Permit application is deemed to be complete by the Planning Director or designee and conforms to the Development Code without any additional approvals, the Zoning Permit shall be issued in writing or email, with a City seal and signed date of issuance, where the date of issuance shall be within forty-five (45) days of the receipt of complete application.



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D. Application Needing Additional Approvals Scheduled for Review Body Agenda. Following a determination by the Planning Director or designee that a Zoning Permit application's proposed activity conforms to the Development Code but requires one (1) or more additional approvals—such as a Conditional Use Approval, a Variance Approval, or a Certificate of Appropriateness—and provided that the applicant chooses to proceed with the activity and attaining the required additional approvals, the Planning Director or designee shall add the Zoning Permit application to the agenda of the meeting of the appropriate review body; such meeting of the review body shall be scheduled for a date within forty-five (45) days of Planning Director's or designee's review of the Zoning Permit application. The forty-five (45)-day limit may be extended to ninety (90) days where the Zoning Permit application requires review from more than one (1) review body. The Planning Director or designee shall notify the applicant of the time, date, and location of the meeting; this notice shall be sent to the applicant at no later than the notice sent to neighboring property owners required for public hearing notices.

E. Application Needing Additional Approvals Sent to Review Body for Decision. Once the meeting with the review body has been scheduled, the Zoning Permit application needing a conditional use approval, a variance, or a Certificate of Appropriateness shall be sent by the Planning Director or designee to the clerk of the appropriate review body. Details for Conditional Use Approvals can be found in Section 1052.06 "Conditional Use Approvals." Details for Variance Approvals can be found in Section 1052.08 "Variance Approvals." Details on Certificates of Appropriateness can be found in Section 1052.07 "Certificates of Appropriateness."

F. Application Needing Additional Approvals Returned to the Planning Director or designee for Zoning Permit Issuance. Following the meeting and decision of the review body for conditional use approval,

variance, or Certificate of Appropriateness, the review body shall return the Zoning Permit application to the Planning Director or designee with written notation of their decision to approve or deny the special approval. The Planning Director or designee then, based on the approval or denial of the conditional use approval, variance, or Certificate of Appropriateness, shall issue or deny to issue the Zoning Permit to the applicant, in writing or email, within fourteen (14) working days of the review body's meeting date. If the Planning Director or designee denies the Zoning Permit, a written explanation for the denial shall be included.

G. Zoning Permit Expiration. Zoning Permits shall expire two (2) years from the date of issuance. Once expired, no property shall undergo a change of use, a structural erection or alteration, or other activity that requires a Zoning Permit, unless a new Zoning Permit is applied for and issued. Any construction of a structure that has substantially progressed at the time of expiration of the Zoning Permit shall be permitted to continue.

### 1052.04: Temporary Use Permit

- (a) Purpose of Temporary Use Permits. Certain uses may provide a public benefit without significant detriment to the public welfare if they are established only for temporary durations. In such cases full compliance with regulations for permanent uses may be unnecessary. This section allows uses not in compliance with regulations applicable to permanent uses to be established as Temporary Uses.
- (b) Applicability of Temporary Use Permits. Temporary Use Permits shall apply to all temporary uses, except for residential yard sales. For the purposes of this Development Code, a temporary use shall be interpreted by the City to mean an infrequent use of the property where such use would not, to a neighbor of the property, be reasonably understood to be the typical use of the property and does not result in the rearrangement, modification, or erection of permanent structures or paved areas to facilitate the temporary use. The following are examples of temporary uses:

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- (1) A church festival as a temporary use of a church's parking lot;
  - (2) A construction office as a temporary use of a housing lot during the development of a subdivision;
  - (3) A corn maze attraction as a temporary use of an agricultural field; and
  - (4) The sale of mulch in completely sealed containers or bags in the parking lot of a grocery store.
- (c) Temporary Use Permit Is Not an Alternative to Other Approvals. A Temporary Use Permit shall not serve as an alternative to a variance, amendment, conditional use approval, or other approval for a use that is likely to remain permanently.
- (d) Temporary Use Permit Required for Temporary Uses. A Temporary Use Permit is required for any temporary use, except that a residential yard sale operating fewer than 6 days per calendar year per lot shall not require a Temporary Use Permit. A temporary use that involves the modification of indoor space which may affect ingress, egress, or maximum capacity, shall also seek a Building Permit.
- (e) Temporary Use Permit Application and Issuance Process
- (1) Temporary Use Permits Addressed to Planning Director or Designee. A Temporary Use Permit application shall be completed and sent to the Planning Director or designee.
  - (2) Temporary Use Permit Applications Follow Zoning Permit Application Processes. All application requirements, reviews, and issuance processes and timelines applicable to a Zoning Permit shall apply to a Temporary Use Permit. Temporary Use Permit review shall be undertaken by the Planning Director or designee and shall not require an additional approval by a review board.
  - (3) Temporary Use Permit Special Conditions by Planning Director or Designee. The Planning Director or designee may apply special conditions to a Temporary Use Permit for the temporary use, including limits on the hours of operation, limits on the number of vehicles, limits on amplified sound, etc., in order to protect public welfare from any negative externalities of the temporary use.

- (f) Temporary Use Permit Display. The permittee shall display the Temporary Use Permit within plain view on the premises of the temporary use for the duration of the use.

### 1052.05: Sign Permit

- (a) A sign permit shall be required as described in Section 1050.08 (d) "Sign Permitting Process."

### 1052.06: Conditional Use Approval

- (a) Purpose of Conditional Use Approval. Conditional Use Approval is intended to provide a mechanism whereby a land use is approved special permissions to operate where:
  - (1) Such land use cannot be allowable generally in a particular zoning district, or in any zoning district, because of special impacts such land use creates on surrounding areas; but where
  - (2) Such land use may be properly allowed after special review and with specifically applied use conditions.
- (b) Applicability of Conditional Use Approvals
  - (1) Conditional Use Approvals Relate to Comprehensive Use Table. Conditional Use Approvals are applicable to any use in any district labeled as "Allowed by Conditional Use Approval" on the Comprehensive Use Table in Section 1040.02.
  - (2) Existing Conditional Uses Exempt from Conditional Use Approval. Any use defined as a "nonconforming use" by this Development Code shall not require a Conditional Use Approval to continue, provided it conforms to all provisions of Chapter 1051 Nonconformities.
- (c) Conditional Use Approval Process
  - (1) Conditional Use Approvals Begin as Zoning Permit Applications. Where a Zoning Permit application is received by the Planning Director or designee and is determined to be complete, and where the Planning Director or designee determines that the Zoning Permit application's proposed activity

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conforms with the Development Code only with a Conditional Use Approval, the Planning Director or designee shall commence the Conditional Use Approval process.

- (2) Conditional Use Approval Public Hearing Scheduling. As described in Section 1052.03 (d) (7)(D). "Application Needing Additional Approvals Scheduled for Review Body Agenda": immediately following a determination that a Zoning Permit application's proposed activity conforms to the Development Code but requires a Conditional Use Approval and confirming that the applicant chooses to proceed with the permitting process and attain the Conditional Use Approval, the Planning Director or designee shall add the Zoning Permit application to the agenda of the next meeting of Planning Commission for a public hearing; such public hearing of the Planning Commission shall be scheduled for a date within forty-five (45) days of Planning Director's or designee's review of the Zoning Permit application. The Planning Director or designee shall notify the applicant of the time, date, and location of the public hearing; this notice shall be sent to the applicant at no later than the notice sent to neighboring property owners required for public hearing notices.

- (3) Conditional Use Approval Public Hearing Public Notices Required. Three (3) forms of public notice shall be used to inform the public of the Planning Commission public hearing: (1) written or electronic, private notice, (2) public sign notice, and (3) published notice.

- A. Written or electronic, private notices shall be required to be sent by the City fifteen (15) days prior to any Planning Commission public hearing. The written or electronic, private notice shall conform to the following conditions:

1. It shall be sent to any property owner of record of a parcel, contiguous to the subject property; across the street from the subject property, or within two hundred (200) feet in any direction from the boundaries of the subject property.

2. Each written or electronic, private notice shall contain the following information: the action proposed; the scheduled date, time, and location of the public hearing; a phone number at City offices to call for further information; the street address or other description of the property that will enable the ordinary reader to accurately locate it; the zoning district in which the action is proposed; the Conditional Use requested; the location where the application or proposal may be examined by the public and the hours it is available for inspection; and when and how the recipient of the notice may provide verbal hearing testimony or written comments.
- B. A public sign notice, as provided by the Planning Director or designee, shall be posted by the applicant to notify the public of the public hearing. The sign shall:
1. Be at least ten (10) square feet in area;
  2. Face and be readable from a public street;
  3. Be no further than twenty (20) feet from the street line;
  4. Be erected no less than fifteen (15) days prior to the scheduled date of the hearing; and
  5. Remain continuously in place until the hearing is concluded and shall be removed by the applicant no later than ten (10) days thereafter.
  6. The Planning Director or designee may provide a re-usable sign to an applicant for this purpose and may require a reasonable deposit as security for the return in good condition of any such sign. No posted sign shall be removed, tampered with, or destroyed before the conclusion of the hearing. No posting of a sign on private property shall be required if the property owner is not the applicant and is not represented by the applicant and objects to such posting.
- C. A published notice of the Planning Commission's public hearing shall appear not less than fifteen (15) days prior to,

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and not more than thirty (30) days before, the scheduled date of the public hearing. The notice shall be published in a physical newspaper of general circulation or on a web-based platform as approved for public notices by the Ohio Revised Code. The Planning Director or designee shall initiate the published notice.

- D. Duplicate Notices. For applications that require multiple approvals from the same board, such as a Variance Approval and a Conditional Use Approval, only one (1) notice in its three (3) forms is necessary, and such notice shall indicate the multiple approvals sought for the application.

### (4) Conditional Use Approval Public Hearing Proceedings

- A. Accessibility. The public hearing shall be held at a time, place, and location accessible to the general public.
- B. Planning Staff Input. The Planning Commission may request information from the Planning Department staff during the public hearing, including details about the application, the zoning district or location of the proposed activity, the Development Code standards, and the decision history of similar cases.
- C. Applicant Input. The Planning Commission may request additional information from the applicant about the proposed activity where such requests relate to the decision criteria. Applicants shall have the right to have subpoenas issued by the City for persons or documents, to present witnesses, and to cross-examine all witnesses testifying at the public hearing.
- D. Public Input. All parties choosing to be heard shall be heard at least once at the hearing or a continuation thereof. Such parties may testify themselves or, at their option, be represented by an attorney, architect, engineer, planner, or other professional advisor or agent.

- E. Decision. Following input from Planning Department staff, the applicant, and the public, the Planning Commission shall discuss and make a decision regarding the Conditional Use Approval and any special conditions to apply to the Conditional Use Approval.

### (5) Conditional Use Approval Criteria. The Planning Commission may deny a Conditional Use Approval wherever it determines that the public health, safety, or welfare, or environmental quality may be impaired by the proposed conditional use. In order to approve a Conditional Use Approval, the Planning Commission shall first find that the proposed activity, considering any special conditions applied by the Planning Commission, satisfies all of the following conditions:

- A. Environmental Nuisance. Any effects of noise, glare, odor, dust, waste disposal, blockage of light or air, or other adverse environmental effects of a type or degree not characteristic of generally permitted uses in the district, have been minimized.
- B. Traffic. Any adverse impact of types or volumes of traffic-flow not otherwise typical of generally permitted uses in the zoning district has been minimized.
- C. Use of Public Services and Facilities. The proposed activity will not require existing community facilities or services to a degree disproportionate to that normally expected of generally permitted uses in the zoning district, and will not generate disproportionate demand for new services or facilities, in such a way as to place undue burdens upon existing development in the area.
- D. Comprehensive Plan Compatibility. The proposed activity does not conflict with an objective applicable to that property as described in the most recent comprehensive plan.
- E. Please note that the Planning Commission shall specifically consider whether any federal laws regarding discrimination on the basis of

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disability or other protected status may likely be violated if a Conditional Use Approval is denied.

- (6) Conditional Use Approval Assignment of Special Conditions. The Planning Commission may assign special conditions to a Conditional Use Approval to ensure that the proposed use more harmoniously aligns with current or projected neighboring uses; better protects public health, safety, and welfare; better promotes environmental sustainability; better promotes City financial sustainability; or better advances a goal of the most current comprehensive plan. Examples of such special conditions include limits on hours of operation, limits on the number of vehicles providing deliveries, limits on amplified sound.
- (7) Conditional Use Approval Transmission of Decision to Planning Director or Designee. The decision of the Planning Commission to approve or deny the Conditional Use Approval, including any special conditions applied to that approval, shall be transmitted in writing to the Planning Director or designee within three (3) working days of the date of the public hearing; see Section 1052.03 (d)(7) (F). "Application Needing Additional Approvals Returned to the Planning Director or Designee for Zoning Permit Issuance." The Planning Director or designee shall then proceed with the Zoning Permit Issuance process as described in Section 1052.03 "Zoning Permits." The Planning Director or designee may revoke the Conditional Use permit if an approval is violated or not applied.
- (d) Conditional Use Approval Continuance and Expiration. A Conditional Use Approval stays with the land and shall transfer to new property owners of the land or redevelopment of structures on the land. A Conditional Use Approval shall expire if the conditional use is not commenced within one (1) year of the issuance of the Zoning Permit associated with that Conditional Use Approval or if the specific conditional use is voluntarily abandoned for a period exceeding six (6) months. If the conditional use is not not commenced within one (1) year of the issuance of the Zoning Permit, a written request for extension may be submitted to the Planning Director or designee.
- (e) Change of Use with a Conditional Use Approval. A conditional use shall be permitted to change to another conditional use without requiring a new Conditional Use Approval where the new conditional use is, in the interpretation of the City, similar in purpose and where the new conditional use is equal or lesser in impact to neighboring users' public health, safety, and welfare. For example, a restaurant use that is allowed by Conditional Use Approval may be changed from Mexican cuisine to Italian cuisine without requiring a new Conditional Use Approval, as the two (2) types of restaurant are similar in purpose (both to serve meals to customers) and equal in impact to public health (both venting cooking exhaust), safety (both presenting little safety risk), and welfare. As another example, a biological lab facility that processes biopsy samples under a Conditional Use Approval may, in the interpretation of the City, increase its impact to public health, safety, and welfare if it were to change to an emergency trauma center, and may, therefore, require a new Conditional Use Approval in order to commence the emergency trauma center use.

### 1052.07: Certificates of Appropriateness

- (a) Purpose of Certificates of Appropriateness. Certificates of Appropriateness are intended to provide an administrative mechanism to oversee changes in the Design Review Board Boundary and ensure that such changes are consistent with the historic character of such district.
- (b) Certificates of Appropriateness Required.
  - (1) Certificates of Appropriateness Required in Design Review Board Boundary. A Certificate of Appropriateness shall be required prior to any alteration, as defined herein, that causes a visual change, as also defined herein, on any property located in the Design Review Board Boundary, as shown on the Official Zoning Map.
  - (2) Exemptions to Requirements for Certificates of Appropriateness. The following activities shall not require a Certificate of Appropriateness:
    - A. Routine Maintenance. Routine maintenance and repair that does not—in the judgment of the Planning Director or designee—involve a significant visual change, as defined herein, shall be exempt.



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- B. Mandated Alterations. Alterations mandated for reasons of public health, safety, or protection of property by the City or any other authorized government body and approved for exemption by the Planning Director or designee shall be exempt.
  - C. Casualties. Alterations occasioned—whether at one time or gradually over an extended period—by natural causes, acts of God, accidents, vandalism, normal deterioration with age, and other casualties shall be exempt.
  - D. Emergency Alterations. Alterations shall be exempt that in the judgment of the Building Commissioner (or designee) must be enacted in a timeframe that does not allow for a Certificate of Appropriateness to be issued, where such alteration corrects or prevents an immediate peril to public health or safety or serious damage to a property that has already been damaged or is otherwise at risk of such damage. Such alterations shall be confined to the minimum necessary to prevent such peril or damage.
- (c)** Design Review Board Acts as Review Body for Certificates of Appropriateness. The Design Review Board shall act as the review body for Certificates of Appropriateness. In the case that Council has not formed a Design Review Board, or in the case that Council has abolished an existing Design Review Board, the Planning Commission shall act as the review body for Certificates of Appropriateness and shall have the responsibilities and powers approved to the Design Review Board by this section.
- (d)** Requirements for Applications for Certificates of Appropriateness. The Design Review Board may establish specific criteria for applications for Certificates of Appropriateness to determine if the proposed action meets the requirements.
- (e)** Certificates of Appropriateness Approval Process
- (1)** Certificates of Appropriateness Begin as Zoning Permit Applications. Where a Zoning Permit application is received by the Planning Director or designee and is determined to be complete, and where the Planning Director or designee determines that the Zoning Permit application's proposed activity conforms with the Development Code only with a Certificate of Approval and/or other special approvals, the Planning Director or designee shall commence the Certificate of Appropriateness process.
  - (2)** Certificates of Appropriateness Public Hearing Scheduling. As described in Section 1052.03 (d) (7)(D). "Application Needing Additional Approvals Scheduled for Review Body Agenda": immediately following a determination that a Zoning Permit application's proposed activity conforms to the Development Code but requires a Certificate of Appropriateness and/or other special approvals and confirming that the applicant chooses to proceed with the permitting process and attain the Certificate of Appropriateness, the Planning Director or designee shall add the Zoning Permit application to the agenda of the next meeting of Design Review Board for a public hearing; such public hearing of the Design Review Board shall be scheduled for a date within forty-five (45) days of Planning Director's or designee's review of the Zoning Permit application. The Planning Director or designee shall notify the applicant of the time, date, and location of the public hearing; this notice shall be sent to the applicant at no later than the notice sent to neighboring property owners required for public hearing notices.
  - (3)** Certificates of Appropriateness Public Hearing Public Notices Required. Three (3) forms of public notice shall be used to inform the public of the Design Review Board public hearing: (1) written or electronic, private notice, (2) public sign notice, and (3) published notice.
    - A. Written or electronic, private notices shall be required to be sent by the City fifteen (15) days prior to any Design Review Board public hearing. The written or electronic, private notice shall conform to the following conditions:
      - 1. It shall be sent to any property owner of record of a parcel in the subject property, contiguous to the subject property; across the street from the subject property,

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- or within two hundred (200) feet in any direction from the boundaries of the subject property.
2. Each written or electronic, private notice shall contain the following information: the action proposed; the scheduled date, time, and location of the public hearing; a phone number at City offices to call for further information; the street address or other description of the property that will enable the ordinary reader to accurately locate it; the zoning district in which the action is proposed; the Certificate of Appropriateness requested; the location where the application or proposal may be examined by the public and the hours it is available for inspection; and when and how the recipient of the notice may provide verbal hearing testimony or written comments.
- B. A public sign notice, as provided by the Planning Director or designee, shall be posted by the applicant to notify the public of the public hearing. The sign shall:
1. Be at least ten (10) square feet in area;
  2. Face and be readable from a public street;
  3. Be no further than twenty (20) feet from the street line;
  4. Be erected no less than fifteen (15) days prior to the scheduled date of the hearing; and
  5. Remain continuously in place until the hearing is concluded and shall be removed by the applicant no later than ten (10) days thereafter.
  6. The Planning Director or designee may provide a re-usable sign to an applicant for this purpose and may require a reasonable deposit as security for the return in good condition of any such sign. No posted sign shall be removed, tampered with, or destroyed before the conclusion of the hearing. No posting of a sign on private property shall be required if the property owner is not the applicant and is not represented by the applicant and objects to such posting.
- C. A published notice of the Design Review Board's public hearing shall appear not less than fifteen (15) days prior to, and not more than thirty (30) days before, the scheduled date of the public hearing. The notice shall be published in a physical newspaper of general circulation or on a web-based platform as approved for public notices by the Ohio Revised Code. The Planning Director or designee shall initiate the published notice.
- D. Duplicate Notices. For applications that require multiple approvals from the same board, such as a Variance Approval and a Conditional Use Approval, only one (1) notice in its three (3) forms is necessary, and such notice shall indicate the multiple approvals sought for the application.
- (4)** Certificates of Appropriateness Public Hearing Proceedings
- A. Accessibility. The public hearing shall be held at a time, place, and location accessible to the general public.
- B. Planning Staff Input. The Design Review Board may request information from the Planning Department staff during the public hearing, including details about the application, the zoning district or location of the proposed activity, the Development Code standards, and the decision history of similar cases.
- C. Applicant Input. The Design Review Board may request additional information from the applicant about the proposed activity where such requests relate to the decision criteria. Applicants shall have the right to have subpoenas issued by the City for persons or documents, to present witnesses, and to cross-examine all witnesses testifying at the public hearing.
- D. Public Input. All parties choosing to be heard shall be heard at least once at the hearing or a continuation thereof. Such parties may testify themselves or, at their option, be represented by an attorney, architect, engineer, planner, or other professional advisor or agent.

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- E. Board Decision. Following input from Planning Department staff, the applicant, and the public, the Board shall discuss and make a decision regarding the Certificate of Appropriateness and any special conditions to apply to the Certificate of Appropriateness.
- (f) Certificates of Appropriateness Assignment of Special Conditions. The Design Review Board may assign special conditions to a Certificate of Appropriateness to ensure that the proposed use more harmoniously aligns with the approval criteria as described in this section. Examples of such special conditions include limits on building materials or colors.
- (g) Certificates of Appropriateness Approval Criteria. The Design Review Board shall approve a Certificate of Appropriateness application only when it determines that the proposed activity, plus any Design Review Board-assigned special conditions, will likely achieve all of the following conditions:
  - (1) Consistency with the objectives of the Preservation Plan adopted by Council, as viewed in light of any changes in the area of the subject property since such adoption.
  - (2) Consistency with applicable Design Guidelines adopted by Council.
  - (3) Visual compatibility with the distinguishing surviving visual features of the historic character of the existing property being altered, the surrounding properties within the Design Review Board Boundary, and of the Design Review Board Boundary as a whole in which the property is located. The visual compatibility required shall be judged, as applicable, with respect to the following elements of design:
    - A. Location, orientation, and placement
    - B. Height and scale
    - C. Proportions (e.g., of windows, doors, or sign lettering)
    - D. Shape (e.g., of roof or signs)
    - E. Materials, textures, and colors
    - F. Style or design character
- G. Directional expression, or horizontal or vertical character
- H. Open spaces, including setbacks and spacing
- I. Landscaping
- J. Other elements of the publicly visible appearance.
- (4) Avoidance of significant losses to a valuable primary property that is practicable to save or to preserve in its present location.
- (5) Timeliness of the proposed action: the property owner has demonstrated the ability and intent to take the proposed action promptly after approval of a Certificate of Appropriateness, and, in the case of a proposed demolition or relocation of a structure, to promptly establish a new permanent structure or other permanent use on the site it formerly occupied.
- (6) However, the Design Review Board shall approve a Certificate of Appropriateness for an application that may not achieve one (1) or more of the above criteria wherever the denial of such Certificate of Appropriateness is determined to likely result in one (1) of the following scenarios:
  - A. Do Not Deprive All Reasonable Use. The denial of a Certificate of Appropriateness shall not deprive the property owner of reasonable use of and a reasonable return, as defined herein, from the property. Such use and return shall be based on the current or, if vacant, most recent viable use of the property and not on any prospective new use that might yield a greater utility or return.
  - B. Do Not Impose Financial Hardship. The denial of a Certificate of Appropriateness shall not impose a financial hardship on the property owner or user in light of the costs to the property owner, the availability and probability of approval of financial assistance therefor from the City or other sources, the costs of continuing maintenance, and the financial resources of the property owner or user. Mere reduction in financial return or increase in costs shall not be considered hardship.

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- C. Do Not Impair Economic Functioning. The denial of a Certificate of Appropriateness shall not unreasonably impair the economic functioning of any portion of the Design Review Board Boundary lawfully used or zoned for business use.
- D. Do Not Require Uniformity. The denial of a Certificate of Appropriateness shall not be intended to create uniformity of design; contemporary design, where visually compatible in a particular situation and location within a historic environment, shall not be denied a Certificate of Appropriateness because they are not uniform with neighboring structures.
- E. Do Not Abridge Underlying Zoning. The denial of a Certificate of Appropriateness shall not cause a significant reduction or elimination of any development rights conferred by this Development Code—such as allowable land use or building height—and shall not be required of the applicant as a condition of approval.
- F. Do Not Base Certificate of Appropriateness Determination on Personal Preference. The denial of Certificate of Appropriateness shall not be based on personal taste or preference of the members of the Design Review Board. Justification of approval or denial shall be based on visual compatibility based on generally accepted principles of applicable design professions and/or documented historic styles.

(7) Please note that the Design Review Board shall specifically consider whether any federal laws regarding discrimination on the basis of disability or other protected status may likely be violated if a Certificate of Appropriateness is denied.

(h) Certificate of Appropriateness Criteria for Secondary Properties. For secondary properties, the Design Review Board shall require a lesser standard of consistency and compatibility, especially with respect to preservation of the property's existing character.

- (i) Certificates of Appropriateness Transmission of Decision to Planning Director or Designee. The decision of the Design Review Board to approve or deny the Certificate of Appropriateness, including any special conditions applied to that approval, shall be transmitted in writing to the Planning Director or designee within three (3) working days of the date of the public hearing; see Section 1052.03 (d)(7)(F). "Application Needing Additional Approvals Returned to the Planning Director or Designee for Zoning Permit Issuance." The Planning Director or designee shall then proceed with the Zoning Permit Issuance process as described in Section 1052.03 "Zoning Permits."
- (j) Updated Landscaping Not Prohibited by Certificate of Appropriateness. No provision of this section shall be interpreted as authorizing or allowing the prohibition of the planting of trees, shrubs, grass, or other ground cover in the Design Review Board Boundary, whether such landscaping existed during any historical period.
- (k) Appeal of a Decision by the Design Review Board. An applicant or other party may appeal a decision to approve, conditionally approve, or not to approve a Certificate of Appropriateness. Such appeal shall be taken to the Board of Zoning and Building Appeals in accordance with the provisions in Section 1052.14 "Appeals."

### 1052.08: Variance Approvals

- (a) Purpose of Variances. A Variance Approval is intended to provide a relief from the strict compliance with the Development Code's standards where such strict compliance may render a property unusable.
- (b) Applicability of Variances. Variance Approvals shall be approved only to provide relief for dimensional standards of the Development Code, such as minimum lot area, maximum building height, or maximum impervious surface area; variances shall not be approved for relief of non-dimensional standards of the Development Code. Variance Approvals may apply to any property or any structure in any district where the property owner seeks relief from the strict compliance with the Development Code's standards.

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### (c) Variance Approval Process

- (1) Variance Approvals Begin as Zoning Permit Applications. Where a Zoning Permit application is received by the Building Commissioner or designee and is determined to be complete, and where the Building Commissioner or designee determines that the Zoning Permit application's proposed activity conforms with the Development Code only with a Variance Approval, the Building Commissioner or designee shall commence the Variance Approval process.
- (2) Variance Approval Public Hearing Scheduling. As described in Section 1052.03 (d)(7)(D). "Application Needing Additional Approvals Scheduled for Review Body Agenda": immediately following a determination that a Zoning Permit application's proposed activity conforms to the Development Code but requires a Variance Approval and confirming that the applicant chooses to proceed with the permitting process and attain the Variance Approval, the Building Commissioner or designee shall add the Zoning Permit application to the agenda of the next meeting for a public hearing; such public hearing shall be scheduled for a date within forty-five (45) days of the Building Commissioner's or designee's review of the Zoning Permit application. The Building Commissioner or designee shall notify the applicant of the time, date, and location of the public hearing; this notice shall be sent to the applicant at no later than the notice sent to neighboring property owners required for public hearing notices.
- (3) Variance Approval Public Hearing Public Notices Required. Three (3) forms of public notice shall be used to inform the public of the public hearing: (1) written or electronic, private notice, (2) public sign notice, and (3) published notice.
  - A. Written or electronic, private notices shall be required to be sent by the City fifteen (15) days prior to any public hearing. The written or electronic, private notice shall conform to the following conditions:
    1. It shall be sent to any property owner of record of a parcel, contiguous to the subject property; across the street from the subject property, or within two hundred (200) feet in any direction from the boundaries of the subject property.
  2. Each written or electronic, private notice shall contain the following information: the action proposed; the scheduled date, time, and location of the public hearing; a phone number at City offices to call for further information; the street address or other description of the property that will enable the ordinary reader to accurately locate it; the zoning district in which the action is proposed; the Variance requested; the location where the application or proposal may be examined by the public and the hours it is available for inspection; and when and how the recipient of the notice may provide verbal hearing testimony or written comments.
  - B. A public sign notice, as provided by the Planning Director or designee, shall be posted by the applicant to notify the public of the public hearing. The sign shall:
    1. Be at least ten (10) square feet in area;
    2. Face and be readable from a public street;
    3. Be no further than twenty (20) feet from the street line;
    4. Be erected no less than fifteen (15) days prior to the scheduled date of the hearing; and
    5. Remain continuously in place until the hearing is concluded and shall be removed by the applicant no later than ten (10) days thereafter.
    6. The Planning Director or designee may provide a re-usable sign to an applicant for this purpose and may require a reasonable deposit as security for the return in good condition of any such sign. No posted sign shall be removed, tampered with, or destroyed before the conclusion of the hearing. No posting of a sign on private property shall be required if the property owner is not the applicant and is not represented by the applicant and objects to such posting.



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- C. A published notice of the public hearing shall appear not less than fifteen (15) days prior to, and not more than thirty (30) days before, the scheduled date of the public hearing. The notice shall be published in a physical newspaper of general circulation or on a web-based platform as approved for public notices by the Ohio Revised Code. The Planning Director or designee shall initiate the published notice.
- D. Duplicate Notices. For applications that require multiple approvals from the same board, such as a Variance Approval and a Conditional Use Approval, only one (1) notice in its three (3) forms is necessary, and such notice shall indicate the multiple approvals sought for the application.

### (4) Variance Approval Public Hearing Proceedings

- A. Accessibility. The public hearing shall be held at a time, place, and location accessible to the general public.
- B. Planning Staff Input. The Building Commissioner (or designee) may request information from the Building Department staff during the public hearing, including details about the application, the zoning district or location of the proposed activity, the Development Code standards, and the decision history of similar cases.
- C. Applicant Input. The Building Commissioner (or designee) may request additional information from the applicant about the proposed activity where such requests relate to the decision criteria. Applicants shall have the right to have subpoenas issued by the City for persons or documents, to present witnesses, and to cross-examine all witnesses testifying at the public hearing.
- D. Public Input. All parties choosing to be heard shall be heard at least once at the hearing or a continuation thereof. Such parties may testify themselves or, at their option, be represented by an attorney, architect, engineer, planner, or other professional advisor or agent.

- E. Decision. Following input from Planning Department staff, the applicant, and the public, the Board shall discuss and make a decision regarding the Variance Approval and any special conditions to apply to the Variance Approval.
- F. Variance Approval Criteria. The Building Commissioner (or designee) may deny a Variance Approval wherever it determines that the public health, safety, or welfare, or environmental quality may be impaired by the proposed variance. In order to approve a Variance Approval, the Building Commissioner (or designee) shall first find that the proposed variance satisfies all of the following conditions:
  - 1. Special Circumstances Not Found Elsewhere. Special circumstances exist that are peculiar to the property for which the Variance Approval is sought and that do not apply generally to other properties in the same district, such as steep terrain, overhead or underground utility rights-of-way, or streams or wetlands.
  - 2. Not Resulting from Applicant Action. The special circumstances that are the basis for the Variance Approval have not resulted from any act of the applicant or of any other party with a present interest in the property undertaken subsequent to the approval of the regulation being varied. Knowingly authorizing or proceeding with any action requiring any Variance, permit, certificate, or approval under City development regulations prior to such approval shall be considered such an act and shall not be the basis for a Variance Approval.
  - 3. Necessary for Use of Property. The approval of a Variance is necessary for the applicant to enjoy reasonable use of the property.
  - 4. Not Impair Essential Governmental Interests. The approving of the Variance will not substantially impair environmental quality, public health, safety, or welfare in the vicinity.
  - 5. Consistent With Ordinance and Plan. The approving of a Variance will be in harmony with the general purpose and intent of the regulations of this Development Code and

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of the Barberton Master Plan and other applicable approved plans of the City, as viewed in light of any changed conditions since their approval. It will not serve in effect to substantially invalidate or nullify any part thereof.

6. Minimum Variance Needed. The Variance approved is the minimum required to provide the applicant reasonable use and enjoyment of their property.
- G. Please note that the Building Commissioner (or designee) shall specifically consider whether any federal laws regarding discrimination on the basis of disability or other protected status may likely be violated if a Variance Approval is denied; the Americans with Disabilities Act and the Federal Housing Act and their amendments may require that accommodations in zoning standards and in administrative protocol be made to protect the enjoyment of property for those with disabilities.

- (5) Variance Approval Transmission of Decision to Building Commissioner (or designee). The decision of the Building Commissioner (or designee) to approve or deny the Variance Approval shall be transmitted in writing to the Planning Director or designee within three (3) working days of the date of the public hearing; see Section 1052.03 (d)(7) (F). "Application Needing Additional Approvals Returned to the Planning Director or Designee for Zoning Permit Issuance." The Planning Director or designee shall then proceed with the Zoning Permit Issuance process as described in Section 1052.03 "Zoning Permits."

- (d) Variance Approval Continuance and Expiration. A Variance Approval stays with the land and shall transfer to new owners of the land or redevelopment of structures on the land. A Variance Approval shall expire if the element that the variance relates to, such as a building with a height that varies from the maximum height required by this Development Code, is not erected within two years of the issuance of the Zoning Permit associated with that Variance Approval or if the specific element that the variance relates to is voluntarily abandoned for a period exceeding six (6) months.

### 1052.09: Floodplain Development Permit

- (a) Floodplain Development Permits Required for Actions in Special Flood Hazard Area. A Floodplain Development Permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a Floodplain Development Permit to determine the development's location.
- (b) Exemptions from Required Floodplain Development Permit. An application for a floodplain development permit shall not be required for any of the following activities: Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000; development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701; major utility facilities permitted by the Ohio Power Siting Board under Ohio R.C. Chapter 4906; hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Ohio R.C. Chapter 3734; and development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.
- (c) Floodplain Development Permit Application Requirements. Floodplain Development Permit applications shall include, but not be limited to:
  - (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
  - (2) Elevation of the existing, natural ground where structures are proposed.
  - (3) Elevation of the lowest floor, including basement, of all proposed structures.

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- (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
  - (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable to the following activities:
    - A. Flood-proofing certification for non-residential flood-proofed structure as required in the Development Code;
    - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of this Development
    - C. Code are designed to automatically equalize hydrostatic flood forces;
    - D. Description of any watercourse alteration or relocation that the floodcarrying capacity of the watercourse will not be diminished, and maintenance assurances as required by this Development Code;
    - E. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by this Development Code;
    - F. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by this Development Code;
    - G. Generation of base flood elevation(s) for subdivision and large-scale developments as required by this Development Code; and
    - H. A floodplain development permit application fee set by the schedule of fees adopted by the City.
- (d) Review of Floodplain Development Permit Applications
- (1) Review
    - A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required for a Floodplain Development Permit application, as described in the subsection above, has been received by the Floodplain Administrator.
    - B. The Floodplain Administrator shall review all Floodplain Development Permit applications to assure that all necessary permits have been received from those Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.
  - (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a Floodplain Development Permit shall be issued. All Floodplain Development Permits shall be conditional upon the commencement of work within one year. A floodplain development permit shall expire one year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.
- (e) Inspections of Activities Subject to Floodplain Development Permits. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

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**(f)** Post-Construction Certifications Required for Activities Subject to Floodplain Development Permits. The following as-built certifications are required after a Floodplain Development Permit has been issued:

- (1)** For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- (2)** For any of the following developments:
  - A. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
  - B. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
  - C. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
  - D. Subdivision or large-scale development proposals requiring the establishment of base flood elevations.

Revoking a Floodplain Development Permit. A Floodplain Development Permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Board of Zoning and Building Appeals.

### 1052.10: Changes to Nonconformities

- (a)** Administrative Procedures for Changes to Nonconforming Uses. Changes to nonconforming uses shall seek a Zoning Permit and comply with regulations in Section 1051.05 "Nonconforming Uses."
- (b)** Administrative Procedures for Changes to Nonconforming Structures
  - (1)** Changes to nonconforming structures shall seek a Zoning Permit and a Building Permit and comply with regulations in Section 1051.06 "Nonconforming Structures."
  - (2)** Certain changes to nonconforming structures may require a Certificate of Appropriateness where located in the Design Review Board Boundary.

### 1052.11: Amendments to the Text of the Development Code

- (a)** Purpose of the Amendments to the Text of the Development Code Section. To adapt to new social and economic conditions and to implement the Comprehensive Plan in phases, this Development Code includes an administrative procedure by which the Development Code's text may be changed from time to time.
- (b)** Applicability of Amendments to the Text of the Development Code. Any portion of this Development Code may be amended following procedures outlined in this section.
- (c)** Who May Initiate Amendments to the Text of the Development Code? The Planning Commission as a whole or Council as a whole may initiate this Text Amendment process.
- (d)** Text Amendment Initiation Process. For any proposed Text Amendment, the initiating body, whether the Planning Commission or Council, may make an official Text Amendment proposal to the Planning Director or designee.
- (e)** Approval Process
  - (1)** Public Hearing at Planning Commission for Text Amendment

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- A. Any proposed Text Amendment shall first go before the Planning Commission in a public hearing for a Text Amendment recommendation.
  - B. Following initiation of a Text Amendment proposal by the initiating body, the Planning Commission shall add the proposed Text Amendment to its agenda at a public hearing within forty-five (45) days of the proposal's initiation; the public hearing shall be held and a recommendation to approve or deny shall be made at that meeting.
  - C. Public notice shall be provided as required for all Planning Commission public hearings.
  - D. Planning Commission Public Hearing Proceedings
    - 1. Accessibility. The public hearing shall be held at a time, place, and location accessible to the general public.
    - 2. Planning Staff Input. The Planning Commission may request professional opinion from the Planning Department staff during the public hearing.
    - 3. Public Input. All parties choosing to be heard shall be heard at least once at the hearing.
    - 4. Planning Commission Decision. Following the public hearing, the Planning Commission shall discuss and make a decision to recommend to approve or deny the Text Amendment.
    - 5. Text Amendment Criteria. Before recommending the approval of a Text Amendment, the Planning Commission shall first find that the proposed Text Amendment is consistent with all approved plans. The Planning Commission shall recommend to deny the Text Amendment only when the Text Amendment conflicts with one (1) or more objective of an approved land use plan.
- (2) Public Hearing at Council for Text Amendment
    - A. Following the Planning Commission public hearing, the proposed Text Amendment shall be added to the agenda of a Council meeting within thirty (30) days of the Planning Commission hearing.
    - B. Council Meeting Proceedings
      - 1. Accessibility. The public hearing shall be held at a time, place, and location accessible to the general public.
      - 2. Planning Staff Input. Council may request professional opinion from the Planning Department staff during the Council meeting.
      - 3. Public Input. All parties choosing to be heard shall be heard at least once at the Council meeting.
      - 4. Council Decision. Following the public meeting, Council shall discuss the text amendment, consider the recommendation to approve or deny from the Planning Commission, and vote on whether to approve or deny the proposed Text Amendment.
      - 5. Overturning a Planning Commission Recommendation. To approve a Text Amendment that the Planning Commission recommended to approve, Council shall require a majority vote of the present members, provided that a quorum is reached, with the quorum determined by City Charter. To approve a Text Amendment that the Planning Commission recommended to deny, thereby overturning the Planning Commission recommendation, Council shall require at least two-thirds (2/3) of the entire voting membership of Council.
  - (f) Text Amendment Transmission of Decision to Planning Director or Designee. The decision of Council to approve or deny a proposed Text Amendment shall be transmitted in writing to the Planning Director or designee within three (3) working days of the date of the public hearing. The Planning Director or designee shall then facilitate the update of the Development Code document in a timely manner.



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### 1052.12: Rezoning; Amendments to the Official Zoning Map

- (a) Purpose of the Amendments to the Official Zoning Map Section. To adapt to new social and economic conditions and to implement the Comprehensive Plan in phases, this Development Code includes an administrative procedure by which the Development Code's map may be changed from time to time.
  - (b) Applicability Amendments to the Official Zoning Map. Any parcel or collection of parcels may be rezoned following procedures outlined in this section.
  - (c) Who May Initiate Amendments to the Official Zoning Map? The Planning Commission as a whole, Council as a whole, or any property owner within the area proposed to be rezoned may initiate this Map Amendment process.
  - (d) Amendments to the Official Zoning Map Initiation Process. For any proposed Map Amendment, the initiating body, whether the Planning Commission, Council, or any property owner within the area proposed to be rezoned, may make an official Map Amendment proposal to the Planning Director or designee.
  - (e) Approval Process for Amendments to the Official Zoning Map
    - (1) Public Hearing at Planning Commission for Map Amendments
      - A. Any proposed Map Amendment shall first go before the Planning Commission in a public hearing for a Map Amendment recommendation.
      - B. Following initiation of a Map Amendment proposal by the initiating body, the Planning Commission shall add the proposed Map Amendment to its agenda at a public hearing within forty-five (45) days of the proposal's initiation; the public hearing shall be held and a recommendation for approval or denial shall be made at that meeting.
      - C. Public notice shall be provided as required for all Planning Commission public hearings.
- D. Planning Commission Public Hearing Proceedings
    - 1. Accessibility. The public hearing shall be held at a time, place, and location accessible to the general public.
    - 2. Planning Staff Input. The Planning Commission may request professional opinion from the Planning Department staff during the public hearing.
    - 3. Public Input. All parties choosing to be heard shall be heard at least once at the hearing.
    - 4. Planning Commission Decision. Following the public hearing, the Planning Commission shall discuss and make a decision to recommend approval or denial of the Map Amendment.
    - 5. Map Amendment Criteria. Before recommending the approval of a Map Amendment, the Planning Commission shall find all the following conditions are satisfied:
      - a. The proposed Map Amendment is consistent with all approved plans;
      - b. The uses permitted under the proposed district are compatible with existing uses or zoning in the environs;
      - c. The trend of development, redevelopment, or land use change in the general area since the original zoning was established supports the proposed zoning classification;
      - d. The proposed zoning classification promotes the public interest and not solely the interest of the applicant; and
      - e. Adequate street capacity and public services are anticipated to be available to support the proposed classification.
      - f. Please note that special criteria apply for rezoning properties to the Design Review Board Boundary; see Section 1052.13 (c) "Rezoning within the Design Review Board Boundary."
    - 6. Planning Commission Decision to Recommend Map Amendment. At the public hearing, the Planning Commission shall make a decision to recommend the approval or denial of the proposed Map Amendment.

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### (2) Public Hearing at Council for Map Amendment

- A. Following the Planning Commission public hearing, the proposed Map Amendment shall be added to the agenda of a Council meeting within thirty (30) days of the Planning Commission hearing.
- B. Council Meeting Proceedings for Map Amendments
  1. Accessibility. The public hearing shall be held at a time, place, and location accessible to the general public.
  2. Planning Staff Input. Council may request professional opinion from the Planning Department staff during the Council meeting.
  3. Public Input. All parties choosing to be heard shall be heard at least once at the Council meeting.
  4. Council Decision. Following the public meeting, Council shall discuss the Map Amendment, consider the recommendation to approve or deny from the Planning Commission, and vote on whether to approve or deny the proposed Map Amendment.
  5. Overturning a Planning Commission Recommendation. To approve a Map Amendment that the Planning Commission recommended to approve, Council shall require a majority vote of the present members, provided that a quorum is reached, with the quorum determined by City Charter. To approve a Map Amendment that the Planning Commission recommended to deny, thereby overturning the Planning Commission recommendation, Council shall require at least two-thirds (2/3) of the entire voting membership of Council.

- (f) Map Amendment Transmission of Decision to Planning Director or Designee. The decision of Council to approve or deny a proposed Map Amendment shall be transmitted in writing to the Planning Director or designee within three (3) working days of the date of the public hearing. The Planning Director or designee shall then facilitate the update of the Development Code's Official Zoning Map in a timely manner.

## 1052.13: Processes in the Design Review Board Boundary

### (a) Use of the Design Review Board Boundary

- (1) Because historic character may be confined to a single property or portion thereof, a single lot or building site or portion thereof, such as a sign, may be classified within the Design Review Board Boundary if the placement of the property or area in the within the Design Review Board Boundary is consistent with the significance of adjacent property or with the Preservation Plan for the City. A historic preservation classification of a portion of a lot or building site shall be accompanied by a notation on the Official Zoning Map or addendum thereto indicating what portion of the property is governed by the designation.
- (2) Secondary Property. The Design Review Board Boundary may include secondary property, as defined herein, whether developed or vacant, if Council finds that their control under these provisions is necessary for the protection of primary property in its vicinity. No more than thirty three (33) percent of the land area, excluding streets, within a contiguous multi-lot area located within the Design Review Board Boundary shall be secondary property. Except, in order to provide a protected buffer zone around significant properties, lots located wholly or partially within fifty (50) feet of a lot on which a primary property is located shall not be counted in determining the percent of land in secondary property.

### (b) Design Guidelines for the Design Review Board Boundary

- (1) Historic District Design Guidelines Mandatory. The Design Review Board shall prepare and recommend for adoption as amendments to this Development Code specific Historic District Design Guidelines for:
  - A. Any existing or proposed area within the Design Review Board Boundary with more than five (5) lots, and
  - B. Multi-lot districts of five (5) or fewer lots that are adjacent or separated at any point

## ADMINISTRATION AND PROCEDURES

by under two hundred (200) feet, which are considered a single historic district for purposes of this provision.

- C. No rezoning within the Design Review Board Boundary shall be effective prior to adoption of such Guidelines by Council.

**(2)** Standards for Historic District Design Guidelines. All Historic District Design Guidelines shall conform to all of the following requirements:

- A. Findings on Existing Character. Historic District Design Guidelines shall be based on surveys and specific findings concerning the visual qualities of the existing historic character of the particular district. These findings shall be documented in the Historic District Design Guidelines.
- B. Define Compatibility. Historic District Design Guidelines shall serve to clearly define the specific nature of the visual compatibility required of alterations as related to that existing character.
- C. Advance Notice to Applicants. Historic District Design Guidelines shall be sufficiently clear and detailed to convey in advance to prospective applicants as specifically as possible what the Design Review Board requires so as to prevent unnecessary delays in approval and unnecessary revisions to alteration plans.
- D. Period of Significance. Historic District Design Guidelines for a multiproperty area within the Design Review Board Boundary shall identify the period of significance represented by the historic district. Such period shall be sufficiently inclusive to acknowledge the span of time during which historic properties were constructed or achieved significance. The period of significance shall be used as a point of reference for determining visual compatibility within the district. It shall not be used to prevent contemporary treatments that may be deemed appropriate within the context of the district as a whole.

- E. Guidelines for Secondary Property. Historic District Design Guidelines shall be defined for secondary property, as defined herein, that are appropriately less stringent than those applying to primary property.

- F. Cost-Benefit. Historic District Design Guidelines shall weigh the benefit to the public of the most historically appropriate treatments against any additional cost to the property owner therefor. They shall favor treatments offering the greatest public benefit in relation to private cost.

**(c)** Rezoning within the Design Review Board Boundary

- (1)** Purpose of Design Review Board Boundary Rezoning Processes. The City has a unique history as a planned industrial community and experimental farm created by an imaginative entrepreneur. As a result, certain properties and areas in the City possess special character deriving from the presence of historic buildings or sites. When this character is of sufficient cultural, aesthetic, or economic value, special controls and review procedures governing design of new construction and alterations to existing properties are warranted to further the public welfare. The Design Review Board Boundary is intended to establish such controls and procedures without significantly interfering with the development rights conferred by other City regulations. It is therefore the intent of this chapter to establish procedures to guide change in historic areas. It seeks to do so by encouraging property owners and the City to work out a mutually acceptable balance between preservation and alteration, between aesthetic and non-aesthetic development factors, and between the rights of the property owner and the public good. Specifically, the Design Review Board Boundary is intended to afford special protection to historic properties and areas that will:

- A. Protect and enhance business, cultural, and living environments;
- B. Stimulate appropriate investment in and improvement of historic properties and areas by assuring a controlled environment that encourages such improvement and helps preserve its value;

## ADMINISTRATION AND PROCEDURES

- C. Promote business and economic development by preserving the character of buildings and areas that have a special environment that appeals to residents and visitors;
  - D. Preserve the existing character and property values of historically significant parts of one (1) by discouraging incompatible change;
  - E. Recognize the rights and needs of property owners and businesses; and
  - F. Promote a balance between aesthetic considerations and economic requirements and between conservation and change.
- (2) The intent of the Design Review Board Boundary is to provide a mechanism for negotiations between the public and private sectors that allows the City to make progress while preserving the best of its past.
- (3) Approval Process for Rezoning a Property or Collection of Properties within the Design Review Board Boundary
- A. The rezoning of a property or collection of properties within the Design Review Board Boundary established in the Development Code shall follow the process as established in this section. However, the approval criteria for such rezonings is different, as described below.
  - B. Criteria for Recommending Rezoning within the Design Review Board Boundary. In order to recommend the approval of a Map Amendment proposal to assign a property or collection of properties within the Design Review Board Boundary, the Planning Commission shall first find that all of the following conditions are likely:
    - 1. Significance. The property or area to be rezoned has at least one (1) of the significances specified below.
      - a. Historic Significance. It has special value associated with a site, person, group, organization, event, or pattern of events of local, state, or national historic significance. For this purpose a pattern of events shall be considered a series of discrete events that are related both to each other and to the significance of the property or area and that do not serve merely to identify a historical era or other period of time or a style of architecture.
      - b. Architectural Significance. It has special value as historic architecture by: being the work of a historically notable builder, architect, or designer; or embodying architectural elements that make it innovative, distinctive, excellent, uncommon, irreplaceable, or otherwise significant; or serving to create a special character or atmosphere that is of an economic value to the City or a portion thereof that justifies its preservation.
      - c. Other Significance. It has special value resulting from a singular physical characteristic that is a widely recognized and widely esteemed visual feature or landmark of the City or of any neighborhood. "Special value" shall be considered to mean value not commonly exhibited by other properties or areas in the City. Such value need not be one-of-a-kind but shall be sufficiently uncommon to clearly merit special regulatory protection.
      - d. The property or area has further not seen publicly visible alterations to the original design, or to a successor design established as the compatibility standard, that are so drastic as to have largely destroyed the significance of the area or property and that could be reversed only with extraordinary difficulty.
      - e. Suitability for Preservation. The property or area exhibits sound structural condition and remains largely suitable physically for preservation or restoration.
      - f. Consistent With Adjacent Property or Plan. The placement of the property or area within the Design Review Board Boundary is consistent with the significance of adjacent property or with the Preservation Plan for the City. It therefore does not represent an arbitrary imposition only upon certain properties or areas with such significance.

## **ADMINISTRATION AND PROCEDURES**

- (4)** Moratorium. Council may establish a moratorium on Building Permits, Zoning Permits, Demolition Permits, and/or Sign Permits in any area for which a rezoning within the Design Review Board Boundary has been scheduled for consideration. No such permit shall be issued for any property within such area unless: final action has been taken by Council on such rezoning, or sixty (60) days have passed since the beginning of the moratorium, whichever comes first, or the permit application has been voluntarily submitted for the review required for a Certificate of Appropriateness and such Certificate has been approved. If the rezoning is approved, permits shall thereafter be issued only after approval of a Certificate of Appropriateness.

**(d)** Removal of Design Review Board Boundary Zoning

- (1)** The City shall rezone a property, area, or portion thereof to remove the Design Review Board Boundary zoning, thereby rezoning the property, area, or portion thereof, if the characteristics of the property, area, or portion thereof on which the Design Review Board Boundary zoning was based have permanently ceased to exist.
- (2)** Such rezoning shall not require a request from the property owner. If a valid request is received, the rezoning shall be approved by Council no later than ninety (90) days after receipt by the Planning Director or designee of the request.

**(e)** Property Maintenance within the Design Review Board Boundary

- (1)** The Building Commissioner (or designee) shall give priority in enforcement of the City's property maintenance regulations to primary properties located within the Design Review Board Boundary, especially those with the most significant violations, in order to prevent deterioration that would justify or require demolition of historic resources. This requirement shall not apply to secondary properties.
- (2)** If the property owner has not performed maintenance work ordered by the Building Commissioner or designee within a reasonable period as determined by the Building Commissioner or designee, the Building Commissioner or designee may arrange for such work to be

performed and assess the property owner for the cost thereof.

### **1052.14: Appeals**

- (a)** Purpose of Appeals. Because actions of administrative officials and bodies under City regulations are subject to occasional error, the Board of Zoning and Building Appeals may hear Appeals of such actions and modify them if it finds an error has been made.
- (b)** Applicability
- (1)** Except as otherwise provided herein, any party, including the City itself, that is aggrieved by an alleged error in an administrative action--such as an order, requirement, decision, interpretation, or determination made under this Development Code by the Building Commissioner (or designee), Planning Director (or designee), Property Maintenance Inspector, or other authorized administrative official, board, commission, or department of the City may file an Appeal thereof with the Board of Zoning and Building Appeals. Such actions shall include denial of a Certificate of Compliance, Certificate of Occupancy, Certificate of Appropriateness, Building Permit, Zoning Permit, or other permit or certificate based on noncompliance with the regulations of this Development Code.
- (2)** Where appeal to the Board of Zoning and Building Appeals is not appropriate, such as appeals concerning Council or Board of Zoning and Building Appeals actions, an appellant shall make such appeal to the Court of Common Pleas.
- (c)** Process
- (1)** Notice of Appeal
- A. Filing Deadline. A Notice of Appeal shall be filed with the Building Commissioner or Planning Director or designee within ten (10) days of the date of the action being appealed.
- B. Contents. The Notice shall contain: the name, address, and telephone number of the property owner filing the appeal; the location of the property affected by the action being appealed; a numerical citation of the



## ADMINISTRATION AND PROCEDURES

regulation governing the action appealed; a statement of the grounds on which the appeal is based; a brief summary of the factual evidence upon which the appeal is based; a plot plan and verbal description of the use affected by the action being appealed.

- (2) Stay of Proceedings. The filing of a Notice of Appeal shall stay all proceedings in furtherance of the action appealed unless the Building Commissioner or designee certifies to the Board of Zoning and Building Appeals that in their judgment a stay would cause imminent peril to life, health, or property. In such case, no proceedings shall be stayed without issuance of a restraining order by the Board of Zoning and Building Appeals or a court of record.

(3) Action by Board

- A. The Building Commissioner or the Planning Director or designee shall transmit to the Board of Zoning and Building Appeals upon receipt the Notice of Appeal and the complete record of the decision appealed. The Board of Zoning and Building Appeals shall set a reasonable time for a meeting to consider the appeal.
- B. Within thirty (30) days of the conclusion of the meeting, the Board shall take final action on the appeal in conformance with the appeal approval criteria, described in this section.
- C. The Board of Zoning and Building Appeals may affirm, modify, or reverse the action appealed, subject only to judicial review. To this end, the Board of Zoning and Building Appeals shall have all the powers of the party whose action was appealed, including the power to direct the issuance of a certificate or permit.

(d) Approval Criteria for Appeals

- (1) The Board of Zoning and Building Appeals shall sustain an appeal and reverse or modify an action appealed only if it finds that the action was an error not in conformance with applicable regulations of this Development Code by virtue of being:

- A. Based on erroneous interpretation of those regulations;
- B. Based on an erroneous finding of a fact material to the action taken under the regulations;
- C. An abuse of the discretion allowed under the regulations; or
- D. Clearly not in conformance with applicable approval criteria or other provisions of the regulations pertinent to that permit, approval, or other decision.

- (2) If the Board of Zoning and Building Appeals finds that the action appealed was undertaken in full compliance with applicable regulations, it shall sustain the action and deny the appeal even if it finds the action or the regulation to be objectionable.
- (3) The Board of Zoning and Building Appeals may recommend to the Planning Commission or Council that the regulations be amended if it finds certain provisions to be undesirable, but it shall not sustain an appeal as an alternative to such an amendment.

### 1052.15: Enforcement

- (a) Who Enforces the Development Code? The Planning Director (or designee) and their staff or the Building Commissioner (or designee) and their staff shall have the power and responsibility to enforce the regulations of the Development Code. The Planning Director or designee and their staff or the Building Commissioner or designee and their staff shall have the ability to call upon other City department staff to assist in fulfilling this responsibility.
- (b) Failure to Comply Is Violation. Wherever a property owner fails to comply with the regulations of this Development Code, either in process, in conduct of land use, or in structural property, the property owner shall be deemed to be in violation of the Development Code, except in the case that the noncompliance is a nonconforming use or nonconforming structure, as regulated by Chapter 1051 Nonconformities.

## ADMINISTRATION AND PROCEDURES

**(c)** Delivery of Warning. Such warning shall be deemed to be properly served where a copy thereof is served in accordance with one of the following methods:

- (1)** A copy is delivered personally.
- (2)** A copy is sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested.
- (3)** If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

**(d)** Ticketable Violations

- (1)** Purpose of Ticketable Violations. Because certain violations have less detrimental impact and can be corrected easily and at modest expense, a special enforcement procedure is hereby established for Ticketable Violations.
- (2)** Types of Ticketable Violations. The City shall establish a written list of violations of this Development Code to be treated as Ticketable Violations. Such list shall be available for public inspection. Ticketable violations shall be considered as civil infractions rather than as criminal misdemeanors.
- (3)** Issuance of Warning Ticket. A City inspector shall issue a Warning Ticket to the violator if it determines that there exists any Ticketable Violation as provided herein. No fine or penalty shall be assessed by a Warning Ticket.
- (4)** Issuance of Citation. The City shall issue a Citation to the violator if it determines that the violator has not taken any of the actions specified herein in response to the Warning Ticket, or the same violation by the party to whom the Warning Ticket was issued has been the subject of a previous Citation or Notice of Violation. The Citation shall assess a fine in an amount established by Council.
- (5)** Appeal of a Citation. A citation may be appealed through the process outlined in Section 1052.14 "Appeals."

**(e)** Major Violations

- (1)** Applicability. A party shall be guilty of a Major Violation if it has either:
  - A. Violated any provision of this Development Code or any condition to which any approval thereunder has been made subject, other than a Ticketable Violation; or
  - B. Failed to correct the Ticketable Violation in response to the issuance of a Citation, or
  - C. Resumed or repeated a Ticketable Violation previously discontinued in response to a Citation.
- (2)** Notice of Violation. If the City determines that a Major Violation exists, it shall issue a Notice of Violation to the violator.
- (3)** Legal Action. If the violator has not remedied the Major Violation in accordance with the timeline described in the Notice of Violation, the City shall request the Director of Law to file an action in court to correct the violation.

### 1052.16: Penalties

- (a)** Class of Offense. Whoever violates any provision of this Development Code is guilty of a minor misdemeanor on a first offense; on a second offense within one (1) year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense such person is guilty of a misdemeanor of the third degree.

### 1052.17: Disclosure of Interest, Conflicts of Interest

- (a)** Disclosure of Interest. If the applicant for any Development Code approval is not the City, a disclosure of interest shall be filed with the application.
  - (1)** Information and Affidavit Required If Applicant Is Not Owner. If the applicant is not the property owner of record of the subject property, the

## **ADMINISTRATION AND PROCEDURES**

application shall disclose the legal capacity of the applicant and the full names, addresses, and telephone numbers of all owners. In addition, an affidavit of the owner(s) shall be filed with the application stating that the applicant has authority from the owner to make the application.

- (2)** Information Required If Applicant or Owner Is a Trust. If the applicant or fee owner is a trust or trustee thereof, the full name, address, telephone number, and extent of interest of each beneficiary shall be disclosed in the application.
- (3)** Information Required If Applicant or Owner Is a Corporation/Partnership. If the applicant, fee owner, contract purchaser, option holder, or any beneficiary of a trust owning the subject property is a corporation, the application shall disclose the names and addresses of the corporation's officers, directors, and registered agents, or the partnership's general partners and those shareholders or limited partners owning in excess of 5% of the outstanding stock or interest in the corporation or interest shared by the limited partners.
- (4)** Information Required Where Ownership May or Has Changed. Disclosure of present ownership shall include a statement of the name, address, and phone number of the prospective purchaser, if any. In the event of a change in ownership between the time the application is filed and the time of the meeting or public hearing thereupon, such change shall be disclosed by affidavit no later than the time of the meeting or hearing.

### **(b) Conflict of Interest**

- (1)** Voting by Interested Members Prohibited. A member of any application review body who knowingly has a direct or indirect interest in any question before that review body, shall disqualify themselves from voting thereupon. For the purposes of this provision, an indirect interest shall be interpreted to include an interest of the reviewer's spouse, sibling, child, parent, in-law, or any organization with which the member holds, has held within the previous two (2) years, or is in discussions concerning future holding, any paid or unpaid office or position.

- (2)** Ex Parte Communications Required to be Disclosed. Any member of any application review body who, prior to the review body decision on an application, has communicated with parties interested in the outcome thereof or their agents, other than in an official meeting of the review body or a duly appointed committee thereof or as otherwise authorized in advance by the Chair, shall disclose in a public meeting of the review body the content of such communication prior to the vote on the application.
- (3)** City Staff or Review Body Recommendation of Professionals Prohibited. No review body or any member thereof or any employee of the City shall suggest or recommend an attorney, planner, architect, engineer, or other person or organization offering professional services to an applicant or prospective applicant in connection with an application before that body.
- (4)** Compliance with all applicable Ohio laws including Ethics Commission Policies. Members of review bodies shall be subject to Chapter 102 and Section 2921.42 of the Ohio Revised Code and all opinions issued by the Ohio Ethics Commission.

## 1053

## Glossary of Terms

## A

**Accessory (Use Term).** A use incidental to and customarily associated with a specific principal use, located on the same lot or parcel. See Section 1040.06 for more information on accessory uses.

**Adult Arcade.** Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

**Adult Bookstore or Adult Video Store.** A commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or described specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices, or paraphernalia, other than medical or contraceptive devices, which are designed for use in connection with specified sexual activities.

**Adult Cabaret.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions, which are characterized by the depiction or description of specified sexual activities or specified anatomical areas, are regularly shown.

**Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity, or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

**Adult Use.** Any single commercial or recreational establishment from which minors are excluded from admittance at least ten (10) percent of the time such establishment is open by virtue of their age and of the presentation therein of entertainment, goods, services,

## GLOSSARY OF TERMS

or activities, any of which is obscene or harmful to juveniles as defined by divisions E and F of Section 2907.01 of the Ohio Revised Code. Adult uses include book stores, video stores, motion picture theatres, mini-motion picture theatres or arcades, drive-in theatres, hotels or motels, massage parlors, modeling studios, and bathhouses that meet this definition as well as theatres or eating and drinking places with entertainment that meets this definition. Each such use named herein shall be considered a separate adult use even if located on the same premises and operated under the same management as another such use, except that a second such use shall be considered an Accessory Use to the first if it is established on no more than 20 percent of the total floor area devoted to both uses. Uses such as massage parlors or bath houses that are operated by a licensed medical practitioner, physical therapist, psychiatrist, psychologist, or similar professional for the exclusive purpose of treatment or therapy are not considered adult uses. Adult use is also defined to include Chapter 836 of the Barberton Codified Ordinances and all definitions established to define "Amusement Devices, Skill-Based Amusement Machines, and Arcades."

**Aerospace-Related (Use Term).** Uses consisting of the take-off, landing, boarding, maintenance, or storage of aircraft. Aerospace-Related Uses shall include airports, helipads, hangars, flight control towers, National Guard or other military training and storage facilities with aircraft operations, aerospace communications antennas, and associated facilities, such as terminals, concessions, and aircraft fuel storage. Unmanned drones of less than two (2) feet in diameter intended for recreational use shall not be considered aircraft for the purposes of this definition.

**Agricultural (Use Term).** Uses that involve the production and associated sale of raw food products. Agricultural Uses shall include row crop production, orchards, aquaculture, horticulture, greenhouses, nurseries, horse boarding, feed and grain storage, and forestry. Agricultural Uses shall include certain processing of raw food, such as the production of wine, maple syrup, and vinegars. Agricultural Uses shall also include farm stands selling products produced on the premises, such as tomatoes, sweet corn, maple syrup, eggs, honey, sauces, and pies. Agricultural tourism uses, such as wine tours and tasting rooms and pick-

your-own operations, shall be included as Agricultural Uses, but shall not include the use of agricultural properties for commercial events unrelated to the agricultural production of the property.

**Artisanal Industrial (Use Term).** Uses consisting of hand-made artisan goods production and their associated sales in small workshops of less than five thousand (5,000) square feet of gross floor area, where the gross floor area includes any outdoor storage of materials or products. Artisanal Industrial Uses shall include small artist studios and artist live-work units; woodworking shops; leather crafts; ceramics studios; and chocolate shops. Artisanal Industrial Uses shall not include operations with automated manufacturing processes, the storage of flammable fluids in quantities greater than three hundred (300) gallons, or the emission of gases greater than what would be typical of one (1) ceramics kiln of twelve (12) cubic feet or less.

**Artist Live-Work Unit.** See "Live-Work Unit."

### B

**Building Permit.** An official approval to construct a new building or expand or remodel an existing building to ensure the structure meets all health and safety standards.

### C

**Canopy/Awning Sign.** A sign that is either attached to, affixed to, or painted on an awning or canopy.

**Civic and Institutional (Use Term).** Uses that are public or quasi-public in nature, designated for public services and activities that benefit the community, such as government buildings, educational institutions, community centers, houses of worship, cemeteries, mortuaries, libraries, museums and aquariums, police stations, fire stations, EMS stations, correctional facilities, philanthropic institutions, homeless shelters and food pantries, and non-commercial meeting halls.

**Collocation.** In the context of telecommunications facilities, the use of a wireless telecommunication facility by more than one (1) wireless telecommunication provider.



## GLOSSARY OF TERMS

**Commercial Vehicle.** Any motorized vehicle or trailer drawn thereby designed primarily for the transportation of materials or property (whether or not currently carrying such), for construction or earth moving, or to operate a power attachment such as a snow plow, that is not primarily used by a household for non-commercial personal or family transportation, for residential property maintenance, for recreation, or for car-pooling. Commercial vehicles include commercial trucks, buses, commercial vans, tractors and other motorized farm equipment, semi-tractors and semi-trailers, garbage trucks, tow trucks, tank trucks, cement trucks, sump trucks, snow plows, trailers, stake bed trucks, motorized farm vehicles, construction and earthmoving equipment, and commercial tree-trimming equipment. They do not include lawn tractors, snowmobiles, dune buggies, or recreational vehicles, as defined herein. Commercial vehicles include any of the following:

- (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, provided that the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand (10,000) pounds;
- (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more;
- (3) Any single vehicle or combination of vehicles that is not a Class A or Class B vehicle, but is designed to transport sixteen (16) or more passengers including the driver;
- (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than twenty-six thousand and one (26,001) pounds that is designed to transport fewer than sixteen (16) passengers including the driver;
- (5) Is transporting hazardous materials; or
- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells and a portable crane.

## D

**Development Code.** The portion of the codified ordinances of the City of Barberton, Ohio, between Chapters 1000 and 1053.

**Discount Store.** A retail establishment with a floor area less than twelve thousand (12,000) square feet that offers for sale a combination and variety of convenience shopping goods and consumer shopping goods, and continuously offers a majority of the items in its inventory for sale at a price per item of \$10.00 or less, adjusted for inflation.

**Dog Kennel.** Establishments or businesses that provide boarding, care, and sometimes breeding services for dogs. These facilities house multiple dogs, providing them with shelter, food, and exercise in a secure environment.

**Domestic Animal.** A cat, dog, or other small animal of the types commonly maintained as household pets. Each household may have up to three domestic animals.

**Driveway.** A driveway is an improved vehicle pathway that leads from a right-of-way to a dwelling unit.

**Dwelling Unit.** Space within a building designed or used exclusively as regular living quarters and Accessory Uses thereto for one (1) family, not more than two (2) household employees.

## E

## F

**Family.** An individual or two (2) or more persons, each related to the other by blood, marriage, or adoption, or foster children, and including not more than three (3) additional persons not related as set forth above, who are all living together as a single household unit in which members share common kitchen facilities and have access to all parts of the dwelling.

**Flag.** A piece of fabric, often rectangular, used as a symbol or emblem, representing nations, states, organizations, or causes, excluding United States of America flags. Its primary purpose is symbolic, decorative, or to signify affiliation. Flags are typically

## GLOSSARY OF TERMS

designed to wave freely in the wind, mounted on a pole or similar apparatus.

**Freestanding Sign.** A sign principally supported by a structure affixed to the ground, and not supported by a building, including one (1) sign supported by one (1) or more columns, poles, or braces placed in or upon the ground and two (2) monument signs affixed to the ground with no voids between the base and the sign area.

**Front Building Line.** The straight line parallel to the front lot line that separates all parts of a building from the open spaces between the building and a front lot line.

**Front Lot Line.** A lot line dividing a lot from a public or private street and is the line from which the required front setback is measured. If a lot has more than one (1) Lot Line that abuts a street right-of-way, such as is the case with a corner lot, the lot may have more than one (1) Front Lot Line.

**Front Yard, Actual.** An actual yard extending along the full frontage of a lot between a front lot line and the opposite building line extended to the side lot lines.

**Front Yard, Required.** The minimum depth of the front yard required by this Development Code, where the front yard is the shortest measure from the front lot line to the front building line. See Section 1000.11 for an illustration of this term.

**Front Yard Setback.** The shortest horizontal distance between a structure and any portion of the Front Lot Line. See Section 1000.11 for an illustration of this term.

### G

**General Right-of-Way (Use Term).** Uses consisting of typical uses of the right-of-way, including pedestrian paths, pedestrian streets, bus stops, bus shelters, electric bus recharging ports, and bus turnaround areas.

**General Utility (Use Term).** Uses consisting of public utilities pumps, pipelines, wires, and ponds related to the delivery of telecommunications data, natural gas, water, sewage, stormwater, electricity, or steam heat. General Utility Uses shall include water reservoirs and channels; stormwater detention basins; public utilities, including pumping stations and power substations; and telecommunications antennas under forty (40) feet in height. General Utility Uses do not include power plants

or solar or wind energy systems. Solar energy systems with less than one (1) megawatt of capacity shall be considered accessory uses to other land uses. Solar energy systems with a capacity of one (1) megawatt or greater shall be considered Light Industrial Uses. General Utility Uses do not include oil and gas wells, surfacing mines, or quarries, which shall all be considered Heavy Industrial Uses. General Utility Uses do not include landfills or waste transfer facilities, which shall be considered Heavy Industrial Uses.

**Group Home.** A residential facility licensed by the Ohio Department of Mental Health, the Ohio Department of Developmental Disabilities, or some other state agency or department, that provides room board, personal care, supervision, and habilitation, rehabilitation, or mental health services, to one (1) or more handicapped persons. (See definition of "Handicapped"). There are two (2) size categories of group homes:

- (1) Small Group Home. A residential facility that provides the services listed above for eight (8) or fewer handicapped persons.
- (2) Large Group Home. A residential facility that provides the services listed above nine (9) to sixteen (16) handicapped persons.

The definition of Group Home does not include housing to be occupied by two or more related or unrelated persons who have been convicted as sexual predators or sexual offenders, as defined by the Ohio Revised Code.

### H

**Heavy Industrial (Use Term).** Uses consisting primarily of welding, compressing, cutting, compounding, distillation, manufacturing, packaging, coating, reconditioning, laundering, or refining of food and drink products, consumer products, building supplies, chemicals, commercial goods, or raw materials. Heavy Industrial Uses shall include oil and gas wells; recycling centers; armories; bulk fuel storage; canning and preserving factories; motor freight, rail freight, or air freight terminals; vulcanizing shops; water or sewage treatment plants; power plants; and compacting. Heavy Industrial Uses shall not include operations that may fall within the definition of Artisanal Industrial Uses or Light Industrial Uses and shall not include toxic waste disposal sites.

**Heavy Truck.** Any ground vehicle weighing more than twenty-six thousand (26,000) pounds. Heavy trucks include city transit buses, mobile cranes, cement mixers, refuse trucks, and tractors designed to pull refrigerated trailers, dry vans and other equipment. These types of vehicles are primarily used for long-haul transportation.

**Home Occupation.** A gainful pursuit conducted by one (1) or more residents of a dwelling unit as an Accessory Use to such dwelling on the premises thereof.

## I

**Inoperable Vehicle.** A motor vehicle that has been in a wrecked, dismantled, or non-operating condition for more than thirty (30) days since its arrival on a premises.

**Institutional (Use Term).** Uses that are public or quasi-public in nature, such as houses of worship, cemeteries, mortuaries, libraries, museums and aquariums, police stations, fire stations, EMS stations, correctional facilities, philanthropic institutions, homeless shelters and food pantries, schools, and non-commercial meeting halls.

## J

## K

**Kenel.** Any lot or premises on which four (4) or more domestic animals are bred, groomed, boarded, sheltered, trained, offered for adoption, or sold for commercial or humane purposes, including animal shelters.

## L

**Lattice Tower.** In the context of telecommunications facilities, a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation.

**Light Industrial (Use Term).** Uses consisting primarily of welding, compressing, cutting, compounding, distillation, manufacturing, packaging, coating, reconditioning, laundering, or refining of food and drink products, consumer products, building supplies, chemicals, commercial goods, or raw materials, where such activity does not comprise the storage of flammable or hazardous materials in excess of one thousand (1,000) gallons, and where such activity does not produce emissions or vibrations that would constitute a health hazard to residents within two thousand (2,000) feet of the facility. Light Industrial Uses shall include indoor warehousing and storage and distribution facilities; laboratories for medical, dental, and optical research; and film and photographic testing. Light Industrial Uses shall not include operations that may fall within the definition of Artisanal Industrial Uses.

**Live-Work Unit.** A combined commercial and dwelling unit, where the tenant may pass between residential and commercial spaces without passing through securable doors. Such units allow residents to work and live in the same location. The commercial spaces may be used for a variety of commercial purposes, including artist studios, workshops, or galleries.

**Lot Area.** The square footage of a lot on a horizontal plane, not including any area within the right-of-way. See Section 1000.11 for an illustration of this term.

**Lot Coverage.** The percentage of the total lot area that is covered by manmade surfaces, such as principal structures; accessory structures over one hundred (100) square feet, such as patios, decks, garages, carports, and pools; and other surfaces, such as driveways, sidewalks, parking lots, and areas of pavement; but excluding pervious pavement and permeable paver systems. See Section 1000.11 for an illustration of this term.

**Lot Line.** A line dividing one (1) lot from another lot or from a street or any public place.

**Lot Depth.** The distance between the midpoint of the Front Lot Line and the rear of the lot along a path perpendicular to the Front Lot Line. See Section 1000.11 for an illustration of this term.

## GLOSSARY OF TERMS

**Lot Width.** The length of a lot's shortest Front Lot Line. See Section 1000.11 for an illustration of this term.

### M

**Micro-Vehicle.** Micro-vehicles are any small vehicles that (1) do not use internal combustion engines, that (2) weigh less than three hundred (300) pounds, that (3) do not have the capacity to generate twenty (20) horsepower or greater, and shall include bicycles, unicycles, push scooters, electric scooters, and electric bicycles.

**Mini-Warehouse.** See "Self-Storage."

**Monopole.** In the context of telecommunications facilities, a support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

**Motor Vehicle.** A vehicle with one (1) or more wheels, treads, jets, or propellers designed to transport one (1) or more people or cargo loads and with a motor capable of producing twenty (20) horsepower or greater.

### N

**Neighborhood Commercial (Use Term).** Commercial uses of less than fifteen thousand (15,000) square feet of gross floor area per building per lot, including sales of goods; services; office uses; health services; veterinary services; home improvement stores; hardware stores; garden supply stores; eating and drinking establishments; indoor entertainment and events facilities, such as game rooms, religious ceremonies, gyms, and ice skating rinks; day care centers; health, fitness, pool, or athletic clubs; and lodging. Neighborhood Commercial Uses shall not include crematoria; any use considered an Artisanal Industrial, Light Industrial, or Heavy Industrial use; uses fitting the definition of Vehicle-Oriented Use or Weapons-Related Use; operations of fifteen thousand (15,000) square feet of gross floor area or greater; outdoor kennels; emergency or in-patient medical care; firearms, dangerous ordnance, or weapons sales; gunsmith shops; or firing ranges.

**Nine-Plus-Unit Residential (Use Term).** Uses consisting of nine (9) or more dwelling units per lot or group living homes of nine (9) or more bedrooms.

Nine-Plus-Unit Residential Uses shall include buildings with nine (9) or more dwelling units on one (1) lot, large group homes with nine (9) or more bedrooms, single-room occupancy uses with nine (9) or more rentable bedrooms, dormitories with nine (9) or more rentable bedrooms, assisted living facilities with nine (9) or more units or bedrooms, nursing homes with nine (9) or more units or bedrooms, and convalescent homes with nine (9) or more units or bedrooms. Nine-Plus-Unit Residential Uses shall also include mobile home parks with more than nine (9) mobile home spaces. Nine-Plus-Unit Residential Uses shall not include cottage courts with more than eight (8) units per court or row houses of one (1) or two (2) units per lot with more than eight (8) contiguous units per row house structure.

**Nude Model Studio.** Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided solely to be sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

#### Nudity or a State of Nudity.

- (1) The appearance of a human bare buttock, anus, genitals, or areola of the female breast; or
- (2) A state of dress which fails to cover opaquely a human buttock, anus, or genitals, or areola of the female breast.

### O

**Official Zoning Map.** The most updated version, as adopted by the Council, of the map that depicts the geographic distributions of each zoning district within the City boundaries.

**Outdoor Arena (Use Term).** Outdoor uses that attract large numbers of people to sporting or entertainment events. Outdoor Arena Uses include stadiums, arenas, outdoor concert venues, racetracks, fairgrounds and festival grounds, amphitheaters, and flea markets. Outdoor Arena Uses may include associated indoor spaces, such as bathrooms, halls, and offices, and may include the sale of associated food, drinks, and merchandise, such as in the case of a stadium's food concessions.

P

**Parking Area.** A portion of a lot designed to accommodate the temporary storage of motor vehicles or their accessories, such as trailers or campers. Parking areas shall include outdoor parking areas, such as parking lots and driveways, and indoor parking areas, such as parking structures and garages.

**Parking Area Accessways.** Vehicle pathways connecting a right-of-way and a parking area, where such parking area is not intended for a dwelling.

**Parks and Preserves (Use Term).** Uses consisting of passive recreation; natural woods, wetlands, or forests; and neighborhood beautification uses. Parks and Preserves Uses include pedestrian plazas, pedestrian squares, fountains, community gardens, parks, picnic areas, and nature preserves.

**Personal Wireless Services.** Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined by federal law at 47 U.S.C. Section 332(c)(7).

**Projecting Sign.** A sign attached to and projecting out from a building face or wall, generally at right angles to the building.

**Proprietary Symbol.** A graphic, logotype, or other representation registered as a trademark or service mark or otherwise associated in content or in style, color, or other aspect of its appearance with a particular organization or a particular product or service identified with or promoted by an organization. A drawing of a sea shell, for example, would be considered a proprietary symbol if it were stylized to resemble the logotype of Shell Oil. A graphic of an apple would be considered a proprietary symbol if stylized to resemble the logo of the Apple Computer Company.

Q

R

**Rear Lot Line.** The lot line which is most opposite the front lot line. Each lot shall have one (1) rear lot line. In the case of a corner lot with more than one (1) front lot line, the rear lot line is the lot line which is most opposite the shortest front lot line. In the case of an irregular or triangular-shaped lot, the rear lot line is a line ten (10) feet in length within the lot situated parallel to and at the maximum distance from the front lot line. See Section 1000.11 for an illustration of this term.

**Rear Yard.** Any undeveloped area of a lot that has a setback from a front lot line equal to or more than X, where X equals the distance between a front lot line and the most proximal point of a rear facing exterior wall of a principal structure, measured perpendicularly from the front lot line. For this definition, a rear facing exterior wall is any wall that is more than one-hundred twenty (120) degrees off of parallel of all front lot lines.

**Rear Yard Setback.** The shortest horizontal distance between a structure and a Rear Lot Line of the lot. See Section 1000.11 for an illustration of this term.

**Recreational (Use Term).** Indoor or outdoor active recreation. Some examples of these uses include athletic courts, athletic fields, and athletic rinks; golf courses; boat launches, boat houses, and marinas; and campgrounds. This term does not include Weapons-Related Uses.

**Recreational Vehicle.** A recreational boat or a vehicle primarily designed as temporary living quarters in conjunction with recreation, camping, or travel use that either has its own motive power or is drawn by another vehicle. Recreational vehicles include travel trailers, camping trailers, truck campers, motor homes, and similar vehicles.

**Regional Commercial (Use Term).** Commercial uses of at least fifteen thousand (15,000) square feet of gross floor area per building per lot, including sales of goods, such as department stores; services;



## GLOSSARY OF TERMS

office uses; health services and hospitals, including emergency and inpatient services; self-storage centers; veterinary services; home improvement stores; hardware stores; garden supply stores; eating and drinking establishments, including commercial kitchens and catering kitchens; indoor entertainment and events facilities, such as game rooms, religious ceremonies, gyms, and ice skating rinks; day care centers; health, fitness, pool, or athletic clubs; lodging; bus and rail stations; and film, television, radio, and animation studios. Regional Commercial Uses shall not include crematoria; any use considered an Artisanal Industrial, Light Industrial, or Heavy Industrial use; uses fitting the definition of Vehicle-Oriented Use or Weapons-Related Use; operations of less than fifteen thousand (15,000) square feet of gross floor area; outdoor kennels; firearms, dangerous ordnance, or weapons sales; gunsmith shops; or firing ranges.

**Residential District.** Any area within the Traditional Residential District, the Suburban Residential District, the Lake Anna Neighborhood District, or the Corridor District.

**Residential Uses.** Any use involving the long-term residence of an individual or household in a dwelling unit, where such dwelling unit is owned by one (1) or more of the inhabitants or where such dwelling unit is rented by one (1) or more of the inhabitants but where the rental duration is not available for a period of less than twenty-eight (28) days. A residential use shall include a Single-Unit Residential Use, a Two-Unit Residential Use, a Three- to Eight-Unit Residential Use, and a Nine-Plus-Unit Residential Use.

### S

**Self-Storage.** A building or group of buildings divided into separate compartments used to meet the temporary storage needs of small businesses, apartment dwellers, and other residential uses; and may include refrigerated facilities. Self-storage facilities are considered examples of Regional Commercial Uses.

**Setback.** The horizontal distance between a lot line and the closest portion of a building or structure, where such distance line is drawn along the shortest path.

**Sexually Oriented (Use Term).** An adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater or adult theater, not including a nude model studio.

**Shade Tree.** A shade tree shall be a woody plant, usually deciduous, that normally grows with one (1) main trunk and has a canopy that screens and filters the sun in the summer season.

**Short-Term Rentals.** Furnished, self-contained apartments or houses that are available to be rented for periods of less than twenty eight (28) days. They are usually seen as an alternative to hotels and are typically advertised and booked using third-party online platforms, such as Airbnb. Short-term rental uses are a form of lodging, which is included as an example of a Regional Commercial Use and of a Neighborhood Commercial Use, depending on the square footage of the lodging use.

**Side Lot Line.** Any lot line not considered a front lot line or a rear lot line. See Section 1000.11 for an illustration of this term.

**Side Yard Setback.** The shortest horizontal distance between a structure and a Side Lot Line of the lot. See Section 1000.11 for an illustration of this term.

**Sign.** Any visual or graphic device that is designed and/or used to communicate--primarily through use of words, numbers, characters, and/or proprietary symbols, as defined herein--a verbal and/or visual message. Such a device shall be considered a sign regardless of whether a message is currently displayed thereupon. Sign shells, embellishments, and support structures shall be considered part of the sign.

**Sign, Canopy/Awning.** A sign located on an awning. See Section 1050.08 for an illustration of this term.

**Sign, Freestanding.** A sign that is attached to, erected on, or supported by some structure, such as a post, mast, or frame that is not itself an integral part of or attached to a building or other structure whose principal function is something other than support of a sign. See Section 1050.08 for an illustration of this term.

**Sign, Projecting.** Any permanent building sign attached perpendicular to a building wall and extending laterally more than twelve (12) inches but not more than forty eight (48) inches from the face of such wall. See Section 1050.08 for an illustration of this term.

**Sign, Temporary.** A sign that is not permanently affixed to a structure or permanently embedded in the ground, and is designed to be displayed for a short period of time, specifically fewer than one-hundred eighty (180) days in a calendar year. See Section 1050.08 for an illustration of this term.

**Sign, Wall.** Any building sign painted on, attached flush against, or extending not more than one (1) foot from an exterior wall in a parallel manner. See Section 1050.08 for an illustration of this term.

**Sign, Window.** A permanent sign that is painted or mounted onto a windowpane, or that is hung directly inside a window for the purpose or effect of identifying any premises from the sidewalk or street; or a temporary sign advertising special sales, events, or products. See Section 1050.08 for an illustration of this term.

**Sign Area.** The total exposed surface on the largest single sign face of a sign, including sign background, but excluding purely decorative embellishments and any supporting structure that does not form part of the sign proper. The area of a "light box"- illuminated sign shall be the area enclosed within the cabinet. The area of a sign consisting solely of individual letters or symbols presented with no added background or decoration against a building wall or other surface that does not serve solely or principally as a sign, such as an awning or canopy, shall be the sum of the areas within rectangular envelopes completely enclosing each separate letter or symbol, excluding punctuation, or each attached group thereof. The sign area of a sign that displays messages on more than two faces or on a single continuous surface that wraps around the sign (such as a spherical sign or balloon) shall include only such sign area as may be visible at any one (1) time from a point on the ground within two hundred (200) feet of the sign.

**Sign Height.** Measured as the vertical distance from the highest part of a sign, including support structures and embellishments, to: (1) the mean average grade of the land--or level of the roof in the case of a roof sign--

--abutting the base of or directly beneath the sign, for facade signs; awning and canopy signs; roof signs; projecting signs; and ground signs more than fifty (50) feet from the edge of a public street pavement; or (2) the curb level, as defined herein, of the street from which the sign is intended to be viewed, for all other ground signs; or, in the case of a lot abutting more than one (1) street, the mean average of the curb levels of such streets.

**Sign Illumination.** Any lighting source, other than the sun, that illuminates the surface or interior of a sign. Lighting around the border of a sign, such as in the case of perimeter lighting around a window displaying a window sign or in the case of a border of lights around a marquee sign, shall be considered part of the sign illumination. Sign illumination shall not be construed as referring to any illumination of signs provided by light sources intended to generally illuminate an area in which a sign is located--such as street lights, facade lighting, or parking lot lighting--rather than specifically to illuminate the sign.

**Single-Unit Residential (Use Term).** Uses with a dwelling unit that is attached by one (1) or more party walls to one (1) or more other dwelling units each of which is located on a separate subdivided lot or, in a site condominium or site cooperative, a separate building site; or, a building or manufactured home housing only a single dwelling unit that is separated from other buildings by open space.

**Specified Anatomical Areas.** Human genitals.

#### **Specified Sexual Activities.**

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated.

**Structure Height.** The vertical distance between the average grade plane along the front elevation of the structure and the highest point of any flat roof or the midpoint of any pitched roof. See Section 1000.11 for an illustration of this definition.

## GLOSSARY OF TERMS

### T

**Technically Suitable.** In the context of telecommunications facilities, the location of a wireless telecommunication antenna reasonably serves the purpose for which it is intended within the bandwidth of frequencies for which the owner or operator of the antenna has been licensed by the FCC to operate without a significant loss of communication capability within developed areas of the City.

**Telecommunication(s).** The technology which enables information to be exchanged through the transmission of voice, video or data signals by means of electrical or magnetic systems and includes the term “personal wireless services”.

**Telecommunications Tower (Use Term).** A tower of up to one-hundred ninety-nine (199) feet in height designed to have sufficient structural loading capacity to accommodate at least three (3) communications antenna platforms or antenna arrays of equal loading capacity for three (3) separate providers of telecommunication service to be located on the structure when constructed to the maximum allowable height.

**Temporary (Use Term).** Uses established with limited durations, such as festivals, yard sales or garage sales, construction activities and construction offices, model homes, temporary storage units, and temporary art installations. Temporary Uses shall not include those uses that constitute Outdoor Arena Uses, such as fairgrounds or outdoor concert venues, that have few events per year but where hosting such festival- or large event-type uses constitute a principal purpose of the property.

**Temporary Sign.** Any sign, banner, pennant, flag, or advertising display constructed of cloth, canvas, light fabric, cardboard, plastic, wallboard, or other like materials that are impermanent in nature and are intended to be displayed for a short duration (one-hundred eighty (180) days or less) or replaced periodically. Temporary signs shall not include prohibited sign types specified in Section 1050.08 (e) “Prohibited Signs.”

**Three- to Eight-Unit Residential (Use Term).** Uses consisting of Three- to Eight-Unit dwelling units per lot or group living homes of six (6) to eight (8) bedrooms. Three- to Eight-Unit Residential Uses shall include cottage courts with no more than eight (8) units per court, row houses of single-unit or two-unit dwellings attached on both sides with no more than eight (8) contiguous units, single-room occupancy uses with six (6) to eight (8) rentable bedrooms, dormitories with six (6) to eight (8) rentable bedrooms, large group homes with six (6) to eight (8) bedrooms, assisted living facilities with six (6) to eight (8) units or bedrooms, nursing homes with six (6) to eight (8) units or bedrooms, and convalescent homes with six (6) to eight (8) units or bedrooms.

**Two-Unit Residential (Use Term).** Uses consisting of two (2) dwelling units per lot, side-by-side or stacked. Two-Unit Residential Uses shall also include single-unit attached dwellings, such as side-by-side duplexes where the vertical party wall is built above the lot line.

### U

### V

**Vehicle-Oriented (Use Term).** Uses that sell or service automobiles and boats, including motor vehicle sales; car washes; car fueling stations; car repair and maintenance shops; drive-throughs; motor vehicle part and accessory stores; commercial off-street parking lot as a principal use of a lot; boat and marine equipment sales; car and truck rental establishments; storage of trucks or buses; truck stops; bus garages, terminals, parking, and services; and large equipment sales, rental, and storage. Vehicle-Oriented Uses shall not include outdoor storage associated with an Artisanal Industrial, Light Industrial, or Heavy Industrial use.

**Vision Triangle.** The area bounded by the street property lines of corner lots and a line joining points along said street lines twenty (20) feet from their point of intersection. For any street street-and-driveway intersection, the vision triangle shall be defined as the area bounded by the street property line and the edge of the driveway and a line joining points along said street and driveway twenty (20) feet from their point of intersection. See Section 1050.02 for an illustration of this term.

## W

**Wall Sign.** A sign attached to or painted on the exterior wall of a building and not extending from the building's wall more than twelve (12) inches.

**Warehouse.** A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

**Weapons-Related (Use Term).** Uses consisting of the sale, repair, and use of firearms, dangerous ordnances, or other weapons. Weapons-Related Uses shall include gunsmith shops, gun ranges, National Guard or other military training and storage facilities, and paintball fields. Weapons-Related Uses shall not include archery ranges, which shall be considered Recreational Uses; the sale of kitchen knives, which shall be considered Neighborhood Commercial Uses or Regional Commercial Uses, depending on the size of the store; or the sale of camping supplies, which shall be considered Neighborhood Commercial Uses or Regional Commercial Uses, depending on the size of the store, or which shall be considered an accessory use of a campground. The manufacturing of weapons shall be considered a Heavy Industrial Use.

**Window Sign.** A sign affixed to the interior or exterior of a window or placed immediately behind a window pane.

**Wireless Telecommunication Antenna.** The physical device through which electromagnetic, wireless telecommunication signals authorized by the Federal Communications Commission (FCC) are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

**Wireless Telecommunication Equipment Shelter.** The structure or cabinet in which the electronic receiving and relay equipment for a wireless telecommunication facility is housed.

**Wireless Telecommunication Facility.** A facility consisting of the equipment, structures, and site improvements, i.e. fencing and landscaping, involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines for the provision of personal wireless services.

**Wireless Telecommunication Tower.** Any structure which elevates the wireless telecommunication antenna and may include accessory transmission and receiving equipment.

## X

## Y

## Z

**Zoning Permit.** A standard form which is issued by the Zoning Administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with all of the provisions of these rules.

**City of Barberton**  
Development Code

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