**TITLE ONE - Subdivision Regulations** **2**
Chap. 1101. General Provisions.
Chap. 1103. Definitions.
Chap. 1105. Administration, Enforcement and Penalty.
Chap. 1107. Boundary Line Adjustment and Minor Subdivisions.
Chap. 1109. Subdivision Application Procedure and Appeal Process.
Chap. 1111. Amendments.
Chap. 1113. Preliminary Plan and Final Plat Requirements.
Chap. 1115. Required Improvements.
Chap. 1117. Bonds, Insurance, Fees and Inspection Process.
Chap. 1130. Planning and Zoning Residential Standards.
Appendix A. Flow Chart of the Subdivision Review Process.
Appendix B. Final Plat Wording.
Appendix C. Subdivider's Agreement.
**TITLE THREE - Zoning Administration** **52**
Chap. 1131. General Provisions.
Chap. 1133. Definitions.
Chap. 1135. Administration, Enforcement and Penalty.
Chap. 1137. Planning and Zoning Administrator.
Chap. 1139. Planning and Zoning Commission and Council.
Chap. 1141. Site Development Plans.
Chap. 1143. Amendments.
Chap. 1145. Conditional Uses.
Chap. 1147. Variances.
Chap. 1149. Nonconforming Lots, Uses and Structures.
**TITLE FIVE - Zoning Districts.** **97**
Chap. 1151. Districts Established.
Chap. 1153. General Zoning Regulations.
Chap. 1155. Limited Density Residential District. (R-1)
Chap. 1157. Low Density Residential District. (R-3)
Chap. 1159. Optional Traditional Neighborhood Development Floating District. (TND)
Chap. 1161. Old Town Zoning Districts.
Chap. 1163. Multi-Family Residential Districts.
Chap. 1165. Neighborhood Commercial District. (NC)
Chap. 1167. General Commercial District. (GC)
Chap. 1169. Suburban Office and Institution Districts (SO)
Chap. 1171. Limited Manufacturing District. (LM)
Chap. 1173. Planned Districts. (PRD, PCD, PID, PUD and PCND)
Chap. 1175. Overlay Districts. (LC, LR, S-1 and S-2)
Chap. 1177. Floodplain District. (FP)
Chap. 1179. Exceptional Use District. (EU)
**TITLE SEVEN - Supplemental Zoning Regulations.** **186**
Chap. 1181. Special Provisions. (with amendment deleting 1181.06)
Chap. 1183. Height, Area and Yard Modifications.
Chap. 1185. Off-Street Parking and Loading.
Chap. 1187. Home Occupations.

Chap. 1189. Signs.
Chap. 1191. Landscaping and Screening.
Chap. 1193. Wireless Communication Facilities.
Chap. 1195. Accessory Uses and Structures.
Chap. 1197. Right-of-Way Use.
Chap. 1199. Commercial Development Standards.
**APPENDICES**
Appendix A Zoning Map
Appendix B Text Amendments
Appendix C Standard Drawings

# CODIFIED ORDINANCES OF COMMERCIAL POINT

**1101.01 TITLE**.

(a) Title One of this Part Eleven - Planning and Zoning Code shall be known and may be designated and cited as "The Village of Commercial Point, Ohio, Subdivision Regulations", and heretofore may be referred to as the Subdivision Regulations.

(b) Unless otherwise provided herein or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this Title One as those governing the interpretation of the Ohio Revised Code.

## 1101.02 AUTHORITY.

This Chapter is adopted pursuant to the authority contained in the Ohio Revised Code sections 711 and 713.

## 1101.03 JURISDICTION.

This Chapter shall be applicable throughout the municipality's planning jurisdiction, which comprises the area within the corporate boundaries of the Village of Commercial Point, Ohio and to all subdivisions that are subject to extraterritorial jurisdiction, which the municipality may choose to exercise under the provision of Section 711.09, Ohio Revised Code.

## 1101.04 EFFECTIVE DATE.

The provisions of these Subdivision Regulations and the referenced 2018 Construction Specifications, Materials, and Standard Drawings are adopted by this Ordinance #2018-2 and become effective on September 6, 2018.

## 1101.05 PURPOSE AND INTENT.

(a) The purpose of this Title One is to establish subdivision standards and procedures for Commercial Point, Ohio.

(b) This Title One is to guide and facilitate the orderly, beneficial growth of the community by assuring the orderly subdivision of land and its development, and to promote the public health, safety, convenience, comfort, prosperity and general welfare.

## 1101.06 RELATIONSHIP TO EXISTING SUBDIVISION REGULATIONS.

These Subdivision Regulations are adopted in whole and are a replacement of the Subdivision Regulations of Commercial Point effective February 2, 1988 (Ord. 2100.01C, passed 11-2-1987; Am. Ord. 98-1, passed 3-3-1998) and 6/3/2004 and as Codified by Ordinance 2008-14 adopted 12/1/2008. Implementation of this zoning code is not intended to be onerous.

## 1101.07 RELATIONSHIP TO COMPREHENSIVE PLANNING.

It is the intention of Council that this chapter shall implement the subdivision policies adopted by Council for Commercial Point, as reflected in a comprehensive land-use plan adopted May 2, 2011, and all other planning documents formally adopted by Council. While the Council reaffirms its commitment that this Title One and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this Title One nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

## 1101.08 SEVERABILITY.

Each chapter, section, paragraph, sentence, clause, phrase, or other divisible part of the Subdivision Regulations is hereby declared to be severable and if any such chapter, section, paragraph, sentence, clause, phrase, or other divisible part is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining chapters, sections, paragraphs, sentences, clauses, phrases, or other devisable part of these Regulations since the same would have been enacted without the incorporation into these Regulations of such unconstitutional or invalid chapter, section, paragraph, sentence, clause, phrase, or other devisable part.

## 1101.09 PLATTING REQUIRED.

(a) No land shall be subdivided within the corporate boundaries of the municipality except in compliance with these Subdivision Regulations and the Zoning Code.

(b) No Certificate of Zoning Compliance or Certificate of Occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of this chapter, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these regulations and other applicable municipal codes.

## 1101.10 INTERPRETATION AND CONFLICTING ORDINANCES.

In the interpretation and application, the provisions of these Subdivision Regulations shall be held to be minimum requirements. It is not intended by these Subdivision Regulations to interfere with, or abrogate, or annul any easements, covenants, or other agreements between parties unless they violate these Subdivision Regulations. When specific provisions of these Subdivision Regulations conflict with any other lawfully adopted regulations, ordinances, or resolutions, the most restrictive or that imposing the higher standard shall apply and thereby supersede the less strict requirement(s). It is the intent of these Subdivision Regulations that all questions of interpretation, administration and enforcement shall be presented to the Planning and Zoning Administrator. Decisions of the Planning and Zoning Administrator and Director of Public Works may be appealed in accordance with Section 1105.08.

## 1101.11 GENERAL NOTES DEFINED.

The General Notes of Commercial Point are administrative in nature, administered by the Technical Review Group, and, therefore, not an adopted section of these Subdivision Regulations. The General Notes are subject to change upon adoption by motion by the Technical Review Group. The Technical Review Group shall keep records of any changes made to the General Notes.

**CHAPTER 1103**
**Definitions**

## 1103.01 GENERAL DEFINITIONS.

Except where specifically defined herein, all words used in the Subdivision Regulations shall carry customary meanings. Words used in the present tense include the future tense; the plural includes the singular and the singular includes the plural; the word "lot" includes the word "parcel" and "plot"; the word "building" includes the word "structure"; the word "shall" is mandatory, the word "may" is permissive, and the word "should" is preferred; the words "used" or "occupied" include the words "intended, designed or arranged to be used or occupied"; and the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

## 1103.02 SPECIFIC DEFINITIONS.

(1) "Agent" means the authorized representative of the owner. The authority of the agent shall be established to the satisfaction of the Planning and Zoning Administrator.

(2) “Alley" means a public right-of-way less than fifty (50) feet wide which affords only a secondary means of access to property abutting thereon.

(3) "ANSI" means American National Standards Institute.

(4) "Applicant" means the authorized representative of the developer. The authority of the applicant shall be established to the satisfaction of the Planning and Zoning Administrator.

(5) "Architect" means an architect registered by the State of Ohio.

(6) "Arterial street" See "Streets."

(7) "As Built Plans" means engineering construction plans that have been revised to incorporate all changes that occurred during construction of the project.

(8) "ASTM" means American Society of Testing and Materials.

(9) "Average Daily Traffic (ADT)" means the total traffic volume during a given time period in whole days greater than one day and less than one year divided by the number of days in that time period.

(10) "AWWA” means American Water Works Association.

(11) "Block" means all or part of one side of a street between two intersecting streets.

(12) "Commission" means the Planning and Zoning Commission of the Municipality of Commercial Point, Ohio.

(13) "Bond" means any form of security including cash deposit, surety bond, collateral, property, or letter of credit in a form satisfactory to the Law Director.

(14) "Buffer" means any combination of mounds, fencing, plantings, etc., intended to separate one land use from another.

(15) "Buildable Area" means the area of a lot remaining after the minimum yard and open space requirements of the Zoning Code have been met.

(16) "Building" means any structure securely affixed to land having a roof supported by columns or walls, entirely separated on all sides from any similar structure or entirely separated on all sides by walls in which there are no communicating doors, windows or similar openings and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

(17) "Caliper" means the diameter of a tree as measured six (6) inches above the ground up to and including four (4) inch caliper size. Thereafter, diameter-at-breast-height (DBH) is used.

(18) "Certificate of Deposit" means a certificate held on deposit by a financial institution for the municipality until such time as the subdivider has fulfilled his obligation to install the required improvements.

(19) "Clerk" means the Clerk of Council of Commercial Point, Ohio.

(20) "Collector Street." See "Streets."

(21) "Comprehensive Plan" means the plan or plans prepared and adopted by Council as may be amended, indicating the general locations recommended for the principal streets, parks, public buildings, zoning districts, character and extent of community development and other physical aspects of urban and rural planning.

(22) "Concept Plan" means written and graphic documents that indicate in a conceptual form the proposed land uses and their overall impact on the subject property and surrounding properties.

(23) "Construction Services Administrator" means the Construction Services Administrator of Commercial Point, Ohio.

(24) "Council" means the Council of Commercial Point, Ohio.

(25) "County" means Franklin or Pickaway County, Ohio, as applicable.

(26) "Culvert, Major" means any culvert in excess of twelve (12) inches.

(27) "Cut Sheets" means tabular survey information used for the purpose of constructing the improvements.

(28) "Density" means the number of dwelling units per unit of land. To determine density divide the total number of dwelling units by the net developable site as measured in acres. (See definition of "net developable site".)

(29) "Developer." See "Subdivider."

(30) "Development" means any man-made change to improved or unimproved real estate.

(31) "Diameter at Breast Height (DBH)" means the outside bark diameter of a tree as measured four and one-half (4 ½) feet above the forest floor on the uphill side of a tree.

(32) "Director of Public Works" means the Director of Public Works or Village Administrator.

(33) "Easement" means a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

(34) "Engineer, Registered" means an engineer registered by the State of Ohio.

(35) "Engineering Construction Plans" means the plans and supporting information accompanying a subdivision and showing the specific location and design of improvements to be installed in the subdivision.

(36) "Erosion" means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep and/or detachment and movement of soil or rock fragments by wind, water, ice, or gravity.

(37) "Escrow" means a deposit of cash with the municipality in lieu of an amount required and still in force on a performance or maintenance bond.

(38) "Escrow Fund" means cash placed by the developer in an account to be held by a financial institution in favor of the municipality to guarantee the installation of improvements according to the provisions of the Subdivision Regulations.

(39) "Excavation" means the removal or recovery by any means whatsoever of soil, rock, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged, whether by mechanical or manual means.

(40) "Final Plat" means the plat of a proposed subdivision, drawn on durable material as specified in this document and intended for recording, meeting all the requirements as herein enumerated.

(41) "Fire Chief" means the Fire Chief of the applicable township fire department.

(42) "Flood, Base" means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one hundred (100) year flood.

(43) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge.

(44) "Frontage" means that portion of a lot abutting on a dedicated right-of-way.

(45) "Grade" means the slope of any surface specified in percentage terms.

(46) "Grade, Existing Street" means the grade of the street measured from the centerline to the edge of the street.

(47) "Grade, Finished" means the grade of the surface of the ground of any parcel of land after construction of buildings, parking, driveways, streets, the completion of all landscaping, and any other improvements.

(48) "Grade, natural" means the grade of the undisturbed surface of any land.

(49) "Hillside" means an area with an average grade of more than fifteen (15) percent.

(50) "IES" means Illuminating Engineering Society.

(51) "Improvement, public" means any roadside ditch, roadway, parkway, sidewalks, pedestrian way, tree lawn, off-street parking area, lot improvement, public utility, or other facility for which Commercial Point may ultimately assume the responsibility for operation and maintenance or which may affect an improvement for which Commercial Point is responsible.

(52) "Improvements" means street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping, grading, and other related matters normally associated with development of raw land into building sites.

(53) "Infrastructure" means facilities and services such as water, storm water and sanitary sewer lines, and streets needed to sustain industry, residential, commercial, and all other land use activities.

(54) "In-lieu fees" means fees paid by a private individual or party to Commercial Point to compensate for the mandatory dedication provisions, if such provisions exist, of the Commercial Point Zoning Code when said land dedication is waived by Council.

(55) "Inspection Fee" means the cost to the Municipality of monitoring construction, to be paid by the developer.

(56) "Landscape Architect" means a landscape architect registered by the State of Ohio.

(57) "Law Director" means the Law Director of Commercial Point, Ohio.

(58) "Lot" means a tract, plat, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

(59) "Lot, corner" means a lot located at the intersection of two or more streets.

(60) "Lot, double frontage" means a lot, other than a corner lot, with frontage on more than one street.

(61) "Lot Improvement" means any building, structure, place, work of art, or other object or improvement of the land on which they are situated constituting a physical betterment of real property or any part of such betterment.

(62) "Lot, interior" means a lot with only one frontage on a street.

(63) "Lot, irregular" means a lot that is neither square nor rectangular.

(64) "Lot, minimum area" means the area of a lot as is computed exclusive of any portion of the right-of-way of any public or private street.

(65) "Lot, measurement." A lot shall be measured as follows:

A. The depth of a lot shall be considered to be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in the front to the rearmost points of the side lot lines in the rear. However, the straight line connecting the rearmost side lot lines shall not be less than one-half of the length of the straight line connecting the foremost points of the side lot lines.

B. The width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the building setback line.

(66) "Lot of Record" means a lot that is part of a subdivision recorded in the appropriate County Recorder's Office, or a lot or parcel described by metes and bounds, the description of which has been recorded.

(67) "Lot, Reverse Frontage" means a double frontage lot located along a collector or arterial that derives access from an interior local street.

(68) "Manager, Division of Streets" means the Manager, Division of Streets of Commercial Point, Ohio.

(69) "Manager, Division of Water" means the Manager, Division of Water of Commercial Point, Ohio.

(70) "Manager, Division of Water Reclamation" means the Manager, Division of Water Reclamation of Commercial Point, Ohio.

(71) "Mandatory Land Dedication" means the required dedication of private land to Commercial Point for the purpose of providing space for park, recreation, open space and other public uses.

(72) "Map Index" means a map supplied with street improvement plans showing the street and storm system at a scale of 1" = 200'.

(73) "Map Location" means a map supplied with the plat that shows legibly, by dimension and/or other means, the proposed subdivision and enough area beyond the bounds of the proposed subdivision to locate and orient the subdivision and show the relationship of the site to the community facilities that serve or influence the property, at a scale of 1" = 1,000'.

(74) "Mayor" means the Mayor of Commercial Point, Ohio.

(75) "Municipal Engineer" means the municipal engineer or engineering firm contracted by the municipality.

(76) "Municipality" means the Village of Commercial Point, Ohio.

(77) "Net Developable Acres" means the land area within a subdivision excluding the minimum open space requirements, all areas designated for public and private streets and alleys, open bodies of water including streams, creeks and ditches, and all other dedicated rights-of-way.

(78) "Net Developable Site" means the remainder of a parcel of land following the subtraction of all areas designated for public and private streets and alleys, open bodies of water including streams, creeks and ditches, and all other dedicated rights-of-way.

(79) "No Build Zone" means an area or portion of a lot that is designated by deed or plat not to contain any buildings, structures or other built improvement on a permanent basis.

(80) "ODOT" means the Ohio Department of Transportation.

(81) "OEPA" means the Ohio Environmental Protection Agency.

(82) "Off-Site" means any premises not located within the area of the property to be subdivided or improved, whether or not in the same ownership of the applicant for subdivision.

(83) "Owner" means the legal owner of the land proposed to be subdivided.

(84) "Performance and Indemnity Bond or Surety Bond" means an agreement by and between a subdivider and a bonding company in favor of Commercial Point for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by subdivider's agreement.

(85) "Planning and Zoning Administrator" means the Planning and Zoning Administrator of the municipality.

(86) "Planning and Zoning Commission" means the Planning and Zoning Commission of the municipality.

(87) "Preliminary Plan" means a map of a subdivision of land showing required features that is submitted to the platting authority for purposes of preliminary consideration and approval.

(88) "Reserves" means parcels of land within a subdivision set aside for future subdivision or set aside for other purposes, as noted on the plat.

(89) "Right-of-Way" means the surface of any the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement now or hereafter held by the Municipality.

(90) "Sediment" means solid material both mineral and organic that is in suspension, is being transported, or has been moved from its site of origin by surface water, and has come to rest on the earth's surface above or below ground level.

(90a) "Sediment basin" means a barrier, dam, or other suitable detention facility built across an area of water-flow to settle and retain sediment carried by run-off waters.

(91) "Setback, Front" means the minimum distance between the right-of-way and a building facing said right-of-way, as required by the Zoning Code.

(92) "Setbacks, Platted" means the minimum distance between a building and the right-of-way line, the rear lot line, and the side lot lines as required by the Zoning Code and shown on the recorded plat of the subdivision.

(93) "Setback, Rear" means the minimum distance between the rear lot line and a building, as required by the Zoning Code.

(94) "Setback, Side and Corner Side" means the minimum distance between the side lot line and a building, as required by the Zoning Code.

(95) "Street, Arterial" means a street that accommodates traffic to and from the expressways or to or through major commercial districts. Traffic volumes are generally greater than 10,000 ADT (Average Daily Traffic).

(96) “Street, Cul-De-Sac" means a local street having only one outlet and a paved terminal for safe and convenient reversal of traffic movement.

(97) "Street, Dead End" means a local street having only one outlet without a safe and convenient means for reversal of traffic.

(98) "Street, Industrial" means a street intended to provide access to other streets from industrial properties, generally being a volume of traffic that includes a relatively large amount of vehicles other than passenger automobiles.

(99) "Street, Expressway" means a street entirely devoted to the movement of large volumes of traffic at relatively high speeds. Access is completely controlled, not intended to serve abutting property.

(100) "Street, Local" means a street intended to provide access to other streets from individual properties, generally bearing a volume of traffic no greater than 800 ADT.

(101) "Street, Major Collector" means a street that carries traffic from the minor collector system to the arterial. Traffic usually has origin and destination within the community and does not exceed 10,000 ADT.

(102) "Street, Minor Collector" means a street that carries internal traffic within a given neighborhood, connecting local streets to the major collectors or to the arterial system and generally bearing volume of traffic no greater than 4,000 ADT.

(103) "Structure" means that which is constructed having a location on, above or below the surface of land or water or attached to that having a location on, above or below the surface of land or water. Containerized cargo boxes, freight transport trailers and similar items are prohibited for use as structures in all districts.

(104) "Subdivider" means the person who intends to build/construct the subdivision.

(105) "Subdivider's Agreement" means an agreement by and between a subdivider and Commercial Point that sets forth the manner in which the subdivider agrees to proceed with the construction of public improvements and the disposition of lots in the subject subdivision.

(106) "Subdivision" means any or all of the following:

A. The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites, or lots for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

B. The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.

(107) "Subdivision, Minor" or Lot Split, means any subdivision that does not result in the creation of more than five lots out of a single tract or does not require the construction of new streets, roads, public water or sewer facilities, sidewalks or similar facilities.

(108) "Surety" means a certificate of deposit, performance bond, irrevocable letter of credit or cash escrow account in favor of the Municipality designed to guarantee the construction of required improvements.

(109) "Surveyor" means a surveyor registered by the State of Ohio.

(110) "Technical Review Group" means the municipality's review body of engineering construction plans for private and public development projects.

(111) "Thoroughfare Plan" means the system of streets for the Municipality adopted by the Municipality, on file in the Planning and Zoning Administrator's office, together with all amendments thereto subsequently adopted including the Land Use Plan adopted May 2, 2011.

(112) "Tree" means any tree, shrub, or other woody plant.

(113) "Tree Lawn" means the strip of land between the back of curb and sidewalks and/or planting easement.

(114) "Tree, Large" means any tree species having a trunk caliper of six inches or more.

(115) "Tree, Significant" means any individual tree that is of cultural, historical, biological, or horticultural value as determined by the Urban Forester.

(116) "Urban Forester" means the Urban Forester of Commercial Point, Ohio.

(117) "Zoning Code" means the Zoning Code of the municipality.

**CHAPTER 1105**
**Administration, Enforcement and Penalty**

## 1105.01 ENFORCEMENT BY PLANNING AND ZONING ADMINISTRATOR.

It shall be the duty of the Planning and Zoning Administrator to enforce these Subdivision Regulations in accordance with the administrative provisions of these regulations. All departments, officials, public employees, and representatives of the Municipality, vested with the duty or authority to issue permits or licenses, shall conform to the provisions of these Subdivision Regulations and shall issue no permit or license for any use, building or purpose in conflict with the provisions of these regulations. Any permit or license issued in conflict with the provisions of these Subdivision Regulations shall be null and void.

## 1105.02 WAIVERS BY THE TECHNICAL REVIEW GROUP.

A waiver may be granted by the Technical Review Group where it finds extraordinary and unnecessary hardship may result from strict compliance with Chapter 1115 Required Improvements. The extraordinary and unnecessary hardship shall be a result of topographic or other physical condition(s) of the subject property. Granting a waiver shall not (1) conflict with the preliminary plan approval by the Planning and Zoning Commission nor the final plat approval by Council, (2) violate the intent of these Subdivision Regulations, and (3) be detrimental to the public interest. Under no circumstances shall a waiver be granted under this section to any requirement of the Zoning Code.

## 1105.03 VARIANCES BY THE PLANNING AND ZONING COMMISSION.

(a) Where the Planning and Zoning Commission finds that extraordinary hardships may result from strict compliance with the Subdivision Regulations and/or the purposes of the Subdivision Regulations may be served to a greater extent by an alternative proposal, it may approve variances to the Subdivision Regulations so that substantial justice may be done and the public interest secured. Approving such variance shall not have the effect of nullifying any intent or purpose of these Subdivision Regulations. In addition, the Planning and Zoning Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;

(2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

(3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these Subdivision Regulations are carried out; and

(4) Variances contrary to other applicable guidelines and ordinances shall not be granted.

(b) In approving variances, the Planning and Zoning Commission may require such conditions as will, in its judgment, substantially secure the objectives of the standards or requirements of these Subdivision Regulations.

(c) Public Notification. At least one (1) notice shall be given at least ten (10) calendar days prior to the public hearing in one or more newspapers of general circulation in the municipality. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) calendar days prior to the date of the public hearing to abutting property owners. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

## 1105.04 PLAT ADJUSTMENTS.

No changes shall be made to any final plat after approval by Council except that minor technical adjustments or corrections, which do not significantly change the plat as approved by Council, may be made with the approval of the Planning and Zoning Administrator.

## 1105.05 REQUEST TO VACATE A RECORDED PLAT OR PORTION THEREOF.

A subdivider may file a request to vacate a recorded plat or portion thereof. A written request shall be filed with the Planning and Zoning Administrator. The request shall be heard by the Planning and Zoning Commission, who shall act on the request within a reasonable time, and make a recommendation to Council. Council shall have a maximum of sixty (60) calendar days from receipt of the Planning and Zoning Commission's recommendation to make a decision. To reverse or modify the Planning and Zoning Commission's decision, a vote of three-fourths (3/4) of the full membership of Council shall be required. If approved by Council, the subdivider shall

submit the proper recording instrument(s) to the Law Director for review and approval. Once the recording instrument(s) is/are approved by the Law Director, the subdivider is responsible for recording it with the appropriate County Recorder's Office. This recording shall operate to destroy the force and effect of the original plat, or portion thereof, so vacated.

## 1105.06 NOTICE OF VIOLATION.

The Planning and Zoning Administrator shall notify by certified mail the property owners and those violating these Subdivision Regulations and any related ordinances of any non-compliance situations and shall order actions to correct or remedy said violations. This notification shall order the discontinuance of any illegal action and shall order actions to correct or remedy said violation(s). The Planning and Zoning Administrator may also issue a Stop Work Order and request the Law Director to institute the appropriate action or proceeding at law or equity to restrain, correct, remove or prosecute such violation(s).

## 1105.07 VIOLATIONS AND PENALTIES.

Any person, firm, or corporation who fails to comply with a Notice of Violation Order, or violates any of these Subdivision Regulations or Chapter 711 of the Ohio Revised Code, shall be subject to the penalties as set forth in said Chapter 711.

### 1105.08 APPEALS.

(a) Appeal of Planning and Zoning Administrator Decision or Technical Review Group Decision. Whoever is aggrieved or affected by the decision of the Planning and Zoning Administrator or the Technical Review Group shall have the right to file an appeal with the Planning and Zoning Commission. A written appeal shall be filed with the Planning and Zoning Administrator within ten (10) calendar days of the decision of the Planning and Zoning Administrator or Technical Review Group. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to the Planning and Zoning Commission the application and any relevant background information. The Planning and Zoning Commission shall have a maximum of seventy-five (75) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. To reverse or modify the decision of the Planning and Zoning Administrator or the Technical Review Group, a simple majority vote of the full membership of the Planning and Zoning Commission shall be required.

(b) Appeal of Planning and Zoning Commission Decision. Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission shall have the right to file an appeal with the Council. A written appeal shall be filed with the Clerk of Council within ten (10) calendar days of the decision of the Planning and Zoning Commission. Upon the filing of an appeal, the Planning and Zoning Commission will within 20 calendar days memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within thirty (30) calendar days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required.

(c) Public Notification. At least one (1) notice shall be given at least ten (10) calendar days prior to the public hearing in one or more newspapers of general circulation in the

municipality. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) calendar days prior to the date of the public hearing to abutting property owners. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(d) The Planning and Zoning Commission in reversing or modifying the decision of the Planning and Zoning Administrator or Director of Public Works, or Council in the case of Planning and Zoning Commission, may prescribe additional conditions and safeguards in conformity with these Subdivision Regulations. Violations of such conditions and safeguards, when made a part of said approval, shall be deemed a violation of these Subdivision Regulations and punishable as prescribed in Section 1105.07, and shall result in revocation of said approval.

(e) Recourse from Council shall be the Franklin County or Pickaway County Court of Common Pleas, as appropriate, as provided under the Ohio Revised Code.

**CHAPTER 1107**
**Boundary Line Adjustment and Minor Subdivisions**

## 1107.01 GENERAL REQUIREMENTS.

The following rules and regulations shall govern request for boundary line adjustment and minor subdivision (lot split) approvals.

(a) Prior to submittal of the exemption request, the applicant should meet with the Planning and Zoning Administrator to determine whether the request meets the exemption criteria and to explain the procedure and submittal requirements. If it is determined that the applicant's proposal does not meet the exemption criteria, the applicant shall be required to comply with Chapter 1109 of these Regulations.

## 1107.02 BOUNDARY LINE ADJUSTMENT.

Boundary Line Adjustment Exemption. The Boundary Line Adjustment process is an administrative process conducted by the Planning and Zoning Administrator. Boundary line adjustments cannot be used to create new parcels of record.

(a) Criteria. An application must meet, at a minimum, all of the criteria below:

(1) Resulting parcels comply with the adopted standard platting conditions and any other conditions determined applicable by the Planning and Zoning Administrator or municipal engineer.

(2) Resulting parcels comply with all applicable zoning, building, fire, and health codes, rules and regulations.

(b) Submittal Process. The submittal process below shall apply to all Boundary Line Adjustments:

(1) The applicant shall file two (2) complete copies of the exemption request to the Planning and Zoning Administrator.

(2) The submittal shall be reviewed in a timely manner for completeness by the Planning and Zoning Administrator. The applicant shall be notified in writing of any inadequacies, missing or incomplete documentation. No application for Boundary Line Adjustment shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(3) Once the submittal is determined complete, the Planning and Zoning Administrator will conduct a site characteristics analysis and perform a site visit to verify characteristics and determine if the application meets the criteria for a Boundary Line Adjustment. The Planning & Zoning Administrator may consult with the municipal engineer and other municipal officials as necessary.

(4) If the Planning and Zoning Administrator denies the exemption request, the applicant shall have the right to appeal it to the Planning and Zoning Commission in accordance with Section 1105.08 of these Subdivision Regulations. If the request is approved on appeal, the applicant shall submit the final exemption documents.

(c) Submittal Requirements. In addition to the submittal requirements listed below, the Planning and Zoning Administrator may request other materials or information as deemed necessary, before or during the process.

(1) Application Form, as provided by the Planning and Zoning Administrator, signed by the property owner(s).

(2) A fee as stipulated by section 1117, paid by the applicant, shall be included with all application filings.

(3) Preliminary Drawing: drawing of the properties involved submitted at a scale no less than 1-inch equals 100-feet. The drawing shall, at a minimum, depict the following:

A. The title shall be placed at the top of the sheet and shall include: the name of the proposed exemption and a general legal description.

B. The drawing shall include: the preparation date; a north arrow; a written and graphic scale; the name, address, and phone number of the person who prepared the exhibit.

C. The proposed boundaries of the subject properties shall be depicted in a heavy solid line and any boundaries proposed to be deleted depicted with a dashed line.

D. Boundaries of adjacent properties or portions of those boundaries that are in immediate proximity of the subject properties shall be depicted in a lighter line weight.

E. Other elements that may be required are: existing roads; existing structures; utilities; site modifications and easements.

(d) Final Exemption Documents. Upon approval of the preliminary drawing by the Planning and Zoning Administrator, a boundary survey for all affected properties, prepared by a certified land surveyor duly registered by the State of Ohio, shall be submitted along with legal descriptions of said properties. The boundary survey shall be at a scale no less than 1" = 100'. New legal descriptions are not valid until the final approved documents, including new deeds, are signed and recorded with the applicable County Auditor's Office and County Recorder's Office. If the new legal descriptions are not recorded within thirty (30) calendar days of approval, the descriptions deemed to be null and void.

## 1107.03 MINOR SUBDIVISION EXEMPTION.

Minor Subdivision Exemption. The Minor Subdivision Exemption process is to change real property boundaries to create five (5) or fewer new parcels.

(a) Criteria. An application must meet, at a minimum, all of the criteria below.

(1) Creates no more than a total of five (5) parcels.

(2) Resulting parcels comply with all applicable zoning, building, fire, and health codes, rules and regulations.

(3) All of the parcels created comply with the minimum lot size requirements in the applicable zoning district.

(4) Resulting parcels are accessed, at a minimum, by a public right-of-way that meet, or with improvements can meet, Municipal Road Design Standards.

(5) All of the parcels can comply with Municipal and Health Department Sewage Disposal Requirements.

(6) The owner(s) shall provide for the construction to extend all utilities to the site and other public infrastructure as may be required at no cost to the Municipality.

(b) Submittal Process. The submittal processes below shall apply to all Minor Subdivision Exemptions:

(1) The applicant shall file two (2) complete copies of the exemption request and appropriate documentation to the Planning and Zoning Administrator.

(2) The submittal shall be reviewed in a timely manner for completeness by the Planning and Zoning Administrator. The applicant shall be notified in writing of any inadequacies, missing, or incomplete documentation. No application for Minor Subdivision shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(3) The Planning and Zoning Administrator may consult with the municipal engineer or other municipal officials as necessary.

(4) The Planning and Zoning Administrator shall approve, approve with conditions, or deny the exemption based on the information presented and compliance with the adopted standards, regulations and policies of the municipality.

(5) If the Planning and Zoning Administrator denies the exemption request, the applicant shall have the right to appeal it to the Planning and Zoning Commission in accordance with Section 1105.08 of these Subdivision Regulations. If the request is approved on appeal, the applicant shall submit the final exemption documents.

(c) Submittal Requirements. In addition to the submittal requirements listed below, the Planning and Zoning Administrator may request other materials or information as deemed necessary, before or during the process.

(1) Application Form, as provided by the Planning and Zoning Administrator, signed by the property owner(s).

(2) A fee as stipulated by section 1117, paid by the applicant, shall be included with all application filings.

(3) Preliminary Drawing: drawing at a scale not less than 1" = 100'. The Plan shall depict the following:

A. The title shall be placed at the top of the sheet and include the name of the proposed exemption and a general description.

B. The drawing shall include: the preparation date; a north arrow designated at true north; a written and graphic scale; the name and address of the owner and person who prepared the exhibit.

C. The boundaries of the proposed parcels shall be depicted in a heavy solid line.

D. Boundaries of adjacent properties or portions of those boundaries that are in immediate proximity of the parcels proposed for subdivision shall be depicted in a lighter line weight.

E. Depict all existing roads, structures, utilities, earthwork, site modifications and easements as applicable.

F. Depict all lots providing accurate dimensions for each.

(d) Final Exemption Documents. Upon approval of the exemption request a full certified Land Survey for all affected parcels shall be submitted including new legal descriptions. The

Survey shall be at a scale not less than 1" = 100'. New legal descriptions are not valid until the final approved documents are signed and recorded with the applicable County Auditor and Recorder. If the new legal descriptions are not recorded within thirty (30) calendar days of approval, the descriptions shall become null and void.

**CHAPTER 1109**

**Subdivision Application Procedure and Appeal Process**

## 1109.01 PRELIMINARY SUBDIVISION PLAN, SUBMITTAL AND REVIEW.

(a) It is strongly recommended that, prior to filing a preliminary subdivision plan application, the developer submit a Conceptual Plan to the Planning and Zoning Administrator for review. Depending on the particulars of the proposed development, the Planning and Zoning Administrator may request input from the Technical Review Group and/or Planning and Zoning Commission.

(b) A preliminary subdivision plan application shall be filed with the Planning and Zoning Administrator at least twenty-one (21) calendar days prior to the Planning and Zoning Commission meeting date. Eight (8) 11" by 17" size copies and five (5) full size copies of all preliminary subdivision plans and supporting information shall be included with the application submittal. In addition, plan sheets shall be submitted in electronic form in either jpeg or tif formats. Upon the filing of a preliminary subdivision plan application, the Planning and Zoning Administrator shall review the application for compliance with Section 1113.02 of these Subdivision Regulations. Should any information not be included with the application, it shall be returned to the developer with a written explanation of what information is missing. No preliminary subdivision plan application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(c) A fee as stipulated by ordinance, paid by the developer, shall be included with the preliminary subdivision plan application filing.

(d) All preliminary subdivision plans shall be prepared by a certified land surveyor duly registered by the State of Ohio.

(e) The Planning and Zoning Commission shall review the preliminary subdivision plan and act thereon within thirty-five (35) calendar days from receipt of a complete application. The Commission may approve the plan as submitted or modified, it may conditionally approve the plan and stipulate the conditions of such approval, or it may disapprove the plan and express the reasons therefore. The developer shall be advised as to the decision of the Planning and Zoning Commission by letter and/or legible markings and notes on the plan.

(f) All updated preliminary subdivision plans and supporting information submitted to the Planning and Zoning Commission for review shall include all revisions requested at the Commission's prior meeting. Upon the submittal of updated preliminary subdivision plans and supporting information, the Planning and Zoning Administrator shall review the submittal for compliance with the requested revisions. Should any information not be included with the updated submittal, it shall be returned to the developer with a written explanation of what information is missing. No updated submittal shall be reviewed by village officials until the requested revisions have been made.

(g) Approval of a preliminary subdivision plan shall not constitute approval of the final subdivision plat nor required improvement plans, but rather shall be deemed an expression of approval of the layout as a guide to preparation of the engineering construction plans and final subdivision plat.

(h) Review of the preliminary plan is based on conformance with present zoning, general conformance with the required improvement as stipulated herein, and compatibility to adjacent land use, adjacent zoning and to appropriate plans for the area, including but not limited to the comprehensive plan.

(i) Whether it is proposed to develop the property in one section or in multiple sections, the layout of the entire tract is required.

(j) Public Notification for the review of a preliminary subdivision plan shall consist of listing on the Planning and Zoning Commission's meeting agenda posted in accordance with the Planning and Zoning Commission's Rules.

## 1109.02 TECHNICAL REVIEW GROUP.

(a) The Technical Review Group is established as the Municipality's review body of engineering construction plans for private and public development projects and consists of, as necessary, but not be limited to, the Planning and Zoning Administrator, Director of Public Works, Municipal Engineer, Manager Division of Water and Water Reclamation, Construction Services Administrator, Urban Forester, School Superintendent, and police and fire safety services. The Technical Review Group will meet on an as needed basis to provide for a forum at which proposed developments at any state in the regulatory process may be discussed. These meetings are intended to minimize conflicts with various regulatory requirements and to provide coordination of various requirements and procedures. The Technical Review Group also provides the Planning and Zoning Commission technical expertise in matters that come before the Commission.

(b) The Planning and Zoning Administrator shall chair the Technical Review Group and shall coordinate the review process. The developer shall be advised by the Planning and Zoning Administrator as to the decision of the Technical Review Group by letter and/or legible markings and notes on the plans.

(c) Approval of engineering construction plans by the Technical Review Group shall expire twelve (12) months from the date of such approval, unless construction work has started. A single extension, not to exceed six (6) months, may be given by the Technical Review Group upon written request by the developer.

## 1109.03 ENGINEERING CONSTRUCTION PLANS, SUBMITTAL AND REVIEW.

(a) Engineering Construction Plans shall only be accepted for review after the Planning and Zoning Commission has approved the preliminary subdivision plan or, in the case of a site plan development, the site plan has been approved by the Planning and Zoning Commission. All required improvements shall be installed at the cost of the developer in accordance with design and construction standards of the municipality.

(b) Submittal Procedure: The developer shall prepare and submit five (5) full-size copies of the engineering construction plans and supporting information to the Planning and Zoning Administrator. If complete, they are distributed and reviewed by the Technical Review Group. If the submittal is incomplete, it is returned to the applicant with a written explanation of what information is missing. No engineering construction plans shall be reviewed by the Technical Review Group until all required information has been received.

(c) Preliminary Review Procedure:

(1) Civil engineering construction plan review with Director of Public Works, Construction Services Administrator, Division of Water and Water Reclamation Manager, and Municipal Engineer within one week of submission.

(2) Review any approval conditions by the Planning and Zoning Commission.

(3) Review General Notes.

(4) Review compliance with Chapter 1115 Required Improvements.

(5) Hold preliminary engineering construction plan meeting with the Planning and Zoning Administrator, Director of Public Works, Construction Services Administrator, Municipal Engineer, and, as applicable, the appropriate local school district and fire department within two weeks of distribution to compile comments to be forwarded to the developer for revision and/or clarification.

(d) Final Review Procedure:

(1) All updated engineering construction plans and supporting information submitted for review shall include all revisions and/or clarifications as previously requested. The developer also shall return all annotated review plans along with a Mylar cover sheet for signatures and construction cost estimate. No updated submittal shall be reviewed by the Technical Review Group until all requested revisions have been made and/or clarifications have been provided.

(2) Civil engineering construction plan review with Director of Public Works, Construction Services Administrator, Division of Water and Water Reclamation Manager, and Municipal Engineer within one week of submission.

(3) Review revisions from preliminary engineering construction plan review.

(4) Hold final engineering construction plan meeting with the Planning and Zoning Administrator, Director of Public Works, Construction Services Administrator, Municipal Engineer, and, as applicable, the appropriate local school district and fire department within two weeks of distribution to compile comments to be forwarded to the developer for revision and/or clarification. If there are additional comments, forward to the developer for revision and/or clarification.

(e) When there are no additional comments, return signed Mylar to the developer.

(f) Pre-Construction Meeting Required: Infrastructure improvements for the area proposed under the subdivision, or site plan development, may proceed following the required pre-construction meeting with the municipality. The property owner or applicant is responsible to contact the municipality's Construction Services Administrator to schedule and review the pre-construction meeting requirements including, but not limited to, submitting signed engineering construction plans, bonding, insurance and inspection fees in accordance with Chapter 1117.

## 1109.04 FINAL SUBDIVISION PLATS, SUBMITTAL AND REVIEW.

(a) Final subdivision plats shall be subsequent to and substantially in conformance with a previously approved preliminary subdivision plan. A final subdivision plat shall constitute only that portion of the development that is proposed for recording and development at the current time.

(b) The final subdivision plat, or the final subdivision plat of the first phase of a subdivision, shall be submitted to the Planning and Zoning Administrator within twelve (12) months after approval of the preliminary subdivision plan but not until the engineering construction plans have been approved by the Technical Review Group. Otherwise, said preliminary subdivision plan approval shall become null and void unless an extension of time has been granted by the Planning and Zoning Commission upon the developer showing justified cause to the satisfaction

of the Commission. Only one extension of time may be granted for a period not to exceed twelve (12) months.

(c) A final subdivision plat application shall be filed with the Planning and Zoning Administrator at least thirty (30) calendar days prior to the Planning and Zoning Commission meeting date. Eight (8) 11" by 17" size copies and two (2) full size copies of all final subdivision plats and supporting information shall be included with the application submittal. In addition, plan sheets shall be submitted in electronic form in either jpeg or tif formats. Upon the filing of a final subdivision plat application, the Planning and Zoning Administrator shall review the application for compliance with Section 1113.03 of these Subdivision Regulations. Should any information not be included with the application, it shall be returned to the developer with a written explanation of what information is missing. No final subdivision plat application shall be reviewed by village officials until all information has been received by the Planning and Zoning Administrator.

(d) A fee as stipulated by ordinance, paid by the developer, shall be included with the final subdivision plat application filing.

(e) Final subdivision plats shall be prepared by a registered surveyor duly certified by the State of Ohio.

(f) The Planning and Zoning Commission shall review the final subdivision plat application and forward its recommendation to Council within thirty-five (35) calendar days from receipt of a complete application. The Planning and Zoning Commission may recommend approval of the final plat as submitted or modified, it may recommend conditional approval of the final plat and stipulate said conditions, or it may recommend disapproval of the final plat and express the reasons thereof. The developer shall be advised as to the recommendation of the Planning and Zoning Commission by letter and/or legible markings and notes on the plat. The plat together with the Planning and Zoning Commission's recommendation shall then be immediately forwarded to Council.

(1) Before any final subdivision plat application is recommended for approval or conditional approval by the Planning and Zoning Commission, the developer shall give notice to the Ohio State Director of Transportation of the proposed improvements and obtain a letter from the Ohio State Director of Transportation stating that: This property is not within 300 feet of the centerline of a proposed new highway, or within 500 feet of the centerline of a highway for which changes are proposed; or this property is within these limits but that acquisition of the land at this time is not in the public interest. If the Ohio State Director of Transportation notifies the Planning and Zoning Commission that the State shall proceed to acquire the land needed, then the Planning and Zoning Commission may refuse to recommend to approve the plat, according to provisions of Section 5511.01 of the Ohio Revised Code.

(2) At the request of the subdivider, the Planning and Zoning Commission may give conditional approval and allow the developer to proceed with completion of the plat. However, it shall be clearly at the subdivider's own risk and the conditional approval shall be withdrawn if the Ohio State Director of Transportation proceeds to acquire the land.

(3) If the State Director of Transportation notifies the Planning and Zoning Commission that acquisition at this time is not in the public interest, or upon expiration of a 120 calendar day period from date of notice to the Ohio State Director or any extension thereof agreed upon by the Ohio State Director of Transportation and the property owner, the Planning and Zoning Commission shall, if the final plat is in conformance with all provisions of these Subdivision Regulations, recommend approval of the final subdivision plat application.

(4) The developer shall provide a copy of all correspondence to the Ohio State Director to the Planning and Zoning Administrator. The correspondence to the Ohio State Director shall indicate the 120 calendar day notification deadline.

(g) Council shall review the final subdivision plat application and act thereon within sixty (60) calendar days upon receipt of the final plat application from the Planning and Zoning Commission and their recommendation. Council shall either approve or disapprove the final subdivision plat application. To reverse or modify the Planning and Zoning Commission's recommendation, a simple majority vote of the full membership of Council shall be required.

(h) If the final subdivision plat application is disapproved by Council, it shall be returned to the Planning and Zoning Commission with recommendations for modification.

(i) Upon approval by Council, the Mayor and Clerk shall sign the final plat for recording with the appropriate County Auditor's Office and County Recorder's Offices. The Municipality shall record the signed plat with the respective county. The developer shall be responsible for all recording costs. The approved final plat shall be placed on record within thirty (30) calendar days from the date of Council's approval, or said approval shall be deemed null and void. Provided, however, the said recording time may be extended by Council for good cause.

(j) The subdivider shall submit a full size copy of the approved final plat, as recorded, to the Planning and Zoning Administrator. Upon completion of the subdivision, four full size copies of as-built plans, prepared by the developer's engineer and based on the municipality's construction inspection records, shall be submitted to the Construction Services Administrator. As-built plans shall also be submitted in electronic format as specified by the Construction Services Administrator.

(k) No building permits for lots within the platted (recorded) subdivision shall be issued until after the public infrastructure has been constructed and said improvements have been accepted by the municipality.

**CHAPTER 1111**
**Amendments**

## 1111.01 INITIATION.

The provisions of these Subdivision Regulations may be amended, supplemented, changed or repealed to meet changing conditions or to better meet good development practices. Amendments may be initiated in one of three ways: (1) by adoption of a motion by the Planning and Zoning Commission; (2) by adoption of a resolution by Council; or (3) by filing of an application by the owner(s) of the property affected by the proposed amendment to these Subdivision Regulations.

## 1111.02 APPLICATION REQUIRED.

(a) A complete written application shall be filed with the Planning and Zoning Administrator at least thirty (30) calendar days prior to Planning and Zoning Commission meeting date. Eight (8) copies of all supporting information including, but not limited to, information listed in Section 1111.02 (c) shall be included with the application filing. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1111. Should any information not be included with the application, it shall be returned to the owner with a written explanation of what information is missing. No application

shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(b) A fee of five-hundred dollars ($500), paid by the owner(s), shall be included with the application filings.

(c) The application shall contain as a minimum:

(1) Name, address and phone number of the owner(s) and agent, and if available the subdivider if different from the owner.

(2) A written description of the proposed amendment to these Subdivision Regulations.

(3) A written explanation of why the proposed amendment should be adopted and how the proposed amendment relates to the implementation of the municipality's Community Plan and other related adopted plans.

## 1111.03 CRITERIA FOR REVIEW OF A PROPOSED AMENDMENT.

All amendments to these Subdivision Regulations must be consistent with the adopted comprehensive plan. The Planning and Zoning Commission and Council shall, at the minimum, consider the following factors in the review of the application:

(a) Compatibility of the proposed amendment to adjacent land use, adjacent zoning and to appropriate plans for the area, including but not limited to the comprehensive plan.

(b) Relationship of the proposed amendment to access and traffic flow and utility services including sanitary sewer, water, and storm drainage, as outlined in the transportation thoroughfare plan, comprehensive plan and/or other adopted plans for the area.

(c) Relationship of the proposed amendment to the public health, safety, convenience, comfort, prosperity and general welfare, including impact on infrastructure and municipal services.

(d) Relationship of the proposed use to the adequacy of available services and to general expansion plans and planned capital improvements.

## 1111.04 REVIEW PROCEDURE OF A PROPOSED AMENDMENT.

(a) The Planning and Zoning Commission shall act on proposed amendments presented to it within a reasonable time. The owner or agent shall be advised as to the decision of the Planning and Zoning Commission by letter.

(b) The Planning and Zoning Commission shall hold a public hearing on the proposed amendment. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) At least one (1) notice of the Planning and Zoning Commission's public hearing shall be given at least ten (10) calendar days prior the scheduled public hearing date in one (1) or more newspapers of general circulation in the municipality. Such notice shall include the time and place of the public hearing, the nature of the proposed amendment, and a statement that after the conclusion of such public hearing the matter will be referred to Council for further determination.

(d) Action by Planning and Zoning Commission. Within thirty-five (35) calendar days of the public hearing, the Planning and Zoning Commission shall review the application and forward one of the following recommendations to Council: (1) Recommend the proposed amendment be approved as requested; (2) Recommend a modification of the proposed amendment; or (3) Recommend the proposed amendment not be approved.

(e) Upon Receipt of the Planning and Zoning Commission's recommendation, Council shall schedule a public hearing within sixty (60) calendar days of said receipt. Nothing in this section shall prevent Council from continuing said public hearing.

(f) At least one (1) notice of Council's public hearing shall be given at least ten (10) calendar days prior the scheduled public hearing date in one (1) or more newspapers of general circulation in the municipality. Such notice shall include the time and place of the public hearing, the nature of the proposed amendment, and a summary of the Planning and Zoning Commission's recommendation.

(g) Within forty-five (45) calendar days after the public hearing, Council shall adopt or deny the recommendation, or adopt a modification thereof. To adopt the Planning and Zoning Commission's recommendation, a majority vote of the full membership of Council is required. To reverse or modify the Planning and Zoning Commission's recommendation, a vote of three-fourths (3/4) of the full membership of Council is required.

**CHAPTER 1113**
**Preliminary Plan and Final Plat Requirements**

## 1113.01 GENERAL REQUIREMENTS.

Preliminary plans, final plats, and supporting information submitted to the municipality for review shall be in accordance with the requirements contained in Chapter 1113.

## 1113.02 PRELIMINARY PLAN REQUIREMENTS.

Preliminary subdivision plans shall be on sheet(s) no larger than 24-inches by 36-inches and prepared at a scale not smaller than one inch equals one-hundred feet (1" = 100'). The entire project shall be displayed on a single sheet when possible. If more than two sheets are required, an index sheet must be included. Where information is required for items off-site, and access to such areas is not available to the registered surveyor preparing the preliminary plan, required information may be an approximate nature, based on an existing recorded plat(s) of surrounding parcels and must be so noted. Preliminary subdivision plans shall include the following:

(a) A location map showing the relationship of the proposed subdivision to the surrounding area.

(b) The name of the subdivision, the name and address of the developer, the name and registration number of the registered surveyor, a north arrow, scale, and date the plan was prepared.

(c) The location by Section, Range, and Township or other surveys.

(d) Soils information, presented on a separate drawing, identical in scale to the preliminary plan. Street and lot layout shall be superimposed upon the soils information sheet. Data shall be derived from the United States Department of Agriculture Soil Survey.

(e) The current names and locations of all adjoining property owners and adjacent subdivisions within 150 feet of the proposed subdivision.

(f) The current zoning of the property to be subdivided and of the contiguous properties.

(g) The location and dimensions of all boundary lines of the property expressed in feet and decimals of a foot, and the approximate acreage of the land to be subdivided.

(h) The location of existing water bodies, streams, drainage ditches, stands of trees and trees with a diameter breast height (DBH) more than six inches in diameter, and other pertinent features within 500 feet of the proposed subdivision.

(i) The location, width, names, and classification of all existing and proposed streets, rights-of-way, and easements, and where pertinent, their designated use within 500 feet of the proposed subdivision.

(j) Approximate location of all existing buildings within 500 feet of the proposed subdivision.

(k) Location and illustration of existing storm and sanitary sewers, culverts, drainage tiles, water lines, gas lines, CATV, utility poles, and utility lines within and adjacent to the proposed subdivision.

(l) The location of all existing wells within 300 feet of the proposed subdivision.

(m) The approximate location, dimensions, and numbering of all proposed lots.

(n) The approximate location, dimensions, and area of all land proposed to be set aside for required parks and open space, and other public or private reservation, with designation of the purpose and proposed ownership and maintenance thereof.

(o) Topography with a maximum contour interval of two feet. Elevations shall be based on mean sea level datum obtained from benchmarks established by the NGS Control.

(p) Indication of the proposed use of any lots other than residential.

(q) Lots within the subdivision including future additions shall be numbered consecutively beginning with "one" (1), and the total number of lots and their combined acreage shown on the plat.

(r) Preliminary proposals for connection to existing water supply and sanitary sewer systems and for the collection and discharge of surface water drainage including the location and size of existing and proposed water mains, sanitary sewers and drainage facilities.

(s) Delineation of the drainage areas involved, with a plan for draining the total upstream watershed through the development. The major storm routing path shall be delineated.

(t) The 100-year floodplain and floodway of any watercourse identified as having a flood hazard area and delineated on the most current Flood Insurance Rate Maps.

(u) Written indication from the Director of Public Works that capacity for both water and sanitary sewer service is available.

(v) Preliminary street lighting plan showing proposed locations of street lights and the typical street light fixture to be used in the subdivision.

(w) Where it is proposed to develop the property in multiple sections, a tentative delineation of the sections including an estimated time frame for construction and build out.

## 1113.03 FINAL PLAT REQUIREMENTS.

Final Subdivision plats shall be on sheet(s) no larger than 24-inches by 36-inches and prepared at a scale not smaller than one inch equals one-hundred feet (1" = 100'), drawn in black India ink on reproducible Mylar. The entire project on a single sheet when possible. If more than two sheets are required, an index sheet shall be included. The reproducible Mylar shall meet the size requirements of the applicable County Auditor's Office and County Recorder's Office. Where information is required for items off-site, and access to such areas is not available to the registered surveyor preparing the final plat, required information may be an approximate nature, based on an existing recorded plat(s) of surrounding parcels and must be so noted. Final subdivision plats shall include the following:

(a) A location map showing the relationship of the proposed subdivision to the surrounding area.

(b) The name of the subdivision, name and address of the developer, the name and registration number of the registered surveyor, a north arrow, scale, and date the plat was prepared.

(c) The location by Section, Range, and Township or other surveys of the subdivision.

(d) The current names and locations of all adjoining property owners and adjacent subdivisions within 150 feet of the proposed subdivision.

(e) The current zoning of the property to be subdivided and of the contiguous properties.

(f) The location and dimensions of all boundary lines of the property being subdivided with accurate distance and bearings, including section, Municipal Corporation, and county lines.

(g) Accurate dimensions for all lots, reserve parcels, rights-of-way, and all known easements.

(h) The numbering of the lots in the final subdivision plat application. All lots within the entire subdivision, including any future sections or additions, shall be numbered consecutively starting with the first plat to be recorded and beginning with the number 'one' (1).

(i) The location, width, names and classification of all existing and proposed streets, rights-of-way and easements, and where pertinent, their designated use, within 500 feet of the proposed subdivision.

(j) Curve data for all proposed streets including the radii, arcs, chords, chord bearings, tangent and central angle.

(k) Accurate location of all required monuments.

(l) A summary of the area of land used for each of the following: (1) lots, (2) rights-of-way, and (3) parks, open space, and other public or private reservation, with designation of the purpose and purposed ownership and maintenance thereof.

(m) Location of setback lines from all rights-of-way, public or private, and the building envelope shown on all lots.

(n) An acknowledgement by and bearing the signature of the owner that the subdivision plat was prepared with the owner's consent and approval and dedicating the public streets and the appropriate areas to Commercial Point.

(o) A statement signed by the owner setting forth the rights associated with the easements and reserve parcels shown on the subdivision plat.

(p) Certification by the registered surveyor who prepared the subdivision plat that the information contained on the plat is true and correct and conforms to the requirements of these Subdivision Regulations.

(q) A signature block for the endorsement of an approved final subdivision plat by the Mayor and Clerk upon the approval by Council. The signature block and associated final subdivision plat wording is shown in Appendix B.

**CHAPTER 1115**
**Required Improvements**

## 1115.01 GENERAL.

(a) Prior to final plat approval by Council, the subdivider shall have installed the required improvements.

(b) All items of work covered and stipulated in the construction plans, including altering or any extra work shall be performed in accordance with the lines, grades, typical cross sections and dimensions shown on the construction plans. All areas within the rights-of-way and easements shall be graded in accordance with the grading plan. All other areas shall be rough graded such

that building construction (including basement excavation) will satisfy final grading in accordance with the grading plan. The setting and marking of all lines, profile and grade stakes necessary for the layout of the work in accordance with the improvement plans shall be performed under the supervision of a registered surveyor. Should any misunderstanding arise as to the intent or meaning of the construction plans, or any discrepancy appear in same, or in the proper method of setting and marking of the construction stakes, the decision of the Municipal Engineer in such cases shall be final. All surveys and construction plans shall be based on the Pickaway County Horizontal and Vertical Control System. An index of control points is available from the Pickaway County Engineer.

(c) The construction material specifications and standard drawings of Commercial Point, along with the City of Columbus, Ohio and ODOT, shall govern the required improvements except as modified within these Subdivision Regulations.

(d) (1) All engineering construction plans shall be prepared, signed and sealed by a registered professional engineer. Construction plans shall include title sheet, index map, location map, typical sections, plan and profile view, benchmarks, miscellaneous engineering details, and estimate of quantities. Cross sections shall be submitted upon request by the Municipal Engineer. All typical sections and major engineering details to be used on any particular street shall be approved in advance before completion of the engineering construction plans.

(2) The title sheet of the engineering construction plans must contain the name of the subdivision, road or street names, county and location map. Space shall be provided on the title sheet or the first sheet of the plan for signature of the Mayor; Director of Public Works; Manager, Division of Water and Water Reclamation; and Municipal Engineer. The following statement shall be above the village's signature block: "Signatures below signify only concurrence with the general purpose and general location of the project. All technical details remain the responsibility of the engineer preparing the plans."

(3) The necessity of guard rail, seeding, erosion control, type of backfill or other special conditions shall be determined with the assistance of the Municipal Engineer before completion of the construction plans.

(4) The engineering construction plans shall show the drainage area and design flow for all major culverts in twelve (12) inches and greater.

(5) The engineering construction plans shall be made with India ink on matte Mylar material. Freehand linear drawings will not be accepted. No shading or coloring shall be allowed. The sheets upon which the engineering construction drawings are made shall measure 24" x 36", with 1/2" margin border on three sides and a 1½" to 2" binding margin on the short left side. A poorly drawn or illegible plan is sufficient cause for rejection.

(6) Submittal requirements include improvement plans, sanitary sewer calculations, storm drainage calculations, grading plans, landscaping plans, erosion and sedimentation control plans, and lighting plans. See Section 1109.03 for time frames for submittal to the Planning and Zoning Administrator.

(7) Resubmittals of engineering construction plans shall clearly show all revisions made thereto by notes in the "revision" block with each revision clearly outlined on the appropriate sheet(s). A lack of properly addressing all Technical Review Group comments is sufficient cause for rejecting the resubmittal.

(8) After all improvements have been constructed, a complete set of as-built plans on reproducible Mylar and electronic copy of the same in either pdf or tif format shall be submitted to the Construction Services Administrator for Municipal files.

(e) Testing to ensure compliance with the standards contained herein shall be required by the Construction Services Administrator or the Municipal Engineer, and shall be at the expense of the subdivider.

(f) (1) Plan view on improvement plans must include the following:

A. Right-of-way line, centerline, departing lot lines, lot numbers, subdivision limits, and limits of construction.

B. Centerline curve data and centerline tangent data, including delta, radius, arc, chord, and tangent.

C. Radius of all curb returns to face of curb.

D. Approved street name.

E. Stations at every 100 feet on centerline. Indicate stations at points of curve and tangent at the beginning and end of all returns at centerline intersection, and at subdivision or section limits.

F. Street widths are based on face of curb to face of curb for full length.

G. When proposed streets intersect with or join existing streets or traveled way, indicate both edges of existing pavement, surface, or curb and gutter for a minimum of 100 feet, or the length of connection, whichever distance is the greater.

H. All existing or proposed easements.

I. All water mains, their sizes, valves, and fire hydrants, and location of mains to centerline of street.

J. All sanitary sewers and appurtenances. Identify sanitary sewer appurtenances by type. All appurtenances shall be numbered.

K. The location of all or any natural springs whether within or draining to street right-of-way and indicate proposed treatment of it. All springs will be capped and piped in a minimum six-inch diameter perforated pipe encased in washed gravel, and connected into the nearest storm manhole or curb inlet.

L. Proposed stream or channel relocations. Show existing and proposed locations. Furnish detailed typical section and type of stabilization to be provided. Any proposed stream or channel relocation, excluding road side ditch, shall comply with the requirements of the Army Corp of Engineers.

M. Guard posts or barricade at the end of streets that are to be extended in the future. A temporary T-turnaround shall be provided for dead end streets exceeding 200 feet in length.

N. Protection of ends of curb and gutter by providing for erosion control and temporary drainage where required.

O. Where a special typical section is approved, provides detail on plan.

P. Notes that may be necessary to explain the intent and purposes of the plan.

Q. Symmetrical transition of pavement at intersection with existing street.

(2) Profile view on improvement plans must include the following:

A. Elevations at beginning and end of all vertical curves.

B. Length of vertical curves with elevations and stations of vertical points of intersections (VPI).

C. Elevations computed every 50 feet on all tangent sections, and grades computed every 25 feet in all vertical curves.

D. Elevations along all curbs and curb returns on intersecting streets. The grades of intersecting streets shall match at the intersection of the extensions of the respective curbs. In other words, a hypothetical curb P.I. must be established.

E. Elevations at all curb inlets.

F. Extension of centerline profile 300 feet beyond property line or boundary on all streets that provide for access to adjoining property.

G. Existing centerline profiles for 200 feet minimum distance to insure proper grade tie, when proposed street is an extension of, or connects with an existing street or road.

H. Centerline profile of existing street or road 300 feet minimum distance to right and left of proposed connection, when a proposed street intersects with an existing street or road.

I. All proposed water mains, sanitary sewer mains, storm drains, and appurtenances.

J. All crossings of existing utilities.

K. Notes that may be necessary to explain the intent and purposes of the profile.

## 1115.02 MONUMENTS.

Iron pins and permanent markers shall be set under the direction of a surveyor registered by the State of Ohio at all changes in direction of all outside boundary lines of the platted property and at all changes in direction of the right-of-way lines. Iron pins shall be 13/16-inch inside diameter, 30 inches long with a plastic plug placed in the top bearing the initials of the surveyor. Permanent markers shall be 1-inch in inside diameter, material 30-inches long, buried 1-foot in depth below final grade with a plastic plug placed in the top bearing the initials of the surveyor. A minimum of four permanent markers shall be set. The placing of all monuments shall meet the minimum standards for boundary surveys in the State of Ohio.

## 1115.03 STREETS.

(a) Design and Construction. Streets shall be designed and constructed so as to meet the following criteria:

**MINIMUM COMPOSITION**

| | | **Deep Strength** | | | **Concrete Base** | | | **Conc. Pvmt.** | | **Roller Com Concrete** | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 304 | 301 | 402 | 404 | 305 | 402 | 404 | 452 | SS1523 | 402 | 404 |
| Local Street | 4” | 5” | | 1-1/2” | 6” | 1-1/2” | 1-1/2” | 6” | 7” | 1-1/2 | 1-1/2” |
| Collector Street | 4” | 6” | 1-1/2” | 1-1/2” | 6” | 1-1/2” | 1-1/2” | 6” | 7” | 1-1/2” | 1-1/4 |
| Collector/Arterial St | 4” | 8” | 1-1/2” | 1-1/2” | 6” | 1-1/2” | 1-1/2” | 8” | 8” | 1-1/4” | 1-1/2” |
| Arterial/Industrial St | 4” | 8” | 1-1/2” | 1-1/2” | 8” | 1-1/2” | 1-1/2” | 9” | 9” | 2” | 1-1/2” |

** A tack coat (Item 407) (0.10 gallon per square yard) will be required between the 305 and 404 course.

Note: The number in parenthesis is the design traffic number and is the minimum number of 18,000 lbs. equivalent loads per day. When it is possible that this will be exceeded, the developer’s engineer is required to check with the Village Engineer about changing design.

Legend

301 = Bituminous Aggregate Base
304 = Aggregate Base
305 = Plain Portland Cement Concrete Pavement (5 Bag)
402 = Asphalt Concrete
SS1523 = Roller Compacted Concrete
404 = Asphalt Concrete
407 = Tack Coat (RC-70 or RS-1)
408 = Prime Coat (RC-30, MC-70, (RT-2, RS-1, RS-2)
452 = Plain Portland Cement Pavement Class C, - ODOT Specifications

(D) Curb and gutter with under-drains shall be constructed in accordance with Village standards.

(E) Sub-base shall be free of topsoil, vegetation, soft clay, or other objectionable material for a minimum depth of two (2) feet below finished sub-grade. The sub-base shall be rolled, shaped, and compacted to a minimum depth of one (1) foot below sub-grade and to a minimum width of eighteen (18) inches beyond the back of curbs. Compaction shall be not less than 100% of maximum dry density.

(F) The minimum radius at intersections measured at the face of curb shall be 20 (twenty) feet for Cul-de-sacs and local streets, 35 (thirty-five) feet for collector streets, and 50 (fifty) feet for arterial intersections.

(1) Right-of-way and pavement widths shall be drawn in accordance with the following table. Pavement widths shall be measured face of curb to face of curb. Turnarounds on cul-de-sacs shall have a minimum 100' diameter right-of-way. There shall be no center islands in the turnaround of a cul-de-sac.

| Street Type | Minimum Right-of-Way | Minimum Pavement Width |
|---|---|---|
| Arterial w/ median | 100 | 61 |
| Arterial | 100 | 52 |
| Collector | 70 | 36 |
| Local | 60 | 30 |
| Cul-de-sac | | R = 38 ft. |

(2) The typical sections contained in the Village of Commercial Point Specifications, Materials and Standard Drawings Manual shall be utilized.

(3) Minimum pavement composition shall be determined by existing soil conditions and an AASHTO pavement design. All new pavement design shall include an aggregate base having a minimum thickness of six (6) inches. The design engineer shall also consider future construction traffic. For new and reconstruction of streets and roads within the corporation limits of Commercial Point, Ohio with ADT's less than 400, the current "AASHTO Guidelines For Geometric Design of Very Low Volume Local Roads" shall govern.

(4) The minimum radius at intersections measured at the face of curb shall be 20 feet for cul-de-sacs and local streets, 35 feet for collector streets, and 50 feet for arterial intersections.

(5) Horizontal and vertical alignment shall meet the following minimum standards:

| | Arterial | Major Collector | Minor Collector | Cul-de-sac or Local |
|---|---|---|---|---|
| Centerline Radius | 1,050 ft. | 650 ft. | 400 ft. | 250 ft. |
| Minimum Gradient | 0.5% | 0.5% | 0.5% | 0.5% |
| Monuments Maximum Gradient | 6% | 6% | 7% | 8% |
| Minimum Street Intersection Angle | 90-degrees | 90-degrees | 90-degrees | 80-degrees |

(6) Clear sight distance (length along each approach leg) shall follow ODOT's Location and Design Manual, Table 201-5 E Vol. 1.

(7) Intersection centerline offsets shall meet the following minimum requirements:

| | |
|---|---|
| Local/local | 150 feet |
| Local/collector | 200 feet |
| Local/arterial | 300 feet |
| Collector/collector | 300 feet |
| Collector/arterial | 1,320 feet |
| Cul-de-sac/cul-de-sac | 150 feet |
| Cul-de-sac/local | 150 feet |
| Cul-de-sac/collector | 200 feet |
| Cul-de-sac/arterial | not permitted |

(8) Vertical curves shall be provided at any change of vertical grade where the algebraic difference on grades is one (1) percent or greater, unless otherwise directed by the Municipal Engineer. Sight distance shall be measured as the line of sight from a height of 3.75 feet to 0.5 feet above the pavement. The length of vertical curve shall meet the length as set by the ODOT requirement for crest and vertical segment. The ODOT Location and Design Manual Vol. 1, latest edition, or the AASHTO guidelines for low volume roads shall govern.

(9) The maximum profile grade approach to intersections shall be two (2) percent.

(10) Sidewalks shall be installed inside the right-of-way along all streets, constructed of portland cement concrete and located one (1) foot off the right-of-way, unless otherwise approved by the Technical Review Group. Sidewalks shall be a minimum width and thickness as indicated below. At driveways and other points of vehicle crossing, the thickness shall be six inches. Sidewalks shall extend to the curbs at all intersections and include wheelchair ramps compliant with current ADA requirements. ADA detectible warning devices on ramps shall be "brick red."

| Type of Street | Sidewalk Width | Sidewalk Thickness |
|---|---|---|
| Cul-de-sac | 4 feet | 4 inches |
| Local | 4 feet | 4 inches |
| Collector | 4 feet | 4 inches |
| Arterial | 8 feet* | 4 inches |

*Or may be a leisure path, may be asphalt or concrete.

(11) Driveway aprons, six (6) inches thick minimum for residential and eight (8) inches thick minimum for non-residential, shall be provided from the sidewalk to the curb at all driveway locations in accordance with the Municipal standard drawing. The maximum grade of a driveway apron shall not exceed ten (10) percent.

(b) Street Layout. The arrangement, character, extent, width, and location of all streets shall conform to the master street plan of Commercial Point and to the following:

(1) Streets shall be so arranged as to provide for the continuation of existing streets.

(2) Connections shall be provided to adjoining properties for future access.

(3) Local residential streets shall be laid out so as to discourage through traffic while providing for interconnection of neighborhoods, reasonable safety, and access by emergency vehicle services.

(4) Cul-de-sacs shall be provided with a bulb type turnaround.

(5) Permanent cul-de-sacs shall not exceed 600 feet except where a variance to this requirement is specifically granted by the Planning and Zoning Commission. Temporary cul-de-sacs may exceed 600 feet where they are part of an overall street network.

(6) The following regulations shall govern the design and layout of blocks:

A. Irregularly shaped blocks, those intended for cul-de-sacs or loop streets, and those containing interior parks or playgrounds, will be evaluated by the Planning and Zoning Commission and may be approved by the Planning and Zoning Commission if properly designed and located, and if the maintenance of interior public spaces is covered by notation on the plat.

B. No block shall be longer than 1,500 feet and the block width shall accommodate two tiers of lots, except where unusual topography or other exceptional physical circumstances exist.

C. Where blocks are over 900 feet in length, a crosswalk easement no less than ten feet in width at or near the halfway point may be required to provide proper access to schools, recreational areas, shopping centers, and other facilities.

(7) Street names shall be approved by the Planning and Zoning Administrator and shall not duplicate or be similar to names of existing streets within the municipality or its postal zip code.

(c) Lots should be designed so as to accomplish the following:

(1) Each lot shall have frontage on a public or private street as specified in the Zoning Code, or zoning text as may be applicable.

(2) The depth and width of commercial and industrial lots shall be adequate to provide for the required off-street loading and parking spaces.

(3) Corner lots shall have extra width to permit appropriate building set back from and orientation to both streets.

(4) Double frontage, reverse frontage and irregularly shaped lots shall be avoided.

(5) Lot lines shall be substantially at right angles or radial to street lines.

(6) No lot shall have an average depth that is more than three and one-half times its average width unless otherwise allowed by the Planning and Zoning Commission.

(7) Pipe roof drain: roof drains shall either be to the street pavement via. two (2) cored-holes per lot, or tied directly to the curb under drain as determined by the Technical Review Group.

## 1115.04 STREET LIGHTING.

(a) Street lighting shall be required, designed and installed by the subdivider. Street lights every 200 feet on opposite sides of street. Illumination provided shall be uniform and compatible with adjacent light sources. Energy efficient lamps, controlled by dusk-to-dawn photocells, are required unless otherwise directed by the Municipal Engineer.

(b) The Planning and Zoning Commission shall approve the selection of lighting fixtures that are to be used in the subdivision.

(c) The developer shall be required to set up an assessment on each lot to cover the cost of operation of street lights within the subdivision.

## 1115.05 TRAFFIC CONTROL AND STREET SIGNS.

(a) All traffic and street name signs shall be installed by the subdivider and shall conform to the requirements as set forth by the Municipal Engineer. A schedule of traffic signs conforming to the current Ohio Manual of Uniform Traffic Control Devices shall be submitted for review and approval by the Municipal Engineer.

(b) For all required traffic control signals, the subdivider shall install mast arms.

(c) All traffic control devices shall conform to Commercial Point standards.

(d) The developer may be required to provide painted cross walks and stop bars at intersections and other places as may be appropriate to facilitate pedestrian traffic.

## 1115.06 WATER.

Adequate public water service shall be provided for all lots in conformance with the following criteria:

(a) All water mains shall be PVC AWWA C-900 or C-905, AWWA C-909 CL-150 or HDPE, AWWA C-906, DIPS, DR-11 minimum.

(b) All water mains and appurtenances shall be constructed in accordance with the rules, standards, and specifications of Commercial Point and shall be reviewed, tested, and approved by the Municipal Engineer prior to acceptance by the Village.

(c) Service connections shall be HDPE DR-9 with stiffeners at every coupling, installed at the time the water main is installed.

(d) The minimum size of mains shall be 8-inches, unless prior approval from the Technical Review Group.

(e) Minimum cover shall be 48 inches.

(f) New waterlines, along with sanitary sewers and storm drains shall be placed within the roadway right-of-way and meet the required horizontal and vertical separations as set forth by the OEPA.

(g) The following requirements shall be met for fire protection:

(1) In a residential single-family area, there shall be a minimum distribution of fire hydrants on a ratio of one to each 120,000 square feet of area. The distance between fire hydrants shall not exceed 400 feet, and one hydrant shall be placed at the dead-end of a cul-de-sac.

(2) In commercial, business, industrial, and multi-family areas, there shall be a distribution of public and/or private fire hydrants on a ratio of one to each 80,000 square feet of area. A minimum of one hydrant shall be provided within 300 feet of every building or part thereof with a minimum of one additional hydrant within 500 feet of every building or part thereof.

(3) Fire hydrants shall be placed two (2) feet clear behind the back of curb, whenever possible, or eight (8) feet clear behind the edge of pavement in uncurbed streets. Fire hydrants shall be placed a minimum of forty (40) feet from buildings protected whenever possible.

(4) Computations may be required to verify that the minimum fire hydrant flow in the proposed improvement meets the requirements for the appropriate insurance ratings. The computations shall be based on a Hazen Williams coefficient of 100. For residential, (single family) areas, the fire flow should be 1,000 gpm at 20 pounds per square inch (psi). For industrial, multi-family, or commercial areas, the fire flow should be a minimum of 2,000 gpm at 30 psi. Higher flows may be required depending on the type of use. Fire flows shall be provided in addition to maximum daily requirements.

(5) Fire hydrants shall conform to AWWA C502 and shall be Mueller Company A423 Super Centurion or American Darling B84B fire hydrants. All hydrants shall be supplied with five (5) inch 30-degree Stortz fitting. A maximum of one extension shall be permitted per hydrant. The hydrants shall have a 6-inch mechanical joint inlet connection, a 5¼-inch main valve opening, two 2½-inch hose nozzles, and one 4-inch pumper nozzle with coarse thread (4 per inch). All outlet nozzles shall have National Standard threads. Hydrants shall be furnished with a 5-foot bury depth unless otherwise shown on the plans. Hydrants shall be self-draining. A drainage sump 2 feet in diameter and 2 feet deep shall be excavated below each hydrant and filled with coarse gravel or stone, compacted in place, under and around the shoe of the hydrant and to a level of 6 inches above the waste opening. No drainage sump shall be connected to a sanitary sewer. The operating nut shall be pentagon. Fire hydrants shall be factory painted grenadier red. One hydrant wrench shall be furnished with each five hydrants.

(h) Valves shall be placed outside of pavement wherever practical. In general, two valves shall be installed at every main line tee, and three valves shall be placed at every main line cross. The distance between main line valves shall be in accordance with the OEPA's Ten-State Standard.

(i) At high points in water mains where air can accumulate, provisions shall be made to remove the air by means of air / vacuum release valve or fire hydrant as determined by Commercial Point.

(j) All tees, bends, plugs, and hydrants shall be provided with reaction blocking and an approved restraining system designed to prevent movement. Restraining systems shall be epoxy coated.

(k) Meters shall be supplied by the Municipality and paid for by the customer.

(l) The subdivider shall provide the Municipality with all required OEPA approvals and pay all OEPA and associated review fees.

(m) Fire Department connections to a building fire sprinkler system shall be a 5-inch Stortz-type connection.

(n) Location of the connections set forth in subsection (m) above will be determined by the local fire authority.

(o) All valves and hydrants shall include factory installed stainless steel trim bolts and nuts.

(p) Curb boxes shall be Ford arch pattern type boxes with an extension road provided.

(q) All water fitting appurtances shall be American made.

## 1115.07 SANITARY SEWERS.

Each lot shall be served by an adequate sanitary sewage collection and disposal system.

(a) (1) All sanitary sewer pipe shall be PVC sewer pipe ASTM D-3034, SDR 35 and ASTM F-679 or HDPE minimum DR-17. All pipes shall have sufficient strength to withstand an HS-20 live load. If PVC pipe is used, a mandrel test is required just prior to expiration of the 1-year guarantee to assure maximum deflection of five percent (5%) has not been exceeded. Any pipe that fails this test will be replaced at the subdividers expense.

(2) PVC pipe, shall be shop tested in accordance with the City of Columbus Construction Inspection Division's quality control program at the subdivider's expense. A report of the material tests shall be provided to the Municipal Engineer.

(b) New sanitary sewers, along with waterlines and storm drains, shall be placed within the roadway right-of-way and meet the required horizontal and vertical separation as set forth by the OEPA. All sanitary sewage collection systems shall be constructed in accordance with the rules, regulations, standards and specifications of Commercial Point, OEPA's Ten-State Standards and the Ohio Department of Health.

(c) A map must be provided delineating the contributing area in acres to the sanitary sewer system. All sanitary sewer manholes shall be numbered, consistent with the numbering on the improvement plans. A copy of the location map may be used for this purpose.

(d) Sanitary sewers shall be designed in accordance the latest edition of OEPA's "Ten States Standards."

(e) The subdivider shall provide the Municipality with all required OEPA approvals and pay all OEPA and associated review fees.

(f) Minimum collection line size shall be eight (8) inches.

(g) All sanitary sewer manholes and covers shall conform to Commercial Point Standard Drawings.

(h) Service shall be provided to each lot. If basement service is not provided, it shall be so noted on the sanitary sewer improvement plans and on the final plat. Risers shall be provided where the service is greater than twelve (12) feet deep, provided that basement service will still be provided.

(i) All sanitary sewers shall be videotaped in DVD format after construction prior to acceptance of the sewers by the Municipality. The DVD shall remain the property of the Municipality. The DVD shall clearly identify the location of the camera within the sewer, date and time of DVD, and be of sufficient quality to determine the condition of the sewers.

(j) The top of the manhole cover shall be flush with the finished grade of the surrounding area. Covers are not permitted to be buried nor be above final grade.

(k) Plan view on sanitary sewer plans must include the following: (TBC by engineer).

## 1115.08 DRAINAGE.

An adequate storm drainage system shall be provided for each subdivision/development. The design of said system shall be prepared using the Rational method and shall be based on a minimum of two (2) year frequency. Rainfall intensity, runoff coefficients, and concentration

time used in computing flows and structures sizes shall be in accordance with the tables, charts, and the data established by the Municipal Engineer for such calculations. All areas which contribute storm water to the proposed drainage system must be considered on the determination of the sizes of structures and channels.

A. A separate grading plan shall be submitted at a scale of 1" = 50' or 1" = 100'. The grading plan shall indicate ground elevations with existing and proposed contours shown at intervals of not more than 5 feet where the slope is greater than 10 percent and not more than 2 feet where the slope is less than 10 percent. Sufficient proposed elevations must be shown such as at all lot corners, etc. in order to explain the proposed grading. First floor elevations of all existing and proposed structures shall be included. Routing of the major storm shall be shown. Sanitary sewer and storm sewer top of castings must be shown on the grading plan.
   The minimum building elevation adjacent to the 100-year routing path shall be set a minimum of 1 foot above the 100-year flood elevation. No basement entrances, windows, or basement level garages shall be permitted adjacent to and below the 100-year routing path.
   Swales necessary to carry surface water must have a minimum gradient of 1.0 percent.

B. Storm Sewer Requirements.
   1. Minimum cover for storm sewer pipe shall be 1 foot clear from the bottom of the curb and gutter or from the bottom of the under-drain to the outside top of the pipe except as approved by the Village Engineer. Maintain a minimum of 2 feet of cover from the finished ground surface to the outside top of the pipe for any storm sewer system located beyond the limits of street right-of-way.
   2. Standard headwalls are to be constructed at the inlet and outfall of all storm sewers, and shall be shown on the plan and profile.
   3. The invert of the first storm sewer appurtenance shall be above the computed floodplain elevation, unless otherwise permitted by the Village Engineer.
   4. Pipe for storm sewers shall not be less than 12 inches in diameter. All storm sewer piping shall be extra strength vitrified clay, reinforced concrete, or ductile iron. Other materials may be approved at the direction of the Village Engineer. All piping shall have sufficient strength to withstand an HS-20 live load.
   5. All drainage calculations, drainage area outlines, and contributing areas used in drainage design shall be furnished on a print of the grading plan.
   6. The inverts of all curb inlets, manholes, yard inlets, and other appurtenances shall be formed to reduce turbulence to a minimum.
   7. Manholes shall be provided at all changes in alignment and grade of storm sewers and at such other locations as necessary to maintain a maximum interval of 500 feet between manholes or storm sewers.
   8. Storm inlet or catch basin grates shall be of a type to permit safe crossing by bicycles as approved by the Village Engineer.
   9. The maximum distance for overland flow shall be 300 feet before entering a surface yard inlet or 400 feet before entering a curb inlet. Except, that the maximum overland drainage area tributary to any yard inlet or curb inlet shall not exceed 1.5 acres. The maximum spacing for curb inlets shall not exceed 400 feet unless approved by the Village Engineer. The maximum spread of flow during a 2-year

storm shall not exceed 8 feet for 30-foot wide streets and 9 feet for streets wider than 30 feet. Spread calculations may be required, at the discretion of the Village Engineer.

10. All storm water runoff shall be conducted through storm drainage systems up to and including the equivalent of a 72-inch diameter pipe.
11. The flow lines of pipes shall be set such that either the crown, or the 0.8 depth points, at junctions, are at the same elevation. However, the crown of the outlet pipe may be lower.
12. Where an open watercourse is permitted, an easement shall be provided at least equal to the area required for the 100-year rainfall. Also, the easement shall be shown on the final plat as a "Watercourse and Utility Easement." Restrictions as to the use of this easement shall be shown on the final plat.
13. No water will be allowed to cross a street intersection unless it is carried in storm sewer.

C. Storm Sewer Design Criteria
1. The method outlines herein will provide a general guide as to the criteria and procedures to be used for storm sewer design.
    A. The rational method shall be used for all storm water drainage design for areas up to 200 acres. Storm sewers shall be designed to carry a 2-year storm flowing full Q=CIA, in which
    Q = Quantity of storm water runoff in cubic feet per second.
    C = Coefficient of runoff (0.4 for single-family residential areas).
    I = Average rainfall intensity in inches per hour for the period of concentration to the point under consideration. The minimum length of time of concentration is 10 minutes to a curb inlet or 15 minutes to a ditch catch basin.
    A = Drainage area in acres tributary to the point of concentration.
    B. For drainage areas over 200 acres, the method explained in "Urban Hydrology for Small Watershed, Technical Release No. 55" (can be obtained from the Soil Conservation Service, U.S. Department of Agriculture) shall be used.
2. The minimum time of concentration to the first curb inlet shall be 10 minutes. The minimum time of concentration to the first catch basin shall be 15 minutes.
3. Storm sewer pipe sizes are to be determined by using Manning's Formula with a minimum coefficient of roughness of n = .013.
4. The minimum allowable velocity shall be 3 feet per second (fps) in pipe. The maximum allowable velocity shall be 7 fps.
5. A hydraulic grade line check based on a 5-year storm may be required, at the discretion of the Village Engineer.

D. Open Watercourses
    1. Access to storm drainage ditches and channels shall be assured by means of maintenance easements. Such maintenance easements shall be not less than 20 feet in width, measured horizontally from the top of the bank, exclusive of the width of the ditch, or channel, and shall be provided on each side of the ditch. Maintenance easements are to be kept free of obstructions. Detailed provisions

regarding the entities to be responsible for maintenance of the facility shall be submitted in text form with the subdivision plat. As applicable, notes regarding maintenance shall be made on the plat.

2. Design Storm Frequency for Open Channels shall be based on bank full for 10-year storm, with a 1 (one) foot freeboard.
3. The minimum velocity for open channels shall be 2 feet per second. The maximum velocity is dependent on the type of channel protection provided. The desirable minimum grade for open channel is 1.0 percent.
   The Manning "n" Values shall be as follows:

| | |
|---|---|
| Sod or jute mat lining | 0.05 |
| Paving lining | 0.015 |
| Rock Protection | 0.08 |

   The Municipal Engineer on a case-by-case basis will review manning "n" values for other lining materials.
   The minimum side slope shall be 3:1 for unprotected slopes and 2:1 for slopes protected with riprap. Flatter slopes are more desirable. Steeper slopes for materials other than riprap will be reviewed on a case-by-case basis.

4. If the proposed improvements are located in a floodplain area as identified by the Federal Emergency Management Agency, the limits of this floodway and floodway fringes must be shown on the improvement plans.

E. Storm Water Detention

1. If the post-development runoff volume is greater than the predevelopment runoff volume, storm water detention must be provided in accordance with the following table:

| Increase in 2-year Volume of Runoff | Control Design Frequency (Critical Storm) |
|---|---|
| 1 – 2 Times | 10-year |
| 2 – 3 Times | 25-year |
| 3 – 4 Times | 50-year |
| Over 4 Times | 100-Year |

The maximum allowable release rate shall be based on the 2-year storm under pre-developed site conditions, for all rainfall events up to and including the critical storm. The maximum allowable release rate for storms greater than the critical storm shall not exceed the pre-developed rate for the same frequency storm, for storms up to and including the 100-year storm.
"Total Runoff Volume Computations Worksheet," in the Village of Commercial Point Specification, Materials, and Standard Drawings Manual should be used to determine pre-developed and post developed runoff volumes, runoff volumes for critical storm, and required detention volume calculations.
Detention basins shall be lined with riprap or other bank protection as approved by the Village Engineer, extending at least 3 feet horizontally and 2 feet vertically from the established water table line. Soils information shall be provided to demonstrate that the retention basis will be impervious.

All wet basins shall have fountains approved by Planning Commission. Dry basins must have concrete channels to handle low flows.
Detention basins shall have a minimum 1 percent slope.
All control facilities shall be designed with overflow provisions to handle the developed 100-year discharge.

## 1115.09 BRIDGES.

Bridges over walkways or watercourses shall be designed to ODOT standards. Calculations shall be submitted to the Municipal Engineer to demonstrate that these standards have been met.

## 1115.10 EROSION AND SEDIMENTATION CONTROL.

(a) Measures shall be taken to minimize erosion and its impact during subdivision construction activity. Prior to construction, a copy of the Notice of Intent (NOI) to use the Ohio Environmental Protection Agency's General Construction Permit, as well as the storm water pollution prevention plan prepared as part of the NOI, shall be submitted with the improvement plans for review by the municipality. All erosion control devices shall be in place at the start of construction and maintained by the subdivider at all times, and other measures implemented according to the approved time schedule. Such erosion control devices, techniques and other measures shall not be removed and/or disturbed until earth disturbing activities on the site have been concluded.

(b) Erosion control plans shall be based upon controlling erosion on-site, with the object of eliminating or minimizing erosion or sedimentation impacts off-site. Erosion and sedimentation control plans shall follow the OEPA NPDES Phase II Permit and be approved by the municipal engineer.

(c) Erosion and sedimentation control techniques will be inspected by the municipality to ensure compliance with the State's General Construction Permit. The cost for this inspection shall be stipulated by ordinance. Failure to maintain erosion and sedimentation control measures as approved by the municipality is a violation of these Subdivision Regulations.

## 1115.11 LANDSCAPING.

(a) All improved areas within dedicated street rights-of-way shall be graded, friable soil, and seeded in accordance with current standards of the municipality and in a manner approved by the Construction Services Administrator.

(b) The number, type and location of trees to be planted, excluding the dedicated street right-of-way, shall be based upon the existing trees preserved on the site and shall be shown on a landscaping plan to be submitted with the final plat. Landscaping plans shall be in accordance with a master tree plan. Where such plans do not exist, the subdivider shall provide the following per lot: 1-Shade Tree (maple family, 1 1/2 - 2 inch), two shrubs 3-4 feet (pyramidal Evergreens), 2 shrubs 2-3 feet (flowering shrubs), 4 shrubs 18-24 inch (spreading evergreens), and 12 bags of mulch.

(c) The subdivider shall be responsible for the establishment of required plantings and such responsibility shall extend one year from the date of original planting. A bond shall be posted to ensure the planting and replacement of trees, and may be reduced as trees are planted. The Planning and Zoning Commission may require tree buffers or landscaped mounds between adjoining properties.

(d) An irrigation system shall not be allowed within the dedicated public street right-of-way.

(e) All tree and shrub planting shall follow ANSI A300, latest edition, Part 6 “Transplanting Standard".

## 1115.12 HILLSIDE REGULATIONS.

(a) Cuts and Fills. No land shall be graded, cut or filled so as to create a slope exceeding a vertical rise of one (1) foot for every two and one-half feet of horizontal distance between abutting lots, or between adjoining tracts of land, unless a retaining wall of sufficient height and thickness is provided to retain the graded bank, or other acceptable control measures are provided.

(b) Compaction of Fill. All fill outside the right of way shall be compacted to a density of ninety-eight percent (98%) dry density or greater, to within four (4) inches of finished grade.

(c) Retaining Walls. Retaining walls may be required whenever topographic conditions warrant or where necessary to retain fill or cut slopes within the right-of-way. Such improvements shall require the approval of the Municipal Engineer.

## 1115.13 (reserved)

## 1115.15 PLATTED EASEMENTS.

The following standards shall govern the provision of easements:

(a) Where a subdivision is traversed by a water course, drainage way, channel, storm conduit or stream, there shall be provided to the Municipality, a storm drainage easement or drainage right-of-way on forming substantially with the lines of such water course and containing additional width as required for maintenance.

(b) Easements, a minimum of ten (10) feet in width shall be provided adjacent to each side of and contiguous with all proposed rights-of-way. Such easements shall be used for any and all public or private underground utilities, street trees and other public facilities.

(c) Utility or drainage easements across lots or alongside or rear lot lines shall be a minimum twenty (20) feet in width. The Municipal Engineer may require additional width where appropriate, based on the proposed usage. If a proposed utility is outside the right-of-way, a minimum of 7½ feet of clearance must be provided between the centerline of the proposed utility and the edge of the easement. If a proposed utility is within the right-of-way, an easement must be provided adjacent to the right-of-way if the utility is less than seven and one-half (7½) feet from the right-of-way line.

(d) Where subdivisions are adjacent to schools, parks, or other public facilities, access easements shall be provided to those facilities where deemed appropriate by the Planning and Zoning Commission. Such access easement shall be a minimum of twenty feet in width and side yard setbacks for adjacent lots shall be measured from the easement.

## 1115.16 LOCATION OF PRIVATE UTILITIES.

All utilities (including, but not limited to, gas, electric, telephone, and CATV cables) shall be located underground throughout the subdivision. Wherever existing utility facilities are above ground, unless otherwise stipulated by the Municipal Engineer, they shall be placed underground.

**CHAPTER 1117**
**Bonds, Insurance, Fees and Inspection Process**

## 1117.01 GENERAL REQUIREMENTS.

Prior to final approval of any plat, the following bonds, deposits and insurance policies shall be provided to the municipality by the subdivider:

## 1117.02 BONDING REQUIREMENTS.

(a) Purpose. A performance bond shall be posted by the subdivider to guarantee to the Municipality that in the event the required public improvements and utilities, which were an integral part of the approved final plat, are not installed, the Municipality may install such required public improvements and utilities at the expense of the subdivider.

(b) Performance Bond Requirements. The required bond shall be so worded as to ensure the completion of the improvements, to the extent required by the Subdivision Regulations or which may be required by the Planning and Zoning Commission, including the construction of all streets and bridges, all sidewalks and curbs and the installation of a storm drainage system, all sanitary sewage facilities, water services, and the setting of all monuments.

(1) The applicant shall file with the Municipal Clerk a surety bond in favor of Commercial Point. Such bond must be executed by a surety company authorized to enter into such bonds under the laws of the State of Ohio. The bond shall be in such amount and in such form and contain such conditions as the municipality may require.

(2) Should a subdivision be approved in sections, the above requirements may be applied by section, rather than to the subdivision as a whole at the option of the subdivider unless specifically required by the Planning and Zoning Commission. Requirements by the Planning and Zoning Commission may include thoroughfare and infrastructure improvements that are deemed appropriate for the large development and necessary for incremental development of the section.

(c) Term of Performance Bond Extension. The Construction Services Administrator may extend the term of the performance bond upon a written request from the subdivider when good cause for delay is shown and the surety company agrees to the extension.

(d) Maintenance Bond. Prior to the release of a performance bond, the subdivider shall present a maintenance bond in an amount as stipulated by ordinance based on the value of the public and private improvements required by the approved improvement plans and the subdivision regulations. The developer or designated representative shall contact the Construction Services Administrator to schedule a meeting with Municipal officials during the eleventh (11th) month of the first year of the maintenance bond to perform an inspection of the improvements. Any deficiencies shall be documented in writing and provided to the developer who shall take appropriate action in addressing said deficiencies.

After all deficiencies, if any, have been addressed to the satisfaction of the municipality, the maintenance bond may be reduced in an amount determined by the Construction Services Administrator to cover street improvements for an additional four (4) years.

No Certificate of Zoning Compliance or Building Permit shall be issued in the approved subdivision, or section thereof, until the required maintenance bond is accepted.

(e) Release of Performance Bond and "As Built" Drawings. Request for the release of a performance bond upon completion of all required improvements including "punch list" items must include "as built" drawings to include any changes from the approved improvement plans, including grading plan for storm drainage. Two hard copies of the "as built" drawings must be submitted and in electronic format (CD/DVD) in either jpeg or tif format, with GPS/GIS files. The "as built" drawings shall be reviewed and approved by the Municipal Engineer, showing the location of said improvements, as constructed, in both plan and profile. The "as built" drawings and revised grading plan shall be respectively signed by a licensed engineer or surveyor licensed in the State of Ohio.

(f) Bond Instructions.

(1) The bond form obtainable from the Construction Services Administrator is the only one acceptable to the municipality.

(2) The bond must be for the total amount required by the municipality.

(3) Power of Attorney of person signing on behalf of the surety company must be attached to the bond if not already on file with the municipality.

(4) If the person acting as attorney for the surety company is not a licensed resident agent of the State of Ohio, then a licensed Ohio resident agent of the company shall countersign this bond.

(5) The signatures of two witnesses are required on the bond.

(6) If the subdivision applicant is a corporation, then the corporate seal must be shown in addition to the seal of the bonding company.

(7) The bond must show the bond number and the name of the bonding company's local agent.

(8) Commercial Point requires a completion date of two (2) years (Performance Bonds only).

(g) Cash Bond. The Municipality may, as its discretion, require the posting by the developer of a cash bond in lieu of any or all of the provisions of this Section. Interest on such bond shall accrue to the developer, but in no event shall be payable thereto until performance has been completed in accordance with all of the provisions of the Regulations. The Municipal Engineer shall determine the amount of such bond.

## 1117.03 INDEMNITY INSURANCE.

A policy of indemnity insurance for personal liability and property damage, in the amount as stipulated by ordinance, protecting the Municipality against any claims for damage to person or property resulting from or by reason of the construction of the required improvements, shall be furnished to the Municipality and maintained in force by the subdivider. The insurance policy shall remain in full force and effect until all improvements are completed and maintained to the satisfaction of the Council.

## 1117.04 FEES.

Subdividers shall be responsible for payment of the following fees, which shall be submitted with the plats. These fees are subject to review and revision by the Planning and Zoning Commission and the Legislative Authority.

1. For processing of a Preliminary Subdivision Plat, the sum of $400.00, plus $5.00 per lot for each plat.
2. For processing of a Final Subdivision Plat and final improvement plans, the sum of $200.00, plus $10.00 per lot, plus two percent of the estimated construction cost.
3. For processing of Minor Subdivision Plats that require improvement plans, two percent of the estimated construction cost ($600 minimum).
4. For processing of Minor Subdivision Plats that do not require improvement plans, the sum of $400.00 plus $10.00 per lot.
5. Processing of resubmitted Final Plats are subject to a fee of $5.00 per lot, and are subject to a fee of up to 50 percent of the original fees.
6. A retainer for all inspection fees, supervision, and testing of materials, in the amount of five (5) percent of the cost of construction of the required improvements based upon the subdivider's detailed estimate of said cost as approved by the Municipal Engineer. Said fee to be paid prior to the beginning of construction. If the inspecting, supervision, and testing fees are anticipated to exceed the retained amount, an additional amount will be required to be deposited. Any of these amounts remaining at the completion of construction will be returned to the subdivider.
7. Tests performed for the Village by commercial laboratories to verify compliance with construction standards shall be billed to the subdivider at the rates charged by the laboratories.
8. If the fees collected for processing of plats exceed the costs incurred by the Village, the balance will be returned to the subdivider.
9. For Re-Zoning of a Planned District, the sum of $500 (five-hundred) dollars.
10. Site Development Plan Fees: Major, $.10 per sq.ft.; maximum fee of $2,500 and a minimum fee of $500. Minor Site Development Plan Fee, $100 (one hundred).
11. Flood Plain Development Permit Fee, the sum of $ 500 (five-hundred) dollars.

In addition to the required fees for processing a subdivision application, said fees as stipulated by ordinance, the subdivider shall be responsible for the following:

(a) Payment to the municipality of a retainer for inspection, monitoring and the testing of materials consisting of an amount as stipulated by ordinance of the construction cost of the required improvements based on the subdivider's engineer's detailed estimate of said costs as reviewed by the municipal engineer. Any retainage remaining at the completion of the construction will be returned to the subdivider. If the inspection, supervision and testing fees are anticipated to exceed the original retainage amount, the subdivider shall be required to deposit additional fees to the municipality. The Construction Services Administrator shall inform the subdivider if this situation should occur. The municipality may temporarily stop construction work until additional retainage has been provided.

(b) A water tower maintenance impact fee of one-thousand dollars ($1,000) per each platted lot. This fee will be paid in phases at the time each phase is approved for construction.

(c) Other applicable fees as stipulated by ordinance.

## 1117.05 CONSTRUCTION INSPECTION PROCESS.

(a) Pre construction Meeting Required. Prior to the construction of improvements, a pre-construction meeting shall be required between the subdivider and/or designated representative(s) and the municipality's Construction Services Administrator, Municipal Engineer, who shall chair this meeting, Director of Public Works, and Planning and Zoning Administrator. The purpose of this meeting is to review the construction schedule and related details, as well as the inspection process. The subdivider shall contact the municipality's Engineer to schedule this meeting. The required performance bond, retainage fees for inspection, monitoring and testing, and municipal engineering review fees shall be submitted to the municipality no later than the preconstruction meeting.

(b) Construction Inspection Process. Following completion of improvements, the municipality's Construction Services Administrator will conduct a walk-through of the project and, if necessary, prepare a detailed punch list of items that are not in compliance with municipal standards and regulations. The municipal engineer, Director of Public Works, Manager Division of Water and Water Reclamation, shall review this punch list for accuracy before the list is released to the subdivider. The subdivider is responsible for addressing all items on the punch list. The Construction Services Administrator, upon notice by the subdivider, will reinspect said items and inform the Planning and Zoning Administrator when completed.

(c) Notwithstanding anything in the foregoing paragraph to the contrary, erosion and sedimentation control measures shall be maintained throughout all land disturbing activities, in accordance with the approved storm water pollution prevention plan.

(d) Compliance Inspections. Periodic inspections of a land disturbing activities' erosion and sedimentation control measures will determine either partial compliance or non-compliance with erosion and sedimentation control regulations. Partial Compliance is defined as erosion and sedimentation control measures that are found to be in need of repair or maintenance or when practices fail to provide their intended function. Non-compliance is defined as erosion and sedimentation control measures are not installed or implemented or when partial compliance schedules are not adhered to.

(1) Should land disturbing activities be found to be in partial compliance, a notification will be issued by the Construction Services Administrator that will require full compliance within three (3) working days, unless it is found that the practices fail to provide their intended function, in which case there will be ten (10) calendar days to submit a revised storm water pollution prevention plan and implement new control measures.

(2) Should land disturbing activities be found to be non-compliant, a notification will be issued that will require full compliance within ten (10) calendar days, including weekends and holidays.

(3) If the afore mentioned time frames are not met, the site will be found to be in violation of the code of the Village of Commercial Point and subject to penalty in accordance with Section 1105.07.

**CHAPTER 1130**
**Planning and Zoning Residential Standards**

## 1130.01 ARCHITECTURAL DIVERSITY (SAME HOUSE MODELS NEXT TO EACH OTHER).

All single-family residential developments shall incorporate architectural diversity whereby (a) the same house model and elevation shall not be directly across the street and (b) a minimum 2-lot separation shall be required between the same house model on the same side of the street or diagonal from each other.

## 1130.02 BUILDING ENVELOPE.

The dimensional space within which a building or structure is permitted to be built on a lot and that is defined by minimum yard setbacks.

## 1130.03 CHIMNEYS.

Cantilevered and Shed type chimneys are permitted only if located on the rear of the house and not visible from the street. A chimney built "inside" the exterior wall or built inside the house or residential unit shall be exempt from this requirement.

All chimneys shall be constructed out of masonry or stucco. Except for cantilevered and shed chimneys, chimneys shall extend the full height of the abutting vertical wall plane.

## 1130.04 DRIVEWAYS.

Driveways for residential and non-residential developments shall consist of concrete, asphalt, or brick pavers. The Planning and Zoning Commission may permit a similar construction material as an alternative only upon prior approval. All driveway aprons shall be concrete. All driveways shall be a flat, earth tone color.

## 1130.05 FOUR-SIDED ARCHITECTURE.

(a) The purpose of requiring four-sided architecture on all residential dwellings is to avoid large areas of blank exterior walls. Each side or rear elevation must contain at least two design elements and each front elevation must contain at least three design elements. On two-story dwellings, it is preferable that each story on a single elevation contains at least one design element. Typical design elements are included below, but this list is not all-inclusive.

(b) The eligible design elements are as follows:

(1) A door of at least seventeen square feet in area.

(2) A window of at least six square feet in area. Windows closer than ten (10) feet shall be considered as one (1) element. A set of adjacent windows, such as double or bay windows, shall be considered as one element.

(3) A chimney.

(4) An articulated gable vent of at least 4 square feet in area.

(5) Porches, decks or similar structure.

(6) A similar significant permanent architectural feature consistent with the style of the house only upon prior approval by the Planning and Zoning Commission.

(7) The use of three-tab type roof shingles is not permitted.

(8) Twenty percent (20%) of all platted lots shall have partial natural finishes, of stone, stucco, or brick on the front elevation.

(9) Additionally, ten percent (10%) of all platted lots shall have natural finishes of stone, stucco, or brick.

## 1130.06 GARAGES.

All single-family residential developments may have a mix of front loaded and side loaded garages. There is no minimum of lots that must be designed for a standard side entrance garage. Side loaded garages may be used on lots where side-entry garages can be accommodated, typically sixty-five feet wide and wider lots. For corner lots, the garage shall be oriented towards the "lower" defined street classification as determined by the Planning and Zoning Commission. Garage doors shall be a maximum ten feet height. If there is a living area above the garage, the maximum height of the garage shall be thirty-five feet. Otherwise, the maximum height of the garage is eighteen feet.

## 1130.07 FRONT LOADED GARAGES.

(a) May not project or be set back more than four feet from the front line of the livable area of the home. A covered or uncovered porch shall not be considered a livable area of a home.

(b) Garage doors shall not exceed fifty percent (50%) of the house width (frontage). Where more than a standard two car front loaded garage is provided, the additional garage bay(s) shall be offset from and architecturally designed to appear separate and distinct from the two car garage.

## 1130.08 SIDE LOADED GARAGES.

(a) Side loaded garages may be loaded from an inside court area.

(b) The garage elevation facing the street must incorporate design features also found in the front elevation of the home including, but not limited to, windows.

## 1130.09 HOUSE SIZE AND SETBACKS.

| Dwelling Type | Ground Floor Area (sq. ft.) | Finished Floor Area (sq. ft.) |
|---|---|---|
| 1 Story | 1,500 | 1,500 |
| 1 ½ Story | 1,250 | 1,700 |
| 2 Story | 950 | 1,900 |
| Split Level | 1,500 | 1,500 |
| Min. Lot Area | 14,375 | |
| Max. Lot Coverage | 30% | |
| Min. Lot Width & Depth | 80 ft. by 180 ft. | |

| | | |
|---|---|---|
| Lot Width on Curving Street or Cul-De-Sac | 45 ft at ROW<br>80 ft at Building Lint | |
| Front Yard Setback | 30 ft. | |
| Side Yard Setback | 10 ft. each side | |
| Rear Yard Setback | 30 ft; 8 ft. for Accessory Bldg. | |
| Max. Building Height | 35 ft. or 2 Stories | |
| Basement Required | Yes if over 20 ft. height or 1 ½ Stories | |

## 1130.10 LANDSCAPING, REQUIRED.

All residential and non-residential lots shall have a minimum of 200 total square feet of landscaping in the front and side yards, consisting of shrubs and perennial flowers and at least one tree, in accordance with a landscaping plan approved by the village, If block is used for the foundation, any fully exposed block above final grade shall be of a premium or upgraded decorative material compatible with adjacent natural materials.

## 1130.11 LOT COVERAGES.

Lot Coverage shall mean the ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings or structures on a lot to the total lot area. Included in this ratio are porches, decks, patios, and outdoor pools.

## 1130.12 PARKS AND GREEN SPACE.

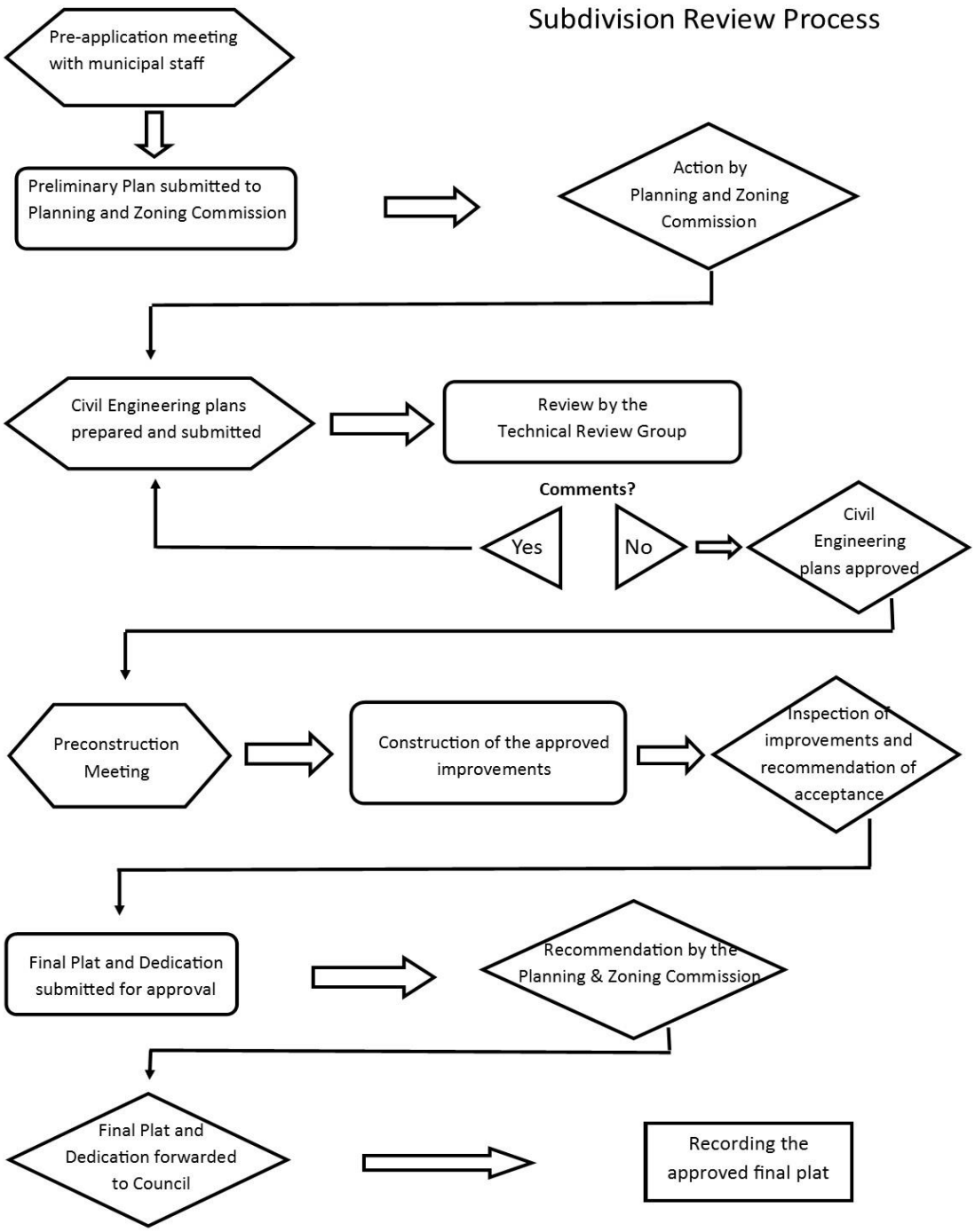
All residential developments are required to address parkland and green space needs. The Planning and Zoning Commission shall determine whether a parkland is to be an active park or a passive park, green space, or some combination. A parkland is to be developed according to the approved plan at the beginning of the residential development. Only forty percent (40%) of a required parkland acreage can be located within the 100-year floodplain.

(a) Active Park: Active park land shall contain usable areas reasonably dry most of the time for future buildings and structures. The developer is required to install the park's play equipment as determined by the Planning and Zoning Commission. A park development plan that includes the type and location of play equipment shall be approved by the Commission.

(b) Passive Park: The developer is required to install the park's furniture as determined by the Planning and Zoning Commission. A park development plan that includes the type and location of play equipment shall be approved by the Commission.

(c) Developer Providing Land for Village Utilities in Lieu of Parkland or Green Space: If the Village determines that space in a development is needed for utility improvements, including but not limited to a water tower, booster, lift station or such, that space shall be donated and deeded to the Village and may be considered part of the required green space or parkland.

**APPENDIX A**


Subdivision Review Process
Pre-application meeting with municipal staff
Preliminary Plan submitted to Planning and Zoning Commission
Action by Planning and Zoning Commission
Civil Engineering plans prepared and submitted
Review by the Technical Review Group
Comments?
Yes
No
Civil Engineering plans approved
Preconstruction Meeting
Construction of the approved improvements
Inspection of improvements and recommendation of acceptance
Final Plat and Dedication submitted for approval
Recommendation by the Planning & Zoning Commission
Final Plat and Dedication forwarded to Council
Recording the approved final plat

**APPENDIX B - Final Plat Language**

The following wording shall be shown on the final plat:

Situated in the Village of Commercial Point, County of _____, State of Ohio, and being of Section _____, Township Range (Land Grant - U.S. Military Lands, etc) containing _____ acres and being the same tract as conveyed to _____ and described in deed recorded in Deed Book _____, Page _____, Recorder's Office, _____ County, Ohio.

We, the undersigned, being all the owners and lien holders of the land platted herein, certify that the attached final plat correctly represents our _____, a subdivision of lots _____ to _____ inclusive, do hereby accept this final plat of same, and do voluntarily consent to the execution of said final plat. (NOTE: If any new streets are platted, the following statement must be included). All streets shown hereon will not be accepted for public use until such time as construction is complete and said streets are formally accepted as such by the Village of Commercial Point.

In Witness thereof _____ have hereunto set their hands this day of _____, 20___.

Witness _____ Signed _____

_____ _____

Easements are reserved for the construction, operation and maintenance of all public and private utilities proposed above and beneath the surface of the ground, and where necessary, are for the construction, operation and maintenance of service connections to all lots and lands, and for stormwater drainage. Structures are not permitted within easements. No landscaping shall interfere with the right to construct, operate and maintain utilities and service connections, and shall not interfere with stormwater drainage.

In Witness thereof _____ have hereunto set their hands this day of _____, 20___.

Witness _____ Signed _____

_____ _____

Surveyed and Platted by _____

Civil Engineer and/or Surveyor

We do hereby certify that we have surveyed the premises and prepared the attached plat and that said plat is correct and meets the minimum standards for boundary surveys in the State of Ohio. The dimensions of the lots and streets are shown in feet and decimal parts thereof. Dimensions on curves are chord measurements.

By _____

Registered Surveyor

State of Ohio

Before me a Notary Public for said State personally came _____ who acknowledged the signing of the foregoing instrument to be their voluntary act and deed (and voluntary corporate on partnership act and deed) for uses and purposes therein expressed.

In witness whereof I have hereunto set my hand and affixed my official seal this day of _____, 20___.

_____ Notary Public

Approved this _____ day of _____, 20___ _____

Planning and Zoning Administrator

Approved this _____ day of _____, 20___ _____
Chair, Planning & Zoning Commission

Approved this _____ day of _____, 20___ _____
Municipal Engineer

This _____ day of _____, 20___, rights-of-way for all roads, boulevards, etc., herein dedicated to public use are hereby approved and accepted as such for the Village of Commercial Point.

_____ _____
Mayor, Village of Commercial Point Clerk of Council, Village of Commercial Point

NOTE: This plat shall not be transferred or recorded until all above required signatures are placed on this final plat. This plat shall be recorded by _____, 20_____. Transferred this _____ day of _____, 20___.

_____
County Auditor

Filed for record this _____ day of _____, 20___, at _____M. Recorded this _____

day of _____, 20___, in Plat Book _____, Page No. _____ Slot _____ for Pickaway County.

_____ _____
County Recorder Deputy Recorder

**Appendix C - Subdivider's Agreement**

## DEVELOPMENT AGREEMENT

This Agreement entered into this ____ day of _____, 20__, by and between _____ _____ with address at _____ (hereinafter the "Owner") and the Village of Commercial Point with address at 10 West Scioto Street, Commercial Point, Ohio (hereinafter the "Village") for the _____, a subdivision of the Village (hereinafter called the "Project").

WHEREAS, certain ordinances of the Village in force on the date of this Agreement (hereinafter the "Subdivision Regulations") require the Owner to enter into an agreement with the Village.

NOW, THEREFORE, the Owner and the Village, in consideration of the mutual covenants set forth herein, agree that:

**I. OWNER RESPONSIBILITIES:** The Owner shall:

1.1 Develop or cause the development of the Project in accordance with the Subdivision Regulations, Construction and Material Specifications and the construction plans approved by the Village.

1.2 Unless specifically stated otherwise, be responsible for the entire cost associated with developing the Project, including engineering and construction, fees and deposits.

1.3 Construct the following improvements contained in the Project (hereinafter the "Improvements") and provide to the Village plans, specifications and supporting data describing the Improvements:

(a) Streets and parking areas, graded full width and paved including drainage structures, bridges, curbing and other improvements all as shown on the Village Standard Drawings;

(b) Sanitary sewers, including manholes, services and all appurtenances;

(c) Water distribution system including mains, services, valves, fire hydrants and all appurtenances;

(d) Storm sewers, retention ponds including manholes, inlets and all appurtenances;

(e) Monuments, stakes and all survey control required.

(f) Street signs designating the name of each street at each intersection within the Project. Street signs shall conform to the standards established by the Village;

(g) All other public improvements shown on the plan and plat as approved by the Village, including street lights.

(h) Dedication or granting of land necessary for all rights of way and dedication or granting of all easements necessary for the Improvements.

1.4 Await the Village's approval of the plans and specifications before beginning any construction work.

1.5 Guarantee that the labor, material and equipment used to develop the Project meet the Village requirements by providing a performance bond equal to one hundred percent (100%) of the estimated construction costs of the Improvements, if the plat is to be signed.

1.6 Provide the Village at least three (3) day notice prior to beginning any construction work and will keep the Village advised of the work schedule throughout the development of the Project.

1.7 Prior to conditional acceptance of the Project by the Village, guarantee all labor, material and equipment incorporated in the improvements that will become public against defects and deficiencies, for at least one year, by providing either:

(a) A maintenance bond equal to twenty-five percent (25%) of the construction cost for the Improvements; or

(b) A certification to the Village by a financial institution or corporation acceptable to the Village Solicitor;

That funds equal to ten percent (10%) of the estimated construction cost for Improvements have been set aside in an escrow account;

That these funds cannot be released without a release by the Village;

That the institution or corporation holding the funds shall release to the Village any and all of the funds so escrowed for the purpose enumerated herein; and

That the escrow account will not be closed out without the approval of the Village with the final acceptance of the public improvements by the Village constituting release of the escrow account lacking any formal release by the Village.

1.8 Provide a written request for the maintenance guarantee release upon completion of at least one year maintenance period during which the Improvements are maintained in a satisfactory condition and all expenses incurred by the Village pursuant to this Project have been paid in full.

1.9 Cause the work described in the approved construction drawings, specifications and supporting data, as required herein, to be completed within a year of the approval of the construction plans unless approved otherwise by the Village.

1.10 Remove or cause to be removed such dirt, debris and foreign matter from all public rights-of-way and/or easement areas as were deposited, left or resulted from the construction of the Improvements or from the development of the Project, within twenty-four hours after being notified by the Village that such work is required. Such removal shall be done to the satisfaction of the Village Engineer.

1.11 Prior to acceptance or conditional acceptance of the Project by the Village, the Owner will:

(a) Provide the Village with the original signed plans, with two sets of prints, annotated to reflect the "as-constructed" conditions, the original recorded plat, and a copy of the "as-constructed" plans on a compact disc AutoCAD and PDF format, and GIS plan indicating all project utilities;

(b) Have all sanitary sewers cleaned and provide a bond guaranteeing that after two years or after the last home in this phase is completed, whichever is longer, all sanitary sewers will be re-cleaned and televised and a CD provided to the Village.

(c) Provide a Bill of Sale transferring ownership of all Improvements to the Village. The Bill of Sale shall be in a form acceptable to the Village

## II. GENERAL TERMS:

2.1 When there appears to be, or there is in fact, a conflict between this Agreement and the Subdivision Regulations, the more stringent shall govern.

2.2 No conveyance shall be made of any lot or parcel smaller in frontage or area than indicated on the plat except for the purpose of increasing the area of another lot or expanding the width or length of a public right of way.

2.3 The Owner shall hold the Village free and harmless from any and all claims for damage of every nature arising or growing out of the construction of the Improvements or resulting from the Improvements and shall defend, at Owner's own cost and expense, any suit or action brought against the Village by reason thereof, except such liability of the Village resulting from its sole negligence.

2.4 Upon violation of, or failure to comply with, any of the terms of this Agreement by the Owner, the Village may take any of the following actions:

a. Stop all work on the Project forthwith;

b. Continue any unfinished work or replace any unaccepted work to a point that any Improvements do not appear to create a health or safety hazard or create maintenance or repair expense to the Village because of their state of completion by:

1. Holding the bonding company responsible,

2. Using the certified check, or proceeds thereof, or

3. Using the funds in the escrow account.

2.5 This Agreement represents the entire and integrated agreement between the Owner and the Village for the Project and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instruction signed by both Owner and Village.

2.6 The Owner and Village each binds himself/herself and his/her partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as set forth in this section 2.6, neither the Owner nor the Village shall assign, sublet, or transfer his interest in this Agreement

without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the Owner and the Village.

2.7 Notices: Any notice required by this Agreement shall be conclusively presumed to have been received if in writing and if delivered personally or sent by registered or certified mail, postage prepaid, to the party to be notified at the party's last address on file with the party sending the notice.

2.8 Legal Interpretation: This Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio.

IN CONSIDERATION WHEREOF, the Village hereby grants the Owner the right and privilege to make the improvements stipulated herein.

IN WITNESS WHEREOF, the parties hereto have set their hand and seals, and have executed this Agreement on the day and year first above written.

**VILLAGE OF COMMERCIAL POINT**

**ATTEST:** By_____

_____

**OWNER**

**ATTEST:** By_____

_____

Its_____

**ACCEPTED AS TO FORM:**

_____

Jg/je/VILLAGE OF COMMERCIAL POINT/DEV AGR-1.doc

## 1131.01 TITLE.

(a) Titles Three, Five and Seven of this Part Eleven - Planning and Zoning Code shall be known and may be designated and cited as "The Commercial Point, Ohio, Zoning Code," and heretofore may be referred to as the Zoning Code, or Code.

(b) Unless otherwise provided herein or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this Zoning Code as those governing the interpretation of the Ohio Revised Code (ORC).

## 1131.02 AUTHORITY.

This chapter is adopted pursuant to the authority contained in O.R.C. sections 711 and 731.

## 1131.03 JURISDICTION.

This chapter shall be effective throughout the Municipal planning jurisdiction. The Municipal planning jurisdiction comprises the area within the corporate boundaries of Commercial Point.

## 1131.04 EFFECTIVE DATE AND AMENDMENTS.

The provisions of this Zoning Code including the 2015 International Property Maintenance Code and 2018 Construction Specifications, Materials, and Standard Drawings are hereby adopted by this Ordinance 2018-2, dated September 6, 2018.

## 1131.05 PURPOSE.

In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements unless otherwise stated herein; adopted for the promotion of the public health, safety, convenience, comfort, prosperity and the general welfare by regulating and restricting the location of buildings and other structures and of premises to be used for trade, industry, residences and other specified uses; by regulating and limiting the height of buildings and other structures hereafter erected or altered; by regulating the bulk and location of buildings or other structures hereafter erected or altered, the percentage of lot occupancy, setback building lines and the area of yards, courts and other open spaces; and, for all of the purposes hereinbefore described, by dividing the Municipality into districts as herein provided, which districts are deemed and determined best suited to carry out such purposes.

## 1131.06 RELATIONSHIP TO EXISTING ZONING CODE.

This Zoning Code is adopted in whole and is a replacement of the Zoning Code of Commercial Point 04-07 dated 5/3/2004, which was by Codified by Ordinance 2008-14 on 12/1/2008.

## 1131.07 RELATIONSHIP TO COMPREHENSIVE PLANNING.

It is the intention of Council that this Zoning Code shall implement the planning policies adopted by Council for Commercial Point, as reflected in a comprehensive plan, land-use plan, and all other planning documents formally adopted by the Council. While the Council reaffirms its commitment that this Zoning Code and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this Zoning Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

**1131.08 NO USE OR SALE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH THIS ZONING CODE.**

Subject to Chapter 1149, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his/her control except in accordance with all of the applicable provisions of this Zoning Code. For purposes of this section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

**1131.09 SEVERABILITY.**

Each chapter, section, paragraph, sentence, clause, phrase, or other divisible part of this Zoning Code is hereby declared to be severable and if any such chapter, section, paragraph, sentence, clause, phrase, or other divisible part is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining chapters, sections, paragraphs, sentences, clauses, phrases, or other divisible part of this Zoning Code since the same would have been enacted without the incorporation into this Zoning Code of such unconstitutional or invalid chapter, section, paragraph, sentence, clause, phrase, or other divisible part.

**1131.10 CONFLICTING ORDINANCES.**

Where conflicts exist between requirements of this Zoning Code and ordinances adopted by Council, the strictest interpretation shall apply and thereby supersede the less strict requirements.

**1131.11 AMENDMENTS; EFFECTIVE DATE AND REFERENDUM.**

(a) Amendments, as per Chapter 1143, adopted by Council shall become effective thirty (30) calendar days after the date of such adoption unless adopted as an emergency. Such amendment fails to become effective if within thirty (30) calendar days after the passage of the ordinance there is presented to the Clerk of Council a petition, signed by a number of qualified voters residing in the Municipality equal to but not less than ten percent (10%) of the total vote cast in such area at the last preceding general election at which a Governor was elected, requesting Council to submit such ordinance to the electors of the Municipality for approval or rejection at the next general election.

(b) No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the votes cast on the issue is in favor of the amendment. Upon certification by the applicable County Board of Elections that the amendment has been approved by the voters it shall take immediate effect.

**1131.12 RELATIONSHIP TO PUBLIC WORKS AND BUILDINGS.**

Nothing in this Zoning Code shall be construed to prevent Commercial Point from constructing, repairing or maintaining public works or public buildings in the Municipality.

**CHAPTER 1133**
**Definitions**

## 1133.01 GENERAL INTERPRETATION.

(a) Except where specifically defined herein, all words used in this Zoning Code shall carry customary meanings. Words used in the present tense include the future tense; the plural includes the singular and the singular includes the plural; the word "lot" includes the words "parcel" and "plot"; the word "building" includes the word "structure"; the word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement; the words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied"; and the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

(b) Words not particularly defined herein shall be defined as found in The New Illustrated Book of Development Definitions, Center for Urban Policy Research, Rutgers University. If not defined therein, words shall be defined as found in Random House Webster's Unabridged Dictionary on CD-ROM.

## 1133.02 GENERAL DEFINITIONS.

Words denoting the masculine gender shall be deemed to include the feminine and neuter genders. Words in the singular shall include the plural and words in the plural shall include the singular. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited. The word "day" shall mean a calendar day unless otherwise specified.

## 1133.03 DEFINITIONS.

(1) "Access Drive" means a way or means of approach to provide physical entrance to a property, as in driveway or curb cut.
(2) "Accessory Building" means any building located on the same lot as a principal structure and has a use that is incidental and subordinate to the principle structure's use.
(3) "Accessory Structure" means any structure located on the same lot as a principal structure and has a use that is incidental and subordinate to the principle structure's use.
(4) "Accessory Use" means the use or partial use of a structure or land that is incidental and subordinate to the principle use of that structure or that land.
(5) "Adult Entertainment Uses" means any use of a sexual nature, including retail establishments selling publications and other material of a sexual nature, adult motion picture theater used for presenting films and other material of a sexual nature, and adult only entertainment establishment featuring services of a sexual nature.
(6) "Agriculture" means the production, keeping or maintenance, for sale, lease or personal use of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental, and

greenhouse products; or lands devoted to a soil conservation or forestry management program.

(7) "Alley" or "Lane" means a public or private way not more than thirty feet wide affording only secondary means of access to abutting property.

(8) "Alteration" means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

(9) "Animal Hospital" means a place which animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

(10) “Artisan Studio” means a building or portion thereof used for the creation of original handmade works of art or craft items by no more than ten artists or artisans, either as a principal or accessory use.

(11) “Artisan Workshop” means a use primarily involving the limited on-site production of goods by hand manufacturing which involves only the use of hand tools or mechanical equipment that does not exceed two (2) horsepower each or a single kiln not exceeding eight (8) cubic feet in volume and the incidental direct sale to consumers. Typical production includes: custom furniture, ceramic studios, glass blowing, candle making, custom jewelry, stained and leaded glass, woodworking, custom textile manufacturing and crafts production.

(12) "Attention Getting Device" means a device designed or intended to attract by noise, sudden intermittent or rhythmic movement, physical change or lighting change, such as banners, flags, streamers, balloons, propellers, whirligigs, search lights, and flashing lights.

(13) "Attic" means that part of a building which is immediately below and wholly or partly within the roof framing.

(14) "Automobile" means a self-propelled free moving vehicle, with four or more wheels, primarily for conveyance on a street or roadway.

(15) "Automobile Car Wash" means any building or premises or portions thereof where mechanical devices are used for washing, detailing, or vacuuming automobiles.

(16) "Automobile Convenience Market" means a place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience food market or supermarket.

(17) "Automobile Parking Lot or Garage" means establishments primarily engaged in the parking or storage of motor vehicles on surface lots, garages, or other means where no other service is provided.

(18) "Automobile Repair and Services" means establishments primarily engaged in the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, tire dealers, battery dealers and other accessory dealers.

(19) "Automobile Sales" or "Trailer Sales" means the use of a building, land area or other premises for the display, sale, and rental of new or used automobiles, panel trucks or vans, trailers, motorcycles, or recreation vehicles and where no warranty repair work and other repair service is conducted.

(20) "Automobile Service Station" means an establishment where gasoline and other petroleum products are sold as the principal use of the property. Light maintenance activities such as engine tune-ups, lubrication, and minor repairs may also be provided if incidental to such principal use. Service stations do not include premises where retail sales space exceeds twenty five (25) percent of the total building area or five hundred (500) square feet of gross floor area, whichever is less. Service stations do not include premises where heavy automobile maintenance activities, such as engine overhauls, automobile painting, and bodywork, are conducted.

(21) "Basement" means a space having one-half or more of its floor-to ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6 and 1/2) feet.

(22) "Bedroom" means a private room planned and intended for sleeping, separable from other rooms by a door, and accessible to a bathroom without crossing another bedroom or living room.

(23) "Best efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, safety, expedition, available technology, human resources and cost.

(24) "Boarding Home For Sheltered Care" means a profit or nonprofit boarding home, rest home, or other home for the sheltered care of adult persons which, in addition to providing food and shelter to four or more persons unrelated to the proprietor, also provides any personal care or service beyond orphans, foster children, the elderly, and battered persons.

(25) "Buffer Strip" means a land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.

(26) "Buildable Area" means the area of a lot remaining after the minimum yard and open space requirements of the Zoning Code have been met.

(27) "Builder" means a person who builds or contracts to build a building or structure within Commercial Point.

(28) "Building" means any structure securely affixed to land having a roof supported by columns or walls, entirely separated on all sides from any similar structure or entirely separated on all sides by walls in which there are no communicating doors, windows or similar openings and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

(29) "Building coverage" means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

(30) "Building height" means the vertical distance of a building measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the roof.

(31) "Building line" means a line parallel to the street line at a distance there from equal to the depth of the front yard required for the zoning district in which the lot is located.

(32) "Building, principal" means a building in which is conducted the principal use of the lot on which it is located.

(33) "Building envelope" means the area designated by the developer or builder for the construction of the principal building(s) upon the site in accordance with the following:

A. <u>In Platted Residential Subdivisions or Residential Site Condominiums.</u> The buildable area remaining on the lot, parcel or unit after complying with zoning

setback and maximum lot or site coverage requirements, or such smaller building area designated by the developer for construction of building upon a lot, parcel or unit within the development.

B. In All Other Developments. The building area(s) plus ten (10) feet around the perimeter of the building(s) provided such areas do not encroach into any required setback.

(34) "Caliper (Tree)" means a tree's diameter in inches measured four and one-half (4 ½) feet above the ground.

(35) "Carport" means a roofed structure providing space for the parking or storage of motor vehicles and enclosed on not more than three sides.

(36) "Carry-Out Restaurant" means an establishment which by design of physical facilities or by service or packaging procedures permits or encourages the purchase of prepared ready-to-eat foods intended primarily to be consumed off the premises, and where the consumption of food in motor vehicles on the premises is not permitted or not encouraged.

(37) "Cemetery" means property used for the interring of the dead.

(38) "Census Tract" means areas into which communities are divided by the U.S. Department of Commerce, Bureau of the Census, for statistical purposes.

(39) "Central Business District" shall be defined as the old town properties designated on the 2004 zoning map as B-1 district.

(40) "Certified Arborist" means any individual certified by the National Arborist Association.

(41) "Chimney" means a structure lesser in function than a smoke stack and containing one or more flues for drawing off emissions from stationary sources of combustion.

(42) "Church" or "House of Worship" means a building or structure or groups of buildings or structures which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

(43) "Cluster development" means a development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

(44) "Cluster subdivision" means a wholly or principally residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and the remaining land area is used for common open space.

(45) "Commercial nursery or tree farm" means a plant or tree nursery or farm in which trees are planted and grown for sale to the general public in the ordinary course of business.

(46) "Commercial Use" means any activity carried out for pecuniary gain.

(47) "Community Association" or "Homeowners Association" means an association organized to own, maintain, and operate common facilities and to enhance and protect their common interests.

(48) "Community Playhouse" means any building or portion thereof that is designed, constructed or used for theatrical productions, youth programs or classes in the performing arts.

(49) "Condominium" means a building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

(50) "Condominium association" means the community association which administers and maintains the common property and common elements of a condominium.

(51) "Congregate Housing" means a dwelling providing shelter and services for the elderly which may include meals, housekeeping, and personal care assistance.
(52) "Construction" means on-site erection, fabrication, installation, alteration, demolition, or removal of a structure, facility, or addition thereto, including all related activities, but not restricted to clearing of land, earth moving, blasting and landscaping.
(53) "Convenience Food Market" means a retail establishment offering for sale limited food, beverage and related consumer products with or without on premises preparation of food and beverages.
(54) "Council" means the Council of the Village of Commercial Point.
(55) "Crawl Space" means a space with more than one-half (1/2) of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of less than six and one-half (6 1/2) feet.
(56) "Customary Agricultural Operations" see "Agriculture."
(57) "Day Care Center" means a private establishment enrolling children and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a day care center.
(58) "Decorative Features" means any approved natural or constructed feature, including mulch, gravel, stone, brick, sculpture, and lighting.
(59) "Density" means the number of dwelling units per unit of land. To determine density divide the total number of dwelling units by the net developable site as measured in acres (See definition of "net developable site").
(60) "Developer" means a person who installs or contracts for the installation of improvements such as sewers, streets and water mains in a residential, office, commercial, or industrial development.
(61) "Diameter breast height (d.b.h.) means a tree's diameter in inches measured four and one-half (4 ½) feet above the ground.
(62) "Drip line" means an imaginary vertical line extending downward for the outermost tips of the tree branches to the ground.
(63) "Drive-In Restaurant" means a building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.
(64) "Drive-In Use" means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.
(65) "Drive-up window service" means a building opening, including windows, doors, or mechanical devices through which occupants of a motor vehicle receive or obtain a product or service.
(66) "Driveway envelope" means an area designated by the developer or builder not more than twenty (20') feet in width to provide vehicular access to the building or parking areas.
(67) "Dwelling" means a structure or portion thereof in which person or persons reside.
(68) "Dwelling, attached" means a one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls.
(69) "Dwelling, detached" means a dwelling which is not attached to any other dwelling by any means.
(70) "Dwelling, multi-family" means a dwelling containing more than two dwelling units.

(71) "Dwelling, semidetached" means a one-family dwelling attached to one (1) other one-family dwelling by a common vertical wall, and each dwelling located on a separate lot.
(72) "Dwelling, townhouse" means a one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more common fire resistant walls.
(73) "Dwelling, two-family" means a structure on a single lot containing two (2) dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
(74) "Dwelling unit" means one (1) or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.
(75) "Dwelling unit, efficiency" means a dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.
(76) "Easement" means a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.
(77) "Epiphytotic" means the sudden and destructive development of a plant disease, usually over large areas. Corresponds to an epidemic of a human disease.
(78) "Excavation" means the removal or recovery by any means whatsoever of soil, rock, mineral substances, or organic substances other than vegetation, from water or land on or beneath the surface thereof, or beneath the land surface, whether exposed or submerged.
(79) "Extended Care Facility" means a long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution.
(80) "Extension" means a physical expansion of an existing structure.
(81) "Factory built housing" means a factory built structure designed for long-term residential use, the components of which are essentially constructed or assembled prior to its delivery to and installation upon a site. Factory built housing shall include the following:

A. Manufactured home. A non-self-propelled building unit or assembly of closed construction fabricated in an off-site facility, and which conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development (HUD) pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974, and that has a label or tag permanently affixed to it certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, designed to be used as a dwelling with or without permanent foundation when connected to required utilities. Calculations used to determine the numbers of square feet in a structure's exterior dimensions are measured at the largest horizontal projection when erected on site. These dimensions include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows."(ORC 4501.01) For the purposes of this section,

chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks, or other foundation, connection to utilities and the like.

B. Mobile home. A non-self-propelled building unit or assembly of closed construction that is fabricated in an off-site facility, built on a permanent movable chassis which is eight (8) feet or more in width and more than thirty-five (35) feet in length, which when erected on site is three hundred twenty (320) or more square feet, that is transportable in one or more sections and which does not qualify as a manufactured home or industrialized unit.

C. Industrialized unit. A building unit or assembly of closed construction fabricated in an offsite facility, that is substantially self-sufficient as a unit or as a part of a greater structure and that requires transportation to the site of intended use. Industrialized unit includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. Industrialized unit does not include a manufactured or mobile home as defined herein.

D. Modular home. Factory built housing certified as meeting the local or state building codes as applicable to modular housing. Once certified by the state, modular homes shall be subject to the same standards as site built homes. Modular homes are required to be placed upon a solid masonry foundation.

(82) "Family" means one or more individuals occupying a dwelling unit and living as a single household unit.

(83) "Farm" means a parcel of land used for agricultural activities.

(84) "Farm Animals" means those animals or livestock typically associated with a farm or agricultural operation.

(85) "Farm Stand" means a booth or stall located on a farm from which produce and farm products are sold to the general public.

(86) "Fast-Food Restaurant" means an establishment whose principal business is the sale of pre prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises.

(87) "Fence" means an artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

(88) "Floor Area, Finished" means the sum of the gross horizontal area of all interior floors of a residential building that are finished and heated, excluding basements, breezeways, carports, garages, storage areas with only outside access, porches, and other unheated and/or unfinished areas attached to the dwelling.

(89) "Floor Area, Gross" means the sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

(90) "Floor Area, Ground" means the sum of the gross horizontal area of the ground floor of a residential building, excluding basements, breezeways, carports, garages, storage areas

with only outside access, porches, and other unheated and/or unfinished areas attached to the dwelling.

(91) "Floor Area, Net" means the total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

(92) "Franchise" means the nonexclusive right pursuant to the Constitution and laws of Ohio and/or the United States, granted by the Municipality pursuant to its current franchise agreement to operate or provide cable television or services to consumer within the Municipality.

(93) "Garage" means a deck, building or structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

(94) "Garage Sale" means the sale or offering for sale to the general public of over five items of personal property on any portion of a lot in a residential zoning district, whether within or outside any building.

(95) "Gas Station" - See Automobile Service Station.

(96) "Glare" means the effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

(97) "Gross Developable Acres" means the land area within a subdivision including areas dedicated to the public, including parks, open space, public right-of-ways, and utility easements.

(98) "Groundcover" means low growing shrubs, wood vegetation, wild flowers and other small herbaceous plants within a woodland area.

(99) "Grubbing" means the effective removal of understory vegetation, groundcovers, shrubs, or trees, but not including the removal of any trees of greater than three (3") inch d.b.h.

(100) "Group Care Facility" means a facility or dwelling unit housing persons unrelated by blood or marriage and operating as a group family household.

(101) "Home Occupation" means any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit.

(102) "In-Lieu Fees" means fees paid by a private individual or party to Commercial Point to compensate for the mandatory land dedication provisions of the Zoning Code when said land dedication is waived by Council.

(103) "Industrial Park" means a large tract of land that has been planned, developed, and operated as an integrated facility for a number of individual uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

(104) "Industrialized Unit" see Factory Built Housing.

(105) "Inoperable Vehicle" means a vehicle that is not mechanically operable.

(106) "Institutional Use" means a nonprofit or quasi-public use or institution such as a church or similar house of worship, library, public or private school, hospital, or publicly-owned or operated building, structure or land used for public purpose.

(107) "Junkyard" means any area, lot, land, parcel, building, or structure or part thereof used for the storage, collection, processing, purchase, sale, or abandonment of wastepaper, rags, scrap metal, or other scrap or discarded goods, materials, machinery, or two (2) or more unregistered, inoperable motor vehicles or other type of junk.

(108) "Kennel, Commercial" means any building or buildings and/or land used, designed or arranged to facilitate the raising, breeding, or boarding and grooming of such

domesticated animals as dogs and cats for profit. Farm animals such as pigs and fowl or exotic animals, such as snakes, are expressly prohibited.

(109) "Kennel, Private" means any building or buildings and/or land used, designed or arranged for the care of three (3) or more dogs and/or cats belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.

(110) "Land clearing" means operations which remove trees and vegetation in connection with the installation of storm or sanitary sewers, public or private utilities, street, and any other clearing or grading of the property at any time prior to construction of a building.

(111) "Landscaping" means any portion of a parcel of land that includes trees, shrubs, bushes, planting bed, hedges, earth mounds or other natural or decorative material or feature.

(112) "Locate" means to construct, place, insert or excavate.

(113) "Lot" means a designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

(114) "Lot, corner" means a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

(115) "Lot coverage" means the portion of the lot that is covered by structures.

(116) "Lot, double frontage" means a lot which fronts upon two parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot.

(117) "Lot, buildable" means a lot having the required street frontage as required by the zoning district on an improved public right-of-way.

(118) "Mandatory Land Dedication" means the mandatory dedication of private land to Commercial Point for the purpose of providing space for park, recreation, open space and other public uses.

(119) "Manufactured Home" see Factory Built Housing.

(120) "Massage Parlor" means an establishment that provides massage treatments performed by an appropriately licensed masseur or masseuse.

(121) "Mayor" means the Mayor of Commercial Point.

(122) "Mini-Warehouse" means a structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

(123) "Mobile Home" see Factory Built Housing.

(124) "Mobile Home (Trailer) Park" means any site or tract of land under single or multiple ownership, upon which three (3) or more mobile or manufactured homes used for habitation are parked, either free of charge or for revenue purposes, including any roadway, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, over which the Public Health Council has exclusive rule making power.

(125) "Modular Home" see Factory Built Housing.

(126) “Net Developable Site" means the land area within a subdivision excluding the minimum open space requirements, all areas designated for public and private streets and alleys, open bodies of water including streams, creeks and ditches, and all other dedicated right-of-way.

(127) "No-Build Zone" means an area or portion of a lot that is designated by deed not to contain any buildings, structures or other built improvement on a permanent basis.

(128) "Nonconformance" means a situation wherein the lawful conditions existing prior to the adoption, revision or amendment of the Zoning Code fail by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.
(129) "Nonconforming lot" means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the Zoning Code, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.
(130) "Nonconforming sign" means any sign lawfully existing of the effective date of the Zoning Code, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended Zoning Code.
(131) "Nonconforming structure or building" means a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the Zoning Code, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.
(132) "Nonconforming use" means a use or activity which was lawful prior to the adoption, revision or amendment of the Zoning Code, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.
(133) "Nursing Home" means an extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.
(134) "Off-Street Parking Space" means a temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.
(135) "On-Street Parking Space" means a temporary storage area for a motor vehicle which is located on a dedicated street right-of-way.
(136) "One-and-a-Half-Story" means a residential dwelling having a ground floor and a second floor equal to less than one hundred (100) percent of the finished floor area of the first floor, under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls (also known as "knee wall") are not more than five (5) feet above the floor of such story.
(137) "Opacity" means a degree of obscuration of light.
(138) "Open Space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.
(139) "Open space, common" means land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complementary structures and improvements as are necessary and appropriate.
(140) "Operations" means locating, moving, depositing, or grading of any material or any construction, use of activity, or combination of such activities, which modifies the conditions of property subject to this Zoning Code.
(141) "OUPS" means the Ohio Utilities Protection Service.
(142) "Outdoor Display" means the temporary outdoor display of material and merchandise for the purposes of retail sales.

(143) "Outdoor Storage" means the keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place.
(144) "Overlay District" means a type of zoning district that applies more restrictive standards to an underlying zoning district.
(145) "Parish House" means a residential structure, such as a parsonage, that is subordinate to a church or other place of worship.
(146) "Park" means a tract of land designated and designed for the use by members of the public for active and passive recreation.
(147) "Permittee" means any person issues a permit pursuant to this Zoning Code.
(148) "Person" means any person, corporation, partnership, company, contracting firm or other entity, including those employed by the municipality or under a contract with the municipality.
(149) "Personal Services" means establishments primarily engaging in providing services involving the care of a person or his or her apparel.
(150) "Plat" means a map representing a tract of land, showing the boundaries and location of individual properties and streets. A portable structure map of a subdivision or site plan.
(151) "Portable On Demand Storage (PODS)" means any portable structure intended to be used on a temporary basis for the loading of materials out of a location within Commercial Point and then moved to another location by a contracted third party or the unloading of materials into a location within Commercial Point in which the portable structure was brought to the location by a third party.
(152) "Principal Use" means the primary or predominant use of any lot.
(153) "Public Use" means a land use that is owned and/or operated by the public and is accessible to the public.
(154) "Rear of the principal structure" means the area located to the rear of the wall opposite the primary architectural entrance. The primary entrance usually faces the street that bears the property's address.
(155) "Reconstruction" means the rebuilding or substantial remodeling of an existing structure.
(156) "Recreational and Camping Equipment" means boats, boat trailers, snowmobiles, snowmobile trailers, utility trailers, recreational and camping vehicles, horse trailers, and other similar equipment.
(157) "Recreational and Camping Vehicles" means vehicular-type structures primarily designed as temporary living quarters for recreation, camping or travel use which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered.
(158) "Regulation" means any rule adopted by and pursuant to the authority of this Zoning Code.
(159) "Residential development" means any one-family or multiple-family residential development, including one-family residential subdivisions, one-family cluster housing, residential condominiums, residential site condominiums and multiple-family developments.
(160) "Residential District" means a zoning district in which residential uses are included as permitted uses.
(161) "Restrictive Covenant" means a restriction on the use of land usually set forth in the deed.
(162) "Retail Services" means establishments providing services or entertainment as opposed to products.

(163) "Right-of-way" means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement now or hereafter held by the Municipality.

(164) "Satellite Ground Station" means a ground station or other antenna, including dish antennas, designed to transmit or receive radio or television signals to or from earth satellites.

(165) "Scenic Easement" means an easement the purpose of which is to limit development in order to preserve a view or scenic area.

(166) "School" means any building or portion thereof which is designed, constructed or used for educational or instruction in any branch of knowledge.

(167) "Setback" means the distance between the street right-of-way line and the front line of a building or any projection thereof, excluding uncovered steps.

(168) "Setback line" means that line that is required minimum distance from the street right of way line or any other lot line that establishes the area within which the principal structure must be erected or placed.

(169) "Sign" means any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

(170) "Sign, billboard" or "off-premises sign" means a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

(171) "Sign, bulletin board" means a sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.

(172) "Sign, freestanding" means a non-movable sign supported by or from poles, posts, pillars, columns, uprights, braces, constructed base, or other structures on the ground and which are not affixed to a building.

(173) "Sign, projecting" means a sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from such building.

(174) "Sign, wall" means a sign fastened to or painted on the wall of a building in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign.

(175) "Significant Tree" means any individual tree that is of cultural, historical, biological, or horticultural value as determined by the Council with the advice of the Planning and Zoning Commission.

(176) “Specialty food and/or Beverage Facility” means a facility wherein food and/or beverage is produced and is: sold on a wholesale and/or retail basis; distributed; and/or consumed on the premises. This may include but is not limited to a brew pub, micro-brewery, distillery, coffee roaster, bakery, charcuterie, cheese making and/or other facilities producing crafted alcoholic or non-alcoholic beverages and/or artisan food.

(177) "Split Level" means a residential dwelling containing finished floor area on two (2) or more levels with not less than three (3) feet nor more than six (6) feet vertical distance between the plane of one floor level and the place of the next higher level.

(178) "Spot Zoning" means the rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive zoning plan.

(179) "Story" means that portion of a building, including between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

(180) "Street" means any vehicular way which: (1) Is an existing state, county, municipal or village roadway; or (2) is shown upon a plat approved pursuant to law; or (3) is approved by other official action; or (4) is shown on a plat duly filed and recorded in the office of the Franklin County Recorder or Pickaway County Recorder prior to the appointment of the Planning and Zoning Commission and the grant to such board of the power to review plats; and includes the land between the street lines, whether improved or unimproved.

(181) "Street, collector" means a street which collects traffic from local streets and connects with minor and major arterial.

(182) "Street, local" means a street designed to provide vehicular access to abutting property and to discourage through traffic.

(183) "Street, major arterial" means a street with access control, channelized intersections, restricted parking, and which collects and distributes traffic to and from minor arterial.

(184) "Street, minor arterial" means a street with access controls, signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets.

(185) "Structure" means that which is constructed having a location on, above or below the surface of land or water or attached to that having a location on, above or below the surface of land or water. Containerized cargo boxes, freight transport trailers and similar items are prohibited for use as structures in all districts.

(186) "Supermarket" means food markets, or combination food markets and department stores with more than 5,000 square feet of floor area.

(187) "Surveyor" means a surveyor registered by the State of Ohio.

(188) "Trailer" means a structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects, or as a temporary office.

(189) "Travel Trailer" means a recreation vehicle that is towed by a car or truck.

(190) "Tree" means any self-supported, woody plant of a species which normally grows to an overall height of thirteen (13') feet or more, including coniferous and deciduous trees.

(191) "Tree, Large" means any tree species which normally attains a full grown height equal to or greater than forty-five (45) feet.

(192) "Tree, Medium" means any tree species which normally attains a full grown height of between twenty-five (25) and forty-five (45) feet.

(193) "Tree, Small" means any tree species which normally attains a full grown height of under twenty-five (25) feet.

(194) "Tree Lawn" means that part of a street right-of-way not covered by sidewalk or other paving, lying between the property line and that portion of the street right-of-way that is paved and usually used for vehicular traffic.

(195) "Tree removal" means the act of removing a tree by digging up or cutting down, or the effective removal through damage.
(196) "Tree survey" means a minimum 1" = 100' scale drawing that provides the location of all trees of six (6") inches or greater d.b.h., plotted by accurate techniques, including the common or botanical name of those trees and their d.b.h.
(197) "Two-Story" means a residential dwelling having a ground floor and a second floor having a finished square footage equal to or exceeding one hundred (100) percent of the required minimum ground floor finished square footage.
(198) "Undeveloped" means a parcel of land which is substantially unimproved with buildings or structures on the effective date of this Zoning Code.
(199) "Use" means the purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.
(200) "Vehicular Use Area" means any area used by vehicles.
(201) "Video Rental Store" means an establishment primarily engaged in the retail rental or lease of videotapes, films, DVDs, laser discs, electronic games, cassettes, or other electronic media. Sales of film, videotapes, laser discs, DVDs, and electronic merchandise associated with VCRs, DVD players, video cameras, and electronic games are permitted accessory uses.
(202) "Woodland" means any property containing one or more acres (excluding existing rights-of-way) which has been designated as a woodland on the official woodlands map. The term woodland includes all trees, shrubs, and groundcover located upon such property (regardless of size).
(203) "Woodlands map" means the map approved by the Council of Commercial Point identifying all woodland areas in Commercial Point.
(204) "Yard" means a required open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the Zoning Code.
(205) "Yard, front" means a yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building. For corner lots the front yard shall constitute that area of the lot that is adjacent to the shorter of the two (2) sides facing the street.
(206) "Yard, rear" means a yard extending between side lot lines across the rear of a lot and from the rear lot line to the rear of the principal building. For corner lots the rear yard shall constitute that area of the lot that is opposite to the shorter of the two (2) sides facing the street.
(207) "Yard, side" means a yard extending from the principal building to the side lot line on both sides of the principal building between the lines establishing the front and rear yards.

**CHAPTER 1135**
**Administration, Enforcement and Penalty**

## 1135.01 ENFORCEMENT BY PLANNING AND ZONING ADMINISTRATOR.

There is hereby established the office of Planning and Zoning Administrator. It shall be the duty of the Planning and Zoning Administrator to enforce this Zoning Code in accordance with the administrative provisions of this Zoning Code. All departments, officials, public employees,

and representatives of the Municipality, vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Zoning Code and shall issue no permit or license for any use, building or purpose in conflict with the provisions of this Zoning Code. Any permit or license issued in conflict with the provisions of this Zoning Code shall be null and void.

**1135.02 CERTIFICATE OF ZONING COMPLIANCE.**

(a) Use Prohibited Without Certificate. No owner, lessee or tenant shall use or permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a Certificate of Zoning Compliance shows that such building or premises or a part thereof, and the proposed use thereof, are in conformity with the provisions of this Zoning Code.

(1) The Planning and Zoning Administrator shall issue a Certificate of Zoning Compliance provided he/she is satisfied that the structure, building and/or premises, the proposed use thereof, and the proposed methods of water supply and disposal of sanitary waste, conform with all requirements of this Zoning Code, subject to approval of the Planning and Zoning Commission and/or Council where the Zoning Code requires or deems appropriate.

(2) This section shall in no case be construed as requiring a certificate in the event of a change in ownership or tenancy only, without a change in use or intended use, provided that no alterations or additions are proposed for such building.

(b) Effect of Approval. Certificates of Zoning Compliance shall be issued on the basis of plans, information and application approved by the Planning and Zoning Administrator and/or Planning and Zoning Commission authorize only the use, arrangement and construction set forth in such approved plans, information and application or approved amendments thereto, and no other use, arrangement or construction. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this Zoning Code and punished as provided in this chapter.

(c) Conformance with Certificate of Zoning Compliance. Any project requiring a Certificate of Zoning Compliance shall conform to the approved plans and/or other approved materials. Any project not in conformance with the approved Certificate of Zoning Compliance shall be considered in violation of this Zoning Code, per Section 1135.10.

(d) Approval of Health Officer. In every case where the lot is not serviced with public water supply and/or the disposal of sanitary wastes by means of public water and sewers, the application shall be accompanied by written evidence of approval by the responsible Health Officer as to the proposed method of water supply and/or treatment and disposal of sanitary waste.

**1135.03 CERTIFICATE OF ZONING COMPLIANCE APPLICATION PROCEDURE.**

(a) Application to be Made. Written application for Certificates of Zoning Compliance shall be made by the property owner(s) or applicant(s) to the Planning and Zoning Administrator.

(b) Application Fee. A fee as stipulated by ordinance shall be paid by the applicant, payable to the General Fund.

(c) Contents of Application. The application for a Certificate of Zoning Compliance shall contain as a minimum:

(1) Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s) or authorized agent.

(2) A current survey of the property prepared by a licensed surveyor.

(3) If a change of use is proposed, a plan drawn to scale showing:

A. Actual dimensions of the lot including easements.

B. Exact size and location of all buildings and structures on the subject lot.

C. Existing and intended use of all parts of the land or buildings.

(4) If any new development or construction is proposed, a plan drawn to scale showing:

A. Actual dimensions of the lot including easements.

B. Exact size and location of all buildings and structures on the subject lot.

C. Existing and intended use of all parts of the land or buildings.

D. Any proposed new construction and or alteration.

E. Proposed provisions of water, sanitary sewer facilities, surface drainage features, and underground storm drainage facilities.

F. Location of all other public utilities above or below ground.

G. Proposed grades.

H. Proposed top of foundation.

I. Proposed driveway slope.

(5) Such other information to be determined by the Planning and Zoning Administrator and/or Planning and Zoning Commission as may be necessary to determine and provide for the enforcement of this Zoning Code.

**1135.04 CERTIFICATE OF ZONING COMPLIANCE REVIEW PROCEDURE.**

(a) Filing of Application. Two (2) copies of a completed application shall be filed with the Planning and Zoning Administrator.

(b) Action by Planning and Zoning Administrator. Within thirty (30) calendar days after acceptance of an application for a Certificate of Zoning Compliance, the Planning and Zoning Administrator shall approve a Certificate of Zoning Compliance provided he/she is satisfied that the structure, building and/or premises, and the proposed methods of water supply, treatment and disposal of sanitary waste, and storm drainage measures conform with all requirements of this Zoning Code, subject to approval of the Planning and Zoning Commission where the Zoning Code requires; in those cases, the Planning and Zoning Commission shall render a decision within thirty-five (35) calendar days of holding a public hearing. Denial of an application shall be conveyed to the applicant in writing with a statement of the reasons for such denial.

(c) Appeals. A denial by the Planning and Zoning Administrator of an application for a Certificate of Zoning Compliance may be appealed to the Planning and Zoning Commission. A written appeal shall be filed with the Planning and Zoning Administrator within ten (10) calendar days of receipt of notification of denial. The Planning and Zoning Commission shall have a maximum of sixty (60) calendar days for public hearing, consideration and a decision on the appeal. Denial of an appeal by the Planning and Zoning Commission may be appealed to Council. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

**1135.05 CERTIFICATE OF ZONING COMPLIANCE ISSUANCE AND EXPIRATION.**

(a) An approved Certificate of Zoning Compliance shall be issued within ten (10) calendar days of approval. One (1) copy of the plans submitted by the applicant shall be returned upon approval.

(b) All Certificates of Zoning Compliance shall be conditional upon the commencement of work within one (1) year of issuance. If the work has not been more than fifty percent (50%) completed within one and one-half (1½) years of issuance, the certificate shall expire and be revoked by the Planning and Zoning Administrator. Written notice shall be provided to the property owners together with notice that further work as described in the canceled certificate shall not proceed unless a new certificate is issued or an extension granted.

(c) If a Certificate of Zoning Compliance expires and/or is revoked, and a new certificate or extension is not granted, it is the property owner's responsibility to return the property to its original state prior to issuance of the Certificate of Zoning Compliance within thirty (30) calendar days.

(d) Once a Certificate of Zoning Compliance expires or is revoked, only one (1) additional Certificate of Zoning Compliance shall be approved for the project. After the second Certificate of Zoning Compliance has expired, the property shall be subject to the requirements of Section 1135.05(c). When the requirements of Section 1135.05(c) have been fulfilled to the satisfaction of the Planning and Zoning Administrator, a new Certificate of Zoning Compliance application may be submitted for review.

**1135.06 PLAN REVIEW PROCEDURE AND PERMISSION TO BUILD.**

(a) The following shall apply for all Non-Residential Developments, Residential Developments, and Residential Subdivisions:

(1) Planning and Zoning Review. An application for Site Development Plan or Development Plan shall be made per Chapter 1141 or Chapter 1173 of this Zoning Code, respectively, in conjunction with any other Planning and Zoning applications as deemed necessary by the Planning and Zoning Administrator.

(2) Engineering Review. An application for Engineering Construction Plan review shall be made per Chapter 1141 of this Zoning Code. All applications required in Section 1135.06(a)(1) shall receive approval prior to the application, review, or approval of Engineer Construction Plans.

(3) Building Review. An application for Building Plan review shall be made as required per the Ohio Building Code. All applications required in Section 1135.06(a)(1) and 1135.06(a)(2) shall receive approval prior to the application, review, or approval of Building Plans.

(4) Permission to Build. Permission to build or conduct any site work shall not be permitted until all Planning and Zoning applications have been approved per Section 1135.06(a)(1), Engineering Construction Plans have been approved per Section 1135.06(a)(2), and Building Plans have been approved per Section 1135.06(a)(3).

(b) The following shall apply for all Single Family Residential Lots and Residential Accessory Structures.

(1) Planning and Zoning Review. An application for a Certificate of Zoning Compliance shall be made per Chapter 1135 of this Zoning Code in conjunction with any other Planning and Zoning applications as deemed necessary by the Planning and Zoning Administrator.

(2) Building Review. An application for Building Plan review shall be made. Chapter 4101:1-1 to 4101:1-35 of the Ohio Administrative Code, collectively known as the "Ohio Building Code", including all referenced standards contained therein, shall apply and be enforced within the Municipality of Commercial Point, Ohio. All required Planning and Zoning applications shall receive approval prior to the application, review, or approval of Building Plans.

(3) Permission to Build. Permission to build or conduct any site work shall not be permitted until all Planning and Zoning applications have been approved per Section 1135.06(b)(1) and Building Plans have been approved per Section 1135.06(b)(2).

**1135.07 CERTIFICATE OF OCCUPANCY.**

A Certificate of Occupancy shall be issued by the Planning and Zoning Administrator or his contract designee, for buildings erected or structurally altered and land initially occupied or changed in use. Such certificate shall state that the building and proposed use(s) complies with the provisions of these Codified Ordinances.

(a) Application Required. Application for a Certificate of Occupancy shall be made to the Planning and Zoning Administrator on forms provided.

(b) Non-Residential and Multi-Family Residential Development Certificate of Occupancy Issuance for Buildings Erected or Structurally Altered and Land Initially Occupied. Upon determination that the building, property, and affected properties comply with all approved plans and provisions of these Codified Ordinances, a Certificate of Occupancy shall be issued. A Certificate of Occupancy shall require the signatures of the Chief Building Official, Planning and Zoning Administrator, Public Works Director, and Construction Services Administrator.

Where weather related circumstances warrant, a Temporary Certificate of Occupancy may be issued with the condition that unfinished weather related/seasonal improvement, such as landscaping, shall be completed. A Temporary Certificate of Occupancy with such a condition shall be issued for a period of no more than six (6) months, during which period any remaining work shall be completed. A Temporary Certificate of Occupancy shall require the signatures of the Chief Building Official, Planning and Zoning Administrator, Public Works Director, and Construction Services Administrator and shall require the receipt of a bond equal to twice the cost of the remaining improvements plus a fee as stipulated by the adopted development fee schedule. Upon completion of all necessary improvements, a Certificate of Occupancy shall be issued as previously indicated in Section 1135.07(b).

(c) Single Family Residential and Multi-Family Residential Unit Certificate of Occupancy Issuance for Buildings Erected or Structurally Altered and Land Initially Occupied. Upon determination that the building, property, and affected properties comply with all approved plans and provisions of these Codified Ordinances, a Certificate of Occupancy shall be issued. A Certificate of Occupancy shall require the signatures of the Residential Building Official and Planning and Zoning Administrator.

Where weather related circumstances warrant, a Temporary Certificate of Occupancy may be issued with the condition that unfinished weather related/seasonal improvements, such as

landscaping, shall be completed. A Temporary Certificate of Occupancy with such a condition shall be issued for a period of no more than six (6) months, during which period any remaining work shall be completed, and shall require the receipt of a fee as stipulated by the adopted development fee schedule. Upon completion of all necessary improvements, a Certificate of Occupancy shall be issued as previously indicated in Section 1135.07(c).

(d) Change of Use Certificate of Occupancy. Upon determination that a use complies with all approved plans and provisions of these Codified Ordinances, a Certificate of Occupancy shall be issued. A Certificate of Occupancy shall require the signature of the Planning and Zoning Administrator.

(e) Occupying Without a Certificate of Occupancy. Any person, firm or corporation who occupies or permits to be occupied, or who sells, leases, or rents a house, building, building unit or structure for which a Certificate of Occupancy has not been issued, or in the case of alterations, additions or repairs, whoever occupies, or permits to be occupied or utilized or sells, leases or rents that portion of the house, building, building unit or structure added, altered or repaired for which an occupancy permit has not been issued, shall be guilty of violating this chapter and shall be subject to the penalties provided herein.

(f) For all building construction projects, the top of foundation shall be between six (6) and twelve (12) inches above the approved grading plan and the following shall be submitted and approved before occupancy is granted:

(1) Verification by a registered surveyor of footer location and elevation at the time of footer inspection and verifying the distance from the property line if less than six (6) feet.

(2) Verification by a registered surveyor of top of block elevation at the time of foundation inspection and prior to backfill.

(3) Verification by a registered surveyor that the finished grade is in conformance with the approved grading plan before sod is laid. An as-built survey must be provided to the Zoning Administrator before the Certificate of Occupancy can be issued.

(g) Application After Effective Date. This section shall apply to all uses established and/or structures erected or altered after the effective date of this code.

**1135.08 DEMOLITION PERMIT.**

(a) A demolition permit may be required for demolition or wrecking of any building. When someone desires to demolish a building they shall contact the Planning and Zoning Administrator for the necessity of a permit and fee prior to the demolition of any structure in the Municipality.

(b) A building being demolished shall be completely removed from the site and any open excavation shall be properly backfilled. All debris, waste, and such shall be disposed of according to applicable regulations.

**1135.09 TEMPORARY USE/SPECIAL EVENT PERMIT.**

The following regulations are necessary to govern the operation of certain uses that are non-permanent in nature. Application for a Temporary Use/Special Event Permit, where applicable, shall be made to the Planning and Zoning Administrator, containing a graphic description of the property to be utilized, a site plan, a description of the proposed use, and sufficient information to determine yard requirements, setback, sanitary facilities, and parking space for the proposed temporary use/special event.

(a) School or church functions, athletic events, public festivals, charity events or other community service activities are deemed examples of special events. Special events are subject to regulations of the districts in which such uses are located. Special Event Permits shall be valid for one (1) year in which all special event activities shall commence. Signs for special events are subject to Section 1189.08(c) of this Zoning Code.

(b) Mobile vendors shall only be permitted in conjunction with a special event which has obtained a valid Temporary Use/Special Event Permit in accordance with the following standards:

(1) The location, type, and dimensions of each mobile vendor shall be indicated on an approved Temporary Use/Special Event Permit.

(2) During approved special event dates, mobile vending vehicles, carts, and other related structures shall be removed from the premises or sufficiently secured when not in operation.

(3) Mobile vending shall be permitted for one (1) occurrence per calendar week, lasting no longer than three (3) consecutive days. Mobile vending located on public property and not for profit shall be exempt from this requirement at the discretion of the Planning and Zoning Administrator.

(4) Mobile vending may be permitted in the public right of way with permission from the Public Works Director.

(5) Each mobile food vendor shall obtain a valid mobile food service license from any Ohio County Board of Health or a Temporary License to Conduct Food Service from the Pickaway County Board of Health.

(6) Each mobile vendor shall obtain and maintain public liability and property damage insurance with a financially sound insurance company, "A" rated or better by A. M. Best and Company, which shall protect the public against any and all claims for damages for personal injuries, including death, and against claims for property damage which may arise out of or in connection with any operations or activities of the mobile food vendors in the exercise of any of the privileges herein granted. The amount of such insurance shall be a minimum of one million ($1,000,000) dollars for combined single limit general liability coverage. Hired and non-owed coverage endorsement shall be set at the same limits. A certificate of insurance, with Commercial Point named as an additional insured, shall be submitted prior to the mobile vendor locating within the Commercial Point corporation limits.

(c) The following uses are deemed examples of temporary uses and shall be subject to the specific regulations and time limits which follow and to the regulations of any underlying district in which such use is located:

(1) A real estate sales office, including a mobile office, may be permitted within any district for any new subdivision which has been approved by Commercial Point. Such office shall contain no living accommodations. The permit shall be valid for one (1) year, but six (6) month extensions may be granted if conditions warrant such renewal. Mobile offices shall be immediately removed when the sale of seventy five percent (75%) of the units in the development phase or section has been completed, or upon expiration of the Temporary Use Permit, whichever occurs sooner. A permanent real estate office, such as a model home, shall be removed upon the sale of all units of the project development phase or section, excluding the real estate office itself, or upon expiration of the Temporary Use Permit, whichever occurs sooner.

(2) Temporary offices including mobile offices for contractors, construction trailers, and equipment sheds incidental to construction projects may be permitted within any district. The permit shall not be valid for more than one (1) year but may be renewed for six (6) month

extensions if construction is substantially underway. Temporary offices shall be immediately removed when the construction of seventy five percent (75%) of the units in the development phase or section has been completed, or upon expiration of the Temporary Use Permit, whichever occurs sooner.

(3) Garage sale permits are required. Garage sales are a temporary use permitted within any district in which dwellings are permitted in accordance with the following standards:

A. Only one such sale may be conducted on any parcel of real estate in any six (6) month period, which sale shall be limited to not more than three (3) consecutive days or two (2) consecutive weekends of two (2) days each. No sale may extend later than sunset.

B. Only one (1) sign advertising the sale may be displayed on the premise. A maximum of three (3) directional signs may be placed off the premises to direct the public to the sale. The display of such advertising and directional signs may be displayed up to twenty-four (24) hours prior to the beginning of the sale. These signs must be removed within twenty-four (24) hours after the sale ends. Such signs shall not be larger than four (4) square feet in display area, shall not be illuminated or animated, shall not be placed in a right-of-way of any public street or road, and shall not interfere or obstruct visibility when entering or leaving property.

C. Except as provided above, the provisions of this Chapter shall not apply to a sale of property publicized solely by classified newspaper advertising, which describes or identifies the specific property offered for sale and does not designate the date, hours, or location of the sale other than by stating name, address or telephone number of the seller.

(4) Donation drop off bins including any structure located outside of an enclosed building whose purpose is for the holding of clothing and household items that are donated to a charitable or for profit organization. Donation drop off bins are also known as charity bins or clothing bins.

A. Off-site donation drop bins shall only be allowed in non-residential zoning districts.

B. Only one (1) donation drop off bin shall be located on a property of one (1) acre or smaller. An additional one (1) donation drop off bin per shall be permitted per each one (1) additional acre, with a maximum of three (3) donation drop off bins per property.

C. A donation drop off bin shall have a footprint of no larger than twenty-five (25) square feet and shall be no taller than seven (7) feet.

D. An off-site donation drop off bin shall be located no closer to any lot line than the setbacks of the applicable zoning district, but in no case shall a donation drop off bin be closer than ten (10) feet to any lot line.

E. Donation drop off bins shall not obstruct pedestrian or vehicular traffic flow on a lot. These areas include, but are not limited to, drive aisles, parking lot area, fire lanes, and adjacent street rights-of-way.

F. A donation drop off bin shall not cause a hazardous condition, be a threat to the public safety, or create a condition detrimental to surrounding land uses and developments.

G. Bright primary or contrasting colors are prohibited on donation drop off bins.

H. All off-site donation drop off bins shall be clearly marked to identify the purpose of the collection, the name of the organization responsible for the bin, contact information (name, phone number, mailing address), and what items are requested for donation.

I. Donated items shall not be left outside the off-site drop off bin. The following notice shall be clearly marked on all sides of the donation drop off bin: NO ITEMS SHALL BE LEFT OUTSIDE OF THE DONATION DROP-OFF BIN. Donations that are not fully enclosed in the drop off bin shall be considered a zoning violation.

J. No advertisement signage on the donation drop off bin shall be permitted.

K. All off-site donation drop off bins shall be checked by their owner at least once a week for compliance with approval conditions and shall be emptied as necessary.

L. A Temporary Use/Special Event Permit shall be required before installing an off-site donation drop off bin. The permit shall be valid for two (2) years, but one (1) year extensions may be granted if there have been no violations of any section of this Zoning Code. The following shall be submitted with a Temporary Use/Special Event Permit application:

1. A plot plan showing the proposed location of the donation drop off bin in reference to property lines, existing structures (buildings, signs, utility poles, etc.), drive aisles and parking lot area.
2. A photo of the drop off bin that shows the required language.
3. Proof of liability insurance.
4. Contact information: name, phone number, mailing address.
5. A description of how the donation drop off bin is monitored and maintained including a pickup schedule.

M. Failure to comply with the approval conditions shall be considered a Zoning Code violation and may result in revoking the Temporary Use/Special Event Permit.

(5) Tents or canopies greater than two-hundred (200) square feet in size used to provide temporary shelter to event attendees. Tents or canopies smaller than two-hundred (200) square feet when combined with one-another to form a larger structure shall also meet the following requirements.

A. The location, type, dimension, and distance to all property lines of each tent or canopy shall be indicated on an approved Temporary Use/Special Event Permit.

B. The dates that each tent will be used shall be indicated on an approved Temporary Use/Special Event Permit.

C. Tents or canopies erected with a valid Temporary Use/Special Event Permit shall be permitted for no more than six (6) consecutive days per occurrence.

D. Tents or canopies erected with valid Temporary Use/ Special Event Permit shall be permitted for no more than three (3) occurrences during the calendar year in which the Temporary Use/Special Event Permit is valid.

E. All building and fire codes will need to be followed and permits and inspections completed, if required, prior to the date of the event to be held in the tent or canopy.

**1135.10 VIOLATIONS AND REMEDIES.**

If any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, demolished, maintained or used, or any land is or is proposed to be used in violation of this Zoning Code or any amendment or supplement thereto, Council, the Law Director and/or any adjacent or neighboring property owner who would be specifically damaged by such violation may, in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, demolition, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

**1135.11 COMPLAINTS.**

Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any resident, property owner, or lessee of property in Commercial Point may file a written complaint with the

Planning and Zoning Administrator. Such complaint shall state in full the causes and basis thereof. The Planning and Zoning Administrator shall record said complaint, immediately investigate the allegations, and take appropriate action as provided by this Zoning Code.

**1135.12 PENALTY.**

(a) The first violation of the provisions of this Zoning Code or failure to comply with any of its requirements shall constitute a misdemeanor of the fourth degree. Upon conviction thereof any person may be fined not more than $250.00 or imprisoned for not more than thirty (30) days or both, and in addition shall pay all costs and expenses involved in the case.

(b) If the same violation occurs a second time within the same year the offense shall constitute a misdemeanor of the third degree and upon conviction the fine shall be not more than $500.00 or imprisonment for not more than sixty (60) days or both, and in addition the offender shall pay all costs and expenses involved in the case. If the same violation occurs a third time within the same year the offense shall constitute a misdemeanor of the second degree and upon conviction the fine shall be not more than $750.00 or imprisonment for not more than ninety (90) days or both, and in addition the offender shall pay all costs and expenses involved in the case.

(c) Each day any such violation continues after receipt of a violation notice shall constitute a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains, such violation, may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the Municipality from taking such other lawful action as is necessary to prevent or remedy any violations.

## 1135.13 FAILURE TO ACT.

The failure of any board, not including Council, to act on an application before such board within the prescribed time frame, excluding the continuation of a public meeting or hearing, shall constitute approval of such application. This shall not apply in cases where an applicant has chosen to indefinitely table an application or has requested an extension of such application.

**1135.14 TECHNICAL REVIEW GROUP.**

The Technical Review Group is established as a technical review body for the Municipality and may consist of, but not be limited to, the Planning and Zoning Administrator, Municipal Engineer, Public Works Director, Water and Water Reclamation Manager, Construction Services Administrator, and Urban Forester. The Technical Review Group will meet on an as needed basis to provide a forum at which proposed developments at any stage in the regulatory process may be discussed. These meetings are intended to minimize conflicts with various regulatory review requirements and to provide coordination of various requirements and procedures. The Technical Review Group provides the Planning and Zoning Commission technical expertise in evaluating development proposals. The Planning and Zoning Administrator shall chair the Technical Review Group and shall coordinate the review process. Prior to the Planning and Zoning Commission meeting, the Planning and Zoning Administrator shall notify the applicant or the applicant's representative in writing of comments and recommendations made by the Technical Review Group.

**CHAPTER 1137**
**Planning and Zoning Administrator**

## 1137.01 GENERAL.

The Planning and Zoning Administrator shall serve as the chief administrative officer for the Zoning Code and is charged with enforcement of the related requirements and standards, as per this chapter. The Planning and Zoning Administrator shall cause to be collected the designated fees established by the Village Council and collection procedure for all zoning permits.

## 1137.02 CERTIFICATE OF ZONING COMPLIANCE.

The Planning and Zoning Administrator shall issue the Certificate of Zoning Compliance when the standards and requirements of this Zoning Code have been fully met or as directed by the Planning and Zoning Commission or Council. The Planning and Zoning Administrator shall deny issuing a Certificate of Zoning Compliance in the event of non-compliance. The Planning and Zoning Administrator shall maintain a record of all applications and actions.

## 1137.03 RECORD KEEPING.

The Planning and Zoning Administrator shall make and keep all records necessary and appropriate to the office, including record of the issuance and denial of all zoning certificates, zoning map amendments, variances, conditional use permits, Certificates of Appropriateness, receipt, investigation and enforcement of complaints of Zoning Code violations, and any other permit or certificate required herein. The Planning and Zoning Administrator shall prepare an annual summary of all records, and will attend meetings as may be required.

## 1137.04 ADVISOR TO THE PLANNING AND ZONING COMMISSION.

The Planning and Zoning Administrator shall advise the Planning and Zoning Commission of all matters other than routine duties pertaining to enforcement of this Zoning Code and any related ordinance, and shall transmit all applications and records pertaining to supplements and amendments therein.

## 1137.05 (reserved)

## 1137.06 INSPECTION AND COMPLAINTS.

(a) The Planning and Zoning Administrator shall inspect any building or land to determine whether any violations of this Zoning Code and other related ordinances have been committed or exist, and to receive and investigate complaints and notices of alleged violations. Written complaints of alleged violations shall be filed with the Planning and Zoning Administrator who shall investigate said complaints and prepare a report to be submitted to the Planning and Zoning Commission and Law Director. Said complaints shall be recorded.

(b) Regular inspections of the Municipality shall be conducted by the Planning and Zoning Administrator to identify potential violations, situations of non-compliance, and any potentially illegal situations relative to this Zoning Code. Necessary action shall be taken by the Planning

and Zoning Administrator to ensure compliance with and enforce this Zoning Code and other related ordinances.

**1137.07 ENFORCEMENT.**

(a) The Planning and Zoning Administrator shall enforce this Zoning Code and any related ordinances and take all necessary steps to remedy any condition found in violation by ordering by certified mail the discontinuance of said illegal uses or illegal work, and recommend to the Law Director appropriate action.

(b) The Planning and Zoning Administrator shall:

(1) Notify by certified mail the property owners and those violating this Zoning Code and any related ordinances of any non-compliance situations and shall order actions to correct or remedy said violations.

(2) Order by certified mail the discontinuance of illegal uses of land, buildings, or structures in violation therein; shall order by certified mail in accordance with legal procedures the removal of illegal buildings and structures or illegal additions or structural alterations; shall order discontinuance by certified mail of any illegal work under way.

(3) Take any other action authorized by the Zoning Code, any related ordinance, and/or Law Director to ensure compliance and prevent violations, including issuance of and actions on any zoning permits or certificates and other similar duties. The Planning and Zoning Administrator shall notify in writing the Planning and Zoning Commission and Law Director of all violations of this Zoning Code and any related ordinance.

(c) Appeals of the Planning and Zoning Administrator's orders may be filed with the Planning and Zoning Commission. A written appeal shall be filed with the Planning and Zoning Administrator within ten (10) calendar days of receipt of order. The Planning and Zoning Commission shall act in accordance with Section 1135.04 (c).

**CHAPTER 1139**
**Planning and Zoning Commission; and Council**

**1139.01 PLANNING AND ZONING COMMISSION.**

The Planning and Zoning Commission is hereby created which shall consist of five (5) residents of the Municipality plus one alternate. Members shall be appointed by the Mayor and approved by Council for terms of three (3) years each, except for four of the original members appointed to the newly formed Planning and Zoning Commission board. Two of the original members appointed shall serve a term of one (1) year each and another two of the original members appointed shall serve a term of two (2) years each. In the case of a vacancy, the Mayor shall appoint and Council shall approve a replacement commissioner who shall serve the balance of the vacated term. All such members shall serve without compensation. The Planning and Zoning Commission may adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Zoning Code. The Planning and Zoning Commission shall be the Planning Commission as outlined in Chapter 713 of the Ohio Revised Code.

(a) Meetings.

(1) The Planning and Zoning Commission shall hold regular meetings as determined by the Commission's Rules. Robert’s Rules of Order is generally followed for order of business.

(2) An organizational meeting shall be held each January at which time the following officers shall be elected: chairperson; vice chairperson; secretary.

(3) A Special Meeting of the Planning and Zoning Commission can be called at the request of the Mayor or Commission chairperson or upon written notice by two (2) or more of its members; in all cases such request or notice shall be given at least twenty-four (24) hours prior to the meeting time.

(4) All meetings shall be public and public records shall be kept of all proceedings indicating the vote of each member on each issue, the members present and absent, and the facts of each case and other minutes of the meeting, a copy of which shall be sent to Council. Nothing in this Code shall prevent the Planning and Zoning Commission from granting a continuance of a public hearing.

(b) Procedure. Four (4) members constitute a quorum. The Planning and Zoning Commission shall act by resolution passed by the vote of a majority of the members of the Planning and Zoning Commission. The chairperson, or in his/her absence the vice-chairperson, shall administer oaths and compel the attendance of witnesses. The Planning and Zoning Commission's secretary shall keep minutes of the proceedings, indicating the vote of each member on each question, or if absent or failing to vote, so note. The secretary shall keep records of the Planning and Zoning Commission's examinations and other official actions, all of which are to be filed in the Municipal Building and are public record. All meetings shall be open to the public.

(c) Duties. The duties of the Planning and Zoning Commission are as follows:

(1) To hear and decide appeals where it is alleged there is in error in any order, requirement, decision, or determination made by the Planning and Zoning Administrator.

(2) To initiate amendments to the provisions of this Zoning Code and official Zoning Map and forward a recommendation to Council.

(3) To review all proposed amendments of this Zoning Code and Zoning Map, as per Chapter 1143, and to forward recommendations to Council.

(4) To review all proposed Preliminary development plans, as per Chapter 1173, and to forward recommendations to Council.

(5) To review and act upon applications for variances from the requirements of this Zoning Code, as per Chapter 1147.

(6) To review and act upon applications for conditional use permits, as per hapter 1145 and all other pertinent sections of this Zoning Code.

(7) To act on all major Site Development Plans, as per Chapter 1141.

(8) To act on all Development Plans, as per Chapter 1173.

(9) To review and act upon reconstruction and substitution of nonconforming uses.

(10) To act on major subdivisions, per the Subdivision Regulations of Commercial Point.

(11) To make plans which show the Planning and Zoning Commission's recommendations for the character of both, public and private streets, bridges, parks, open spaces, waterways, and utilities.

(12) To make plans which show the Planning and Zoning Commission's recommendations on the location and extension of streets, bridges, parks, open spaces, waterways, and utilities.

(13) To work to make plans and recommendations for the control and care of historic structures and grounds.

(14) To assist in the design of public works such as bridges, street fixtures, public art, and visible utilities.

(15) To make plans and recommendations for the control, installation, and care of trees and other vegetation.

(16) To administer and make recommendations for the application of other municipal planning documents adopted by Council.

(17) To hear and decide appeals of the decision of the Chief Building Official in regards to the Residential Building Code.

(18) Other duties as may be directed by Council.

(d) Matters of Interpretation. It is the intent of this Zoning Code that all questions of interpretation and enforcement shall be first presented to the Planning and Zoning Administrator, and that such questions shall be presented to the Planning and Zoning Commission on appeal from the decision of the Planning and Zoning Administrator.

**1139.02 reserved**

**1139.03 COUNCIL.**

Council shall have the following powers and duties with respect to the administration and enforcement of this Zoning Code:

(a) To review, render decision, and enact amendments to the provisions of this Zoning Code and official Zoning Map.

(b) To initiate amendments to the provisions of this Zoning Code and official zoning map through ordinance or resolution and forwarding said action to the Planning and Zoning Commission for review and recommendation.

(c) To hear and decide appeals from the Planning and Zoning Commission determinations relative to conditional use, variance, site development plan, and development plan, requests and interpretations of this Zoning Code.

(d) Request by resolution or require by ordinance duties of the Planning and Zoning Commission.

**CHAPTER 1141**
**Site Development Plans**

**1141.01 PURPOSE.**

(a) Site plans are intended to insure ample provisions for the efficient use of land and to promote high standards in the layout, design, landscaping and construction of development. They are further intended to supplement the provisions of the Subdivision Regulations and to further the purposes and provisions of this code for developments other than subdivision developments.

(b) The purposes of this chapter are (1) to state the specific additional requirements applicable to the development of land in certain zoning districts, (2) to prescribe the standards for the preparation of submission of site plans, and (3) to prescribe the standards for the design and construction of required improvements.

**1141.02 ADMINISTRATION.**

(a) No permit shall be issued by any administrative officer for the construction of any building in any area covered by a site plan except in conformity with the provisions of Chapter 1141 and a duly approved site plan. No building permit shall be issued without an

approved site plan, signed by the Planning and Zoning Administrator in accordance with Section 1141.09, when required.

(b) An approved site plan is required for the following:

(1) Any use or development involving new construction, reconstruction or expansion of structures in all zoning districts except for single-family detached dwelling units, duplexes or accessory structures in residential districts.

(2) Any development in which automobile parking spaces are to be used by more than one (1) establishment.

(3) When a change is proposed in the exterior elements of a previously approved site plan.

(4) When an existing residential use is proposed for change to a commercial, industrial or multi-family residential use.

(5) All public and/or semi-public buildings and institutions.

(c) Major Site Plans. Any required site plan of 2,000 or greater square feet of gross floor area shall be considered a Major Site Plan. All Major Site Plans shall be approved by the Planning and Zoning Commission.

(d) Minor Site Plans. Required site plans for non-residential developments of less than 2,000 square feet in gross floor area shall be considered a Minor Site Plan. Minor Site Plans may be reviewed and approved by the Planning and Zoning Administrator. An application for minor site plan review and approval shall comply with Section 1141.05 unless otherwise directed by the Planning and Zoning Administrator. At the Planning and Zoning Administrator's discretion, an application for minor site plan may be forwarded to the Planning and Zoning Commission for their review and approval.

**1141.03 PROCEDURE FOR PREPARING AN APPLICATION SUBMITTAL.**

(a) It is strongly recommended that, prior to submitting a site plan application, the applicant meet with municipal officials regarding plan requirements.

(b) A written application for site plan shall be filed with the Planning and Zoning Administrator. For Major Site Plans, the application shall be filed twenty-one (21) calendar days prior to the Planning and Zoning Commission meeting date. Twelve (12) 11" by 17" size copies and two (2) full size copies of all plans and supporting information including, but not limited to, information listed in Section 1141.05, as applicable, shall be included with the major site plan application filing. In addition, plan sheets shall be submitted in electronic form in either jpeg or tif formats. Upon the filing of a site plan application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1141. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete site plan application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(c) A fee as stipulated by this ordinance, paid by the applicant, shall be included with all site plan application filings.

(d) All site plans shall be prepared by a professional engineer duly registered by the State of Ohio and include a boundary survey, conducted within two (2) years of the submittal date, by a professional land surveyor duly registered by the State of Ohio.

(e) Site plans and related engineering plans shall be prepared at a scale not smaller than one (1) inch equals one hundred (100) feet. Site plans may be prepared on one or more sheets to clearly show the information required by this chapter, and to facilitate the review and approval of the site plan. If prepared on more than one sheet, match lines shall be used to clearly indicate where the several sheets join. No sheet shall exceed forty-two (42) inches horizontally and twenty-eight (28) inches vertically in size.

**1141.04 MINOR SITE PLAN REVIEW BY THE PLANNING AND ZONING ADMINISTRATOR.**

The Planning and Zoning Administrator shall act on Minor Site Plans within thirty (30) calendar days upon receiving a complete application. The Planning and Zoning Administrator may consult with the Technical Review Group as necessary. The Planning and Zoning Administrator may attach conditions to the Minor Site Plan approval as may be reasonably required for the public health, safety and welfare.

**1141.05 SITE PLAN REVIEW BY THE PLANNING AND ZONING COMMISSION.**

Every site plan submitted in accordance with this chapter shall contain the following information:

(a) A boundary survey conducted within two years of the application submittal.

(b) The name of the development, the name and address of the property owner and developer, north point, date of the plan being submitted, scale and number of sheets.

(c) The name of property owners, zoning, and present use of adjoining lands.

(d) Location of all minimum building setback lines.

(e) Location, type, and size of existing vehicular ingress and egress to the site.

(f) Location, names, and dimensions of proposed and existing streets, buildings, easements and drainage ways.

(g) Location, type, size and height of all fencing, screening, and buffering where required by this Code.

(h) Provisions for the adequate control of erosion and sedimentation indicating the proposed temporary and permanent control practices and measures which will be implemented during all phases of clearing, grading and construction.

(i) All off-street parking and parking bays, loading spaces, ingress and egress and walkways indicating type of surfacing and showing the number of parking spaces provided and the number of parking spaces required.

(j) Number of floors, floor area, height and location of each building, and proposed general use for each building. In a multi-family residential building, the number, size, and type of dwelling units shall be shown.

(k) Building elevations depicting actual composition and architectural style for all proposed structures.

(l) Preliminary plans for the provision of, but not limited to, water, wastewater and storm water utilities.

(m) The location of any proposed refuse removal pads.

(n) Location and size of all recreation and open space areas.

(o) Special Flood Hazard Area limits established by the Federal Emergency Management Agency's Flood Insurance Rate Maps on file with the Floodplain Administrator and/or accepted engineering methods. Special Flood Hazard Area limits shall be shown on all plan sheets.

(p) The location, width, size, and purpose of all existing easements and rights-of-way and whether they are to be publicly or privately maintained.

(q) Such other relevant data as the Planning and Zoning Commission or the Planning and Zoning Administrator may require.

**1141.06 ENGINEERING CONSTRUCTION PLANS REVIEW BY THE TECHNICAL REVIEW GROUP.**

In preparing required engineering construction plans, the applicable provisions of the municipality's Subdivision Regulations shall be followed. All improvements required by Chapter 1141 and by the Subdivision Regulations shall be installed at the cost of the developer in accordance with design and construction standards of the municipality. Engineering construction plans submitted in accordance with this chapter shall contain the information in Section 1141.05 in addition to the following:

(a) Existing topography with a maximum two (2) foot contour intervals and the proposed finished grading by contour.

(b) Provisions for the adequate disposition of natural and storm water on and off-site, in accordance with current design criteria and construction standards of Commercial Point including, but not limited to, the calculation of the contributing drainage area in acres and the location, size, type and grade of ditches, catch basins, inlets, pipes, and other drainage structures.

(c) All existing and proposed sanitary sewer facilities indicating all pipe sizes, types, grades, invert elevations, location of manholes, and such other data as may be deemed necessary by the Municipal Engineer.

(d) All existing and proposed water facilities including all water mains, their sizes, valves and fire hydrant locations. A detailed water connection plan sheet shall be provided indicating the size and location of the water line connection into the building(s), back flow prevention and, when applicable, the size and location of the fire suppression line.

(e) A landscaping and lighting plan.

(f) The location, width, size, and intended purpose of all easements and rights-of-way and whether they are to be publicly or privately maintained. A plan copy, suitable for recording, shall be submitted showing any rights-of-way and/or easements for public dedication.

**1141.07 REVIEW PROCEDURE; PLANNING AND ZONING COMMISSION.**

(a) The Planning and Zoning Commission shall act on site plans presented to it within a reasonable time. The property owner or applicant shall be advised as to the decision of the Planning and Zoning Commission by letter and/or legible markings and notes on the plans.

(b) Public Notification for the review of Major Site Plans shall consist of listing on the Planning and Zoning Commission's meeting agenda posted in accordance with the Planning and Zoning Commission's Rules.

(c) All updated site plans and supporting information submitted for the Planning and Zoning Commission's review shall include all revisions requested by the Commission. Upon the submittal of updated site plans and supporting information, the Planning and Zoning Administrator shall review the submittal for compliance with the requested revisions. Should any information not be included with the updated submittal, it shall be deemed incomplete and

returned to the property owner or applicant with a written explanation of what information is missing. No incomplete updated submittal shall be reviewed by village officials until the requested revisions have been made.

(d) The Planning and Zoning Commission may attach conditions to the Site Plan approval as may be reasonably required for the public health, safety and welfare.

(e) Approval of a Site Plan by the Planning and Zoning Commission shall expire twelve (12) months from the date of such approval unless building permits have been obtained for construction in accordance therewith. A single extension, not to exceed six (6) months, may be given by the Planning and Zoning Commission upon written request by the property owner or applicant.

**1141.08 REVIEW PROCEDURE, TECHNICAL REVIEW GROUP.**

(a) The Technical Review Group shall act on engineering construction plans presented to it within a reasonable time. The property owner or applicant shall be advised as to the decision of the Technical Review Group by letter and/or legible markings and notes on the plans.

(b) All updated engineering construction plans and supporting information submitted to the Technical Review Group for review shall include all revisions and/or clarifications as previously requested. Should any information not be included with the updated submittal, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete updated submittal shall be reviewed by the Technical Review Group until the requested revisions have been made and/or clarifications have been provided.

(c) Approval of engineering construction plans by the Technical Review Group shall expire twelve (12) months from the date of such approval. A single extension, not to exceed six (6) months, may be given by the Technical Review Group upon written request by the property owner or applicant.

**1141.09 FINAL APPROVAL PROCESS.**

(a) Final approval of all site plans shall be shown by the signature of the Planning and Zoning Administrator on the final plan.

(b) Prior to this final approval, any required engineering construction plans shall be approved and signed by the Technical Review Group.

(c) Prior to final approval, there shall be executed by the property owner or applicant and submitted to the municipality an agreement to construct such required physical improvements that are located within public rights-of-way or easements or that are connected to any public facility in form and substance as approved by the municipality, together with a bond with surety, cashier's check or escrow account in the amount of the estimated construction cost of the required improvements as approved by the municipal engineer. The aforesaid agreement and bond or condition shall be provided for completion of all work covered thereby within the time to be determined by the Technical Review Group, which time may be extended upon written agreement. The municipal engineer may also require a restoration bond. Said bond shall be to insure repair of any damage done to existing curb, gutter, sidewalk, street pavement, landscaping, or other items within the right-of-way adjacent to the project. The amount of the

restoration bond shall be as determined by the municipal engineer based on his estimate of potential damage.

(d) The property owner or applicant shall present to the municipality any dedication or easement documentation for approval prior to recordation. The property owner or applicant shall provide the municipality with a copy of any recorded dedication or easement. Upon satisfactory completion of the required improvements, the municipality shall release any remaining bonds.

(e) Site infrastructure improvements for the area proposed under the site plan may proceed following (1) the approval and signing of the engineering construction plans by the Mayor and applicable member of the Technical Review Group, and (2) the holding of a preconstruction meeting with the municipality. The property owner or applicant is responsible to contact the municipality's Construction Services Administrator to schedule the preconstruction meeting.

**1141.10 MODIFYING AN APPROVED SITE PLAN.**

(a) Any agreements or changes to an approved major site plan, including all supporting materials, between the property owner or applicant and a separate third party shall also be approved by the Planning and Zoning Commission. Otherwise, the Planning and Zoning Commission may rescind their site plan approval.

(b) An approved site plan may be modified from the original approval in accordance with this subsection. Such modification shall be approved by the Planning and Zoning Commission, in the case of a major site plan, and by the Planning and Zoning Administrator, in the case of a minor site plan. The property owner(s) or applicant(s) shall file a written application to modify the approved site plan with the Planning and Zoning Administrator accompanied by a fee as stipulated by ordinance. In considering a modification, the applicable provisions of Chapter 1141 shall apply. However, minor technical changes to an approved Major or Minor Site Plan, which do not substantially alter the original site plan layout, may be approved by the Planning and Zoning Administrator.

**1141.11 APPEALS.**

(a) Appeal of Planning and Zoning Administrator Decision. Whoever is aggrieved or affected by the decision of the Planning and Zoning Administrator involving an application for site plan approval shall have the right to file an appeal with the Planning and Zoning Commission. A written appeal shall be filed with the Planning and Zoning Administrator within ten (10) calendar days of the decision of the Planning and Zoning Administrator. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to the Planning and Zoning Commission the application and any relevant background information. The Planning and Zoning Commission shall have a maximum of seventy-five (75) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. To reverse or modify the Planning and Zoning Administrator's decision, a majority vote of the full membership of the Planning and Zoning Commission shall be required.

(b) Appeal of Planning and Zoning Commission Decision. Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for site plan approval shall have the right to file an appeal with Council. A written appeal shall be filed with

the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within twenty-one (21) calendar days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required.

(c) Public Notification. At least one (1) notice shall be given at least ten (10) calendar days prior to the public hearing in one or more newspapers of general circulation in the municipality. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) calendar days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(d) In approving a site plan on appeal, Planning and Zoning Commission or Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said site plan is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135, and shall result in revocation of the site plan approval and respective Certificate of Zoning Compliance.

**1141.12 ENVIRONMENTAL ANALYSIS.**

(a) Purpose and Intent. The environmental analysis is intended to protect the environmental integrity of land within the Municipality and address identified municipal concerns. This provision is also intended to ensure ample provisions for the efficient use of land and to promote high standards in layout and design. The environmental analysis supplements the provisions of the Subdivision Regulations and Site Development Plans. The purpose of this section is to state the specific requirements applicable to the development of land in environmentally sensitive areas, and to prescribe the standards for the preparation and submission of an environmental analysis.

(b) Environmental Analysis Required. Before any use or development involving new construction, reconstruction or expansion of structures can begin, an environmental analysis shall be required and shall be submitted if any portion of the parcel(s) meets one or more of the following criteria:

(1) The parcel is located in the 100-year floodplain.
(2) The parcel contains one or more wetlands.
(3) 15% or more of the soil is hydric or contains hydric soil inclusions.
(4) The parcel contains a stream or other natural water feature.
(5) The parcel contains an agricultural drainage ditch.
(6) 25% or more of the total area of the parcel has slopes over 20%.
(7) 25% or more of the site is woodlands, as defined in Chapter 1133.

(c) Exemptions. No zoning district shall be exempt from this requirement.

(d) Preparation. The environmental analysis shall be prepared by persons professionally qualified to do such work. Every analysis shall consist of a map identifying all of the features outlined in paragraph (b) above and a report detailing the approximate size of each of the features illustrated on the map and the mitigation strategies that will be used by the owner/developer in these areas. The map shall be prepared at a scale of one (1) inch equals five hundred (500) feet or less. One copy of the map and report shall be submitted to the Planning and Zoning Administrator for review.

(e) Decision. Once the environmental analysis is submitted to the Planning and Zoning Administrator, the Planning and Zoning Administrator has ten (10) calendar days to review the analysis. If the Planning and Zoning Administrator determines that the analysis is complete, the Planning and Zoning Administrator shall certify such in writing to the property owner/developer. If the Planning and Zoning Administrator determines that the environmental analysis is incomplete or lacks utilization of the most current data, the Planning and Zoning Administrator shall certify such in writing to the property owner/developer. The property owner/developer then has ten (10) calendar days to submit a revised analysis for consideration.

**CHAPTER 1143**
**Amendments**

## 1143.01 INITIATION.

The provisions of this Zoning Code or Zoning Map may be amended, supplemented, changed or repealed to meet changing conditions or to better meet good zoning practices. Amendments may be initiated in one of three (3) ways:

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

(b) By adoption of a resolution by Council.

(c) By filing of an application by one or more owners or lessees of property within the area proposed to be changed or affected by amendments of provisions of this Zoning Code.

## 1143.02 APPLICATION PROCEDURE.

(a) Application to be Made. Written application for amendment of this Zoning Code, including all supporting materials, initiated by property owner(s) or lessee(s) shall be submitted to the Planning and Zoning Commission. This process is separate from the requirements of Planned Districts (Chapter 1173).

(b) Application Fee. A fee as stipulated by ordinance shall be paid by the applicant to cover the costs of advertising, review, publishing and reporting of the application, payable to the General Fund.

(c) Application Contents. The application for amendment shall contain as a minimum:

(1) Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).

(2) A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.

(3) The proposed amendment to the Zoning Code, the proposed use and the proposed zoning district of the property(s).

(4) The present use and present zoning district of the property(s).

(5) A list of all property owners within two hundred and fifty (250) feet from any portion of the property(s) in questions. The list of addresses shall correspond to the County Auditor's current tax list.

(6) A statement of the relationship of proposed change or amendment to the general welfare of the community, to appropriate plans for the area, and to the changed or changing conditions behind the request to rezone.

(7) A plot plan to show:

A. Boundaries and dimensions of the lot and the size and location of all proposed and existing structures.

B. The proposed use of all parts of the lot and structures.

C. Traffic access, traffic circulation, existing and proposed utilities, parking, lighting and illumination, landscaping, signs, and other such information relevant to the proposed use.

D. Such additional information as may be required by this Zoning Code and/or requested by the Planning and Zoning Commission and/or the Planning and Zoning Administrator to review the application.

(8) Any deed restrictions, easements, covenants and encumbrances to be used to control the use, development and maintenance of land, and proposed uses, shall be fully denoted by text and map.

(9) At the discretion of the Planning and Zoning Administrator, an engineer's estimate of utility needs of the proposed use of the area being considered for rezoning, to include sewer, water, and refuse demand may be required. In addition, an engineer's estimate of potential traffic generation for the proposed uses and measures proposed by the applicant to mitigate the impacts resulting from said generation may be required by the Planning and Zoning Commission.

(10) For all developments over twenty-five (25) acres, and/or for commercial and industrial developments over 10,000 square feet and/or for any development that requires direct access to a major thoroughfare and/or for any development that is not contiguous with existing water and sewer, a fiscal/economic impact study will be required to determine if the development will require immediate or short-term expenditures on the part of the municipality in terms of infrastructure and/or support services.

## 1143.03 CRITERIA FOR REVIEW.

All rezoning activities must be consistent with the adopted comprehensive plan. The Planning and Zoning Commission shall, at the minimum, consider the following factors in the review of the application:

(a) Compatibility of the proposed amendment to adjacent land use, adjacent zoning and to appropriate plans for the area, including but not limited to the comprehensive plan.

(b) Relationship of the proposed amendment to access and traffic flow and utility services including sanitary sewer, water, and storm drainage, as outlined in the transportation thoroughfare plan, comprehensive plan and/or other adopted plans for the area.

(c) Relationship of the proposed amendment to the public health, safety, convenience, comfort, prosperity and general welfare, including impact on infrastructure and municipal services.

(d) Relationship of the proposed use to the adequacy of available services and to general expansion plans and planned capital improvements.

**1143.04 REVIEW PROCEDURE - PLANNING AND ZONING COMMISSION.**

(a) Filing and Acceptance of Application. A written application for an Amendment and eight (8) 11" by 17" size copies and two (2) full size copies of all plans and supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) calendar days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1143. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Amendment Application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) calendar days prior to a scheduled public hearing in one (1) or more newspapers of general circulation in the Municipality. Such notice shall include time and place of the public hearing, nature of the proposed amendment, and a statement that after the conclusion of such public hearing the matter will be referred to Council for further determination.

(d) Notice to Property Owners. Written notice of the public hearing shall be mailed by the Municipality at least ten (10) calendar days prior to the date of a scheduled public hearing to all property owners proposed to be rezoned or within two hundred and fifty (250) feet of any portion of such area proposed to be rezoned or redistricted as listed under Section 1143.02(c)(5). The notice shall correspond to subsection (c) hereof in content. Notices shall be sent by certified mail when an amendment proposes to rezone or redistrict ten (10) or less properties. Notice may be sent by certified mail or regular first class mail when an amendment proposes to rezone or redistrict eleven (11) or more properties.

**1143.05 REVIEW PROCEDURE - COUNCIL.**

(a) Receipt of Planning and Zoning Commission's Recommendation. The property owner or applicant shall provide the Planning and Zoning Administrator with fifteen (15) 11" by 17" size copies and two (2) full size copies of all plans and supporting information of updated plans and supporting information that, when applicable, includes all revisions as requested by the Planning and Zoning Commission. Should any information not be included with this submittal, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Amendment Application shall be forwarded to Council until the application, including all plans and supporting information, has been revised as requested by the Planning and Zoning Commission.

(b) Public Hearing. Upon receipt of such recommendation, Council shall schedule a public hearing within sixty (60) calendar days of said receipt. Nothing in this section shall prevent the Council from continuing a public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least thirty (30) calendar days prior to a scheduled public hearing in one (1) or more newspapers of general circulation in the Municipality. Such notice shall include time and place of the public hearing, nature of the proposed amendment, and a summary of the Planning and Zoning Commission's recommendation.

(d) Notice to Property Owners. Written notice of the public hearing shall be mailed by the Municipality at least ten (10) calendar days prior to the date of a scheduled public hearing to all property owners proposed to be rezoned or within two hundred and fifty (250) feet of such area proposed to be rezoned or redistricted as listed under Section 1143.02(c)(5). The notice shall correspond to subsection (c) hereof in content. Notices shall be sent by certified mail when an amendment proposes to rezone or redistrict ten (10) or less properties. Notices may be sent by certified mail or regular first class mail when an amendment proposes to rezone or redistrict eleven (11) or more properties.

(e) Action by Council. Within forty-five (45) calendar days after public hearing, Council shall adopt or deny the recommendation of the Planning and Zoning Commission or adopt a modification thereof. To adopt the Planning and Zoning Commission's recommendation, a majority vote of the membership of Council is required. To reverse or modify the Planning and Zoning Commission's recommendation, a simple majority vote of the full membership of Council is required. An application for amending this Zoning Code that has been disapproved by Council shall be resubmitted to the Municipality no sooner than one (1) year of the date of such disapproval by Council.

**CHAPTER 1145**
**Conditional Uses**

## 1145.01 PURPOSE.

Certain uses more intensely affect the surrounding area in which they are located than permitted uses in the same zoning district and, if properly controlled and regulated, these uses can be compatible within the zoning district. To provide this necessary control such uses shall be designated as conditional uses and allowable only upon review and approval by the Planning and Zoning Commission. Because of the uniqueness or special nature of a conditional use with respect to location, design, size, and method of operation, each such use that comes before the review of the Board shall be considered individually.

## 1145.02 APPLICATION PROCEDURE.

(a) Application to be Made. Written application for a conditional use shall be made by property owner(s) or lessee(s) to the Planning and Zoning Commission.

(b) Application Fee. A fee as stipulated by ordinance shall be paid by the applicant to cover the costs of advertising, review, publishing, and reporting of the application, payable to the General Fund.

(c) Application Contents. The application for a conditional use shall contain as a minimum:

(1) Name, address and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).

(2) A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.

(3) A description of existing use, current zoning district, and proposed conditional use.

(4) A list of all property owners within, contiguous to, and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.
(5) A statement of the relationship of the proposed use to the general welfare of the community, to appropriate plans for the area, and to the changed or changing conditions behind the request.
(6) A statement of the relationship of the proposed use to adjacent land use in terms of traffic, parking, noise, and other potential nuisances and general compatibility.
(7) A plot plan to show:
A. Boundaries and dimensions of the lot and the size and location of all proposed and existing structures.
B. Traffic access, traffic circulation, existing and proposed utilities, parking, lighting and illumination, landscaping, signs, and other such information relevant to the proposed use.
C. Such additional information as may be required by this Zoning Code and/or requested by the Planning and Zoning Commission and/or Planning and Zoning Administrator to review the application.

## 1145.03 CRITERIA FOR APPROVAL.

The following considerations shall be examined in review of an application for conditional use:
(a) The proposed use is a conditional use of the zoning district and the applicable development standards of this Zoning Code are met.
(b) The proposed use is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.
(c) The proposed use will not adversely impact access, traffic flow, and other public facilities and services.
(d) The proposed use will not result in the destruction, loss or damage of a natural, scenic, or historic feature.
(e) The proposed use will not adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

### 1145.04 REVIEW PROCEDURE.

(a) Filing and Acceptance of Application. A written application for a Conditional Use and eight (8) 11" by 17" size copies and two (2) full size copies of all plans and supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) calendar days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1145. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Conditional Use Application shall be reviewed by village officials until all required information has been received by the Planning and Zoning Administrator.
(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.
(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) calendar days prior to a scheduled public hearing in one or more newspapers of general circulation in the

Municipality. Such notice shall include time and place of the public hearing and nature of the proposed conditional use.

(d) Notice to Property Owners. Written notice of the hearing shall be mailed by the Municipality, certified mail, at least ten (10) days prior to the date of a scheduled public hearing to all property owners as listed under Section 1145.02(c)(4). The notice shall correspond to subsection (c) hereof in content.

(e) Procedure at Hearing. Within thirty-five (35) days of the public hearing, the Planning and Zoning Commission shall review the application and render one of the following decisions:

(1) Approval of conditional use as requested.
(2) Approval of conditional use with modifications.
(3) Disapproval of conditional use.

The Commission shall apply the criteria in Section 1145.03 in reaching its determination. In approving a conditional use, the Commission may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made part of the terms under which the conditional use is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the conditional use approval and respective Certificate of Zoning Compliance.

The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

## 1145.05 ISSUANCE OF PERMIT; EXPIRATION.

Upon approval of the Planning and Zoning Commission or upon appeal and approval by Council, and with such conditions attached by either body as may be necessary to secure the objectives of this Zoning Code, the Planning and Zoning Administrator shall issue a conditional use permit to the applicant within ten (10) calendar days. Such permit shall authorize one particular conditional use and such permit shall automatically expire if, for any reason, the conditional use shall not be commenced within two (2) years, including any construction or renovation. Such permit shall expire if a conditional use is discontinued for more than six (6) months. The conditional use permit serves as a contract between the municipality and the property owner. The property owner must follow the conditions outlined in the permit and will be required to sign an affidavit stating such at the time that the conditional use permit is granted. If the property is sold, the new owner will be required to sign such affidavit within thirty (30) calendar days of taking ownership. At that time, additional conditions may be attached to the conditional use permit by the Planning and Zoning Administrator. If the property owner does not sign such affidavit within thirty (30) days of taking ownership, the new owner must reapply for a conditional use permit.

### 1145.06 APPEALS.

(a) Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for a Conditional Use shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within thirty (30) calendar days of Council's receipt of the appeal. Council

shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing, consider the appeal and make a decision on the appeal. In reaching a determination of a requested Conditional Use on appeal, Council shall consider Section 1145.03. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required.

(b) Public Notification. At least one (1) notice shall be given at least ten (10) calendar days prior to the public hearing in one or more newspapers of general circulation in the municipality. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) calendar days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(c) In approving a Conditional Use on appeal, Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said Conditional Use is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135, and shall result in revocation of the Conditional Use approval and respective Certificate of Zoning Compliance.

**CHAPTER 1147**
**Variances**

## 1147.01 PURPOSE.

The issuance of a variance to permit exceptions to and variance deviation from the strict interpretation of the applicable regulations contained in this Zoning Code shall be under the authority of the Planning and Zoning Commission. In no case shall the granting of a variance allow a use not permitted under the subject district regulations.

## 1147.02 APPLICATION PROCEDURE.

(a) Application to be Made. Written application for a variance shall be made by the property owner(s) or lessee(s) to the Planning and Zoning Commission. (Please See Section 1147.04 (a)).

(b) Application Fee. A fee as stipulated by ordinance shall be paid by the applicant to cover the costs of advertising, review, publishing, and reporting of the application, payable to the General Fund.

(c) Application Contents. The application for a variance shall contain as a minimum:

(1) Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).

(2) A current and accurate legal description of the property(s) in question and a current survey prepared by a licensed surveyor.

(3) The nature of the variance required to include what provisions of the Zoning Code are affected.

(4) A statement pertaining to and explaining the relation of the variance(s) requested to the criteria for approval as listed under Section 1147.03.

(5) A list of all property owners within, contiguous to, and directly across the street from the property(s) in question. The list of addresses may correspond to the County Auditor's current tax list.

(6) A plot plan to show:
A. Boundaries and dimensions of the property and the size and location of all proposed and existing structures.
B. The nature of the special conditions or circumstances.
C. The proposed use of all parts of the lot and structures.
D. The use of land and location of structures on adjacent properties.
E. Such additional information as may be required by this Zoning Code and/or requested by the Commission and/or the Planning and Zoning Administrator to review the application.

## 1147.03 CRITERIA FOR APPROVAL.

All relevant factors including but not limited to the following considerations shall be examined in the review, public hearing, and approval of an application for a variance:
(a) That special circumstances or conditions exist which are not applicable to other lands or structures in the same zoning district.
(b) That a literal interpretation of the provisions of this Zoning Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the provisions of this Zoning Code.
(c) That the special conditions and circumstances do not result from the actions of the applicant.
(d) That the granting of the variance will not confer on the applicant any undue privilege that is denied by this Zoning Code to other lands or structures in the same zoning district.
(e) That the granting of the variance will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.
(f) That the granting of the variance is not solely based upon the showing that the property could be put to better economic use than presently permitted by zoning regulations.
(g) That the granting of the variance will not permit a use that is otherwise not permitted within the respective zoning district.

### 1147.04 REVIEW PROCEDURE.

(a) Filing of Application. A written application for a Variance and twelve (12) 11" by 17" size copies and two (2) full size copies of all supporting information shall be filed with the Planning and Zoning Administrator at least twenty-one (21) calendar days prior to the Planning and Zoning Commission meeting date. Upon the filing of the application, the Planning and Zoning Administrator shall review the application for compliance with Chapter 1147. Should any information not be included with the application, it shall be deemed incomplete and returned to the property owner or applicant with a written explanation of what information is missing. No incomplete Variance Application shall be reviewed by Village officials until all required information has been received by the Planning and Zoning Administrator.

(b) Public Hearing. The Planning and Zoning Commission shall hold a public hearing promptly. Nothing in this section shall prevent the Commission from granting a continuance of the public hearing.

(c) Public Notice for Hearing. At least one (1) notice shall be given at least ten (10) calendar days prior to a scheduled public hearing in one (1) or more newspapers of general circulation in the Municipality. Such notice shall include the time and place of the public hearing and the nature of the proposed variance(s).

(d) Notice to Property Owners. Written notice of the hearing shall be mailed by the Municipality, certified mail, at least ten (10) calendar days prior to the date of a scheduled public

hearing to all property owners as listed under Section 1147.02(c) (5). The notice shall correspond to subsection (c) hereof in content.

(e) (reserved)

(f) Procedure at Hearing. Within thirty-five (35) calendar days of the public hearing, the Planning and Zoning Commission shall review the application and render one of the following decisions:

(1) Approval of variance(s) as requested.
(2) Approval of variance(s) with modifications.
(3) Disapproval of variance(s).

The Commission shall apply criteria in Section 1147.03 in reaching its determination. In approving a variance(s), the Commission may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed herein.

The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

## 1147.05 APPEALS RELATIVE TO SIGNAGE AND OFF-STREET PARKING.

An appeal may be filed with the Planning and Zoning Commission for relief from the strict enforcement of Zoning Code requirements relative to nonconforming signs and nonconforming surface treatment of off-street parking areas, provided the Applicant shows:

(a) That the unlawful nonconforming situation has existed a minimum of five (5) years prior to the effective date of this Zoning Code.

(b) That special circumstances or conditions exist which are peculiar to the structure(s) involved and which prevent the applicant from meeting the requirements of this Zoning Code.

(c) That the special circumstances of conditions do not result from the actions of the applicant.

(d) That the granting of an appeal will in no other manner adversely affect the public health, safety, convenience, comfort, prosperity, and general welfare.

## 1147.06 ISSUANCE OF ZONING CERTIFICATE.

Upon approval of the Planning and Zoning Commission or upon appeal and approval by Council, and with such conditions attached by either body as may be necessary to secure the objectives of this Zoning Code, the Planning and Zoning Administrator shall issue a Certificate of Zoning Compliance for all approved variances to the applicant within ten (10) calendar days of approval. The requirements relative to expiration of Section 1135.05 shall apply.

## 1147.07 APPEALS.

(a) Whoever is aggrieved or affected by the decision of the Planning and Zoning Commission involving an application for a Variance shall have the right to file an appeal with Council. A written appeal shall be filed with the Clerk within ten (10) calendar days of the decision of the Commission. Upon the filing of an appeal, the Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed. At the time of filing the appeal, the Planning and Zoning Administrator shall turn over to Council the application and any relevant background information. A public hearing shall be scheduled within thirty (30) calendar days of Council's receipt of the appeal. Council shall have a maximum of sixty (60) calendar days from receipt of an appeal to hold a public hearing,

consider the appeal and make a decision on the appeal. In reaching a determination on a requested Variance on appeal, Council shall consider Section 1147.03. To reverse or modify the Planning and Zoning Commission's decision, a simple majority vote of the full membership of Council shall be required.

(b) Public Notification. At least one (1) notice shall be given at least ten (10) calendar days prior to the public hearing in one or more newspapers of general circulation in the municipality. Such notice shall include the date, time and place of the public hearing and nature of the appeal. Written notice of the appeal shall be mailed by the municipality, certified mail, at least ten (10) calendar days prior to the date of the public hearing to the property owner or applicant and, if different, the party filing the appeal. Such notice shall include the date, time and place of the public hearing and nature of the appeal.

(c) In approving a Variance on appeal, Council may prescribe additional conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which said Variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed in Chapter 1135 and shall result in revocation of the Variance approval and respective Certificate of Zoning Compliance.

**CHAPTER 1149**
**Nonconforming Lots, Uses, and Structures**

## 1149.01 GENERAL.

The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enacting this Zoning Code or amendment hereto, may be continued, although such use does not conform with the provisions of this Zoning Code or amendment hereto, as provided herein. It is the intent of this Zoning Code to permit these nonconforming situations to continue until such time that they are removed, but not to encourage their continued use or expansion except as provided for herein.

## 1149.02 NONCONFORMING LOTS.

(a) The construction of a conforming structure and/or the conduct of a permitted use shall be allowed on any lot of record which has an area and/or lot width less than that required for such structure or permitted use in the zoning district in which the lot is located. Variance of any development standard other than minimum lot area and/or minimum lot width shall be obtained only through action of the Planning and Zoning Commission in accordance with Chapter 1147.

(b) Such nonconforming lots must be in separate ownership and not of continuous frontage with other land in the same ownership on the effective date of this Zoning Code. Otherwise, development shall be permitted only in accordance with development standards of the zoning district in which such ownership is located.

## 1149.03 NONCONFORMING STRUCTURES AND DEVELOPMENTS.

Structures and/or accessory development, which by reason of size, type, location on the lot, or otherwise in conflict with regulations of the zoning district in which they are located may be altered, reconstructed or extended on appeal to the Planning and Zoning Commission, provided the applicant shows that:

(a) The nonconforming structure and development was lawful at the time of enactment of this Zoning Code.
(b) Such tax parcel has been under the same ownership for not less than two years;
(c) Such alteration, reconstruction or extension is necessary and incidental to such existing lawful nonconforming use as demonstrated by the applicant.
(d) Such extension shall not increase the total floor area by more than fifty (50) percent.
(e) No extension shall be requested within two (2) years of the last previous extension as approved by the Planning and Zoning Commission.

## 1149.04 NONCONFORMING USES.

The lawful nonconforming use of a lot and/or structure may be continued, expanded, substituted, changed, or re-established subject to the following:
(a) Continuation. The lawful use of any dwelling, building, or structure, and of any land or premises, as existing at the time of enactment of this Zoning Code, may be continued. However, if any such nonconforming use is voluntarily discontinued for a period of six (6) months or more, any future use of such land shall be in conformity with this Zoning Code.
(b) Expansion. A lawful nonconforming use may be expanded within an existing structure manifestly arranged or developed for such use on appeal to the Planning and Zoning Commission, provided the applicant shows that:
(1) The nonconforming use was lawful at the time of enactment of this Zoning Code.
(2) Such tax parcel has been under the same ownership for not less than two (2) years.
(3) Such expansion is necessary and incidental to such existing lawful nonconforming use as demonstrated by the applicant.
(4) No expansion shall be requested within two (2) years of the last previous expansion as approved by the Planning and Zoning Commission.
(c) Substitution. On approval of an appeal to the Planning and Zoning Commission, the substitution of a lawful nonconforming use existing at the time of enactment of this Zoning Code by another lawful nonconforming use may be permitted if no structural alterations, except those required by law or resolution are made, provided that any use so substituted shall be of the same or a more restricted classification, subject to approval of an appeal to the Planning and Zoning Commission, provided the applicant shows that:
(1) The nonconforming use was lawful at the time of enactment of this Zoning Code.
(2) Such tax parcel has been under the same ownership for not less than two years.
(3) Such substitution is compatible with adjacent land use, adjacent zoning, and to appropriate plans for the area.
(4) No substitution shall be requested within two (2) years of the last previous expansion as approved by the Planning and Zoning Commission.
(d) Re-establishment. A lawful nonconforming use of any structure damaged by fire, explosion, flood, riot, or act of God may be continued and used as before any such calamity, provided the building or structure has not been destroyed to an extent of more than one-half (1/2) of its fair value, and provided such reconstruction is started within twelve (12) months of such calamity and is continued in a reasonable manner until completed.

**TITLE FIVE- Zoning Districts**

## 1151.01 DIVISION INTO DISTRICTS.

For the purposes of this Zoning Code, the Municipality is hereby divided into categories of zoning districts. Such districts are designated as follows:

RESIDENTIAL DISTRICTS

Limited Density Residential District (R-1)

Low Density Residential District (R-3)

Multi-Family Apartment Residential District (MF-A)

Multi-Family Condominium Residential District (MF-C)

Old Town Zoning Districts (OT-SF, OT-MF, OT-C)

COMMERCIAL DISTRICTS

Neighborhood Commercial District (NC)

General Commercial District (GC)

Suburban Office and Institution District (SO)

SUPPLEMENTAL DISTRICTS

Floodplain District (FP)

Exceptional Use District (EU)

Optional Traditional Neighborhood Development Floating District (TND)

PLANNED DISTRICTS

Planned Residential District (PRD)

Planned Commercial District (PCD)

Planned Industrial District (PID)

Planned Unit District (PUD)

Planned Conservation District (PCND)

MANUFACTURING DISTRICTS

Limited Manufacturing District (LM)

OVERLAY DISTRICTS

Stream Protection Overlay District (AE)

## 1151.02 BOUNDARIES: ZONING MAP.

(a) Districts and Boundaries Established. The several districts and boundaries thereof are hereby adopted and established as shown on the Zoning Map, which map, together with all notations, references, data, district boundaries, and other information shown thereon, are hereby made a part of this Zoning Code. Such Zoning Map, properly attested, shall remain on file in the Municipal Hall. Such Zoning Map may be amended in accordance with this Zoning Code.

(b) District Boundaries. Except when referenced on such Map to a street or alley or other designated line by dimensions shown on such Map, the district boundary lines follow property lot lines, the centerlines of watercourses, or the centerlines of rights-of-way, both streets and alleys, as they existed at the time of the adoption of this Zoning Code.

(c) Uncertainty as to Boundaries or Textual Provisions; Interpretation. All questions concerning the exact location of district boundary lines shall be determined by the Planning and Zoning Administrator. Appeals of said determination shall be made as provided under Section 1139.05

## 1151.03 VACATED STREET OR ALLEY.

Whenever any street, alley or other public right-of-way is vacated by official action as provided by law, the zoning district adjoining the side of such public right-of-way shall be extended automatically, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall thenceforth be subject to all regulations of the extended district or districts. Prescriptive easements must be considered and documented.

## 1151.04 ANNEXATIONS.

(a) For land annexed to the Municipality following enactment of this Zoning Code, such land shall automatically become zoned, without payment of a fee, to Exceptional Use (EU) if such land is undeveloped. The property owner and/or his and/or her representative shall in all cases reserve the right to apply for any desired zoning map amendment of the land following the effective date of the annexation. If the land is undeveloped, the property owner and/or his or her representative shall meet with the municipality and begin discussions to amend the zoning map within thirty (30) calendar days of the effective date of the annexation.

In any case where undeveloped land has been annexed under the previous zoning code and development has not begun, the landowner will be notified respecting the creation of this new zoning code. The Planning and Zoning Board will meet with the landowner to determine implementation of this zoning code and modification of the zoning map.

If the land is developed or occupied by a use other than agriculture, the land shall be zoned under the most compatible zoning district listed in Section 1151.01 excluding planned districts.

(b) All property annexed to the Municipality shall have a zoning of industrial or commercial when newly annexed to the Municipality if property is owned by the Municipality and is approved by the Planning and Zoning Commission of the Municipality.

(c) Any zoning other than as established herein shall be in accordance with the zoning rules and regulations.

**CHAPTER 1153**

**General Zoning Regulations**

## 1153.01 CONFORMANCE REQUIRED.

Except as hereinafter specified, no land, building, structure or premises shall hereafter be used, and no building or part thereof, or other structure, shall be located, erected, moved, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district in which it is located; such regulations include, but without limitation, the following: the specific use of buildings, structures or land, including performance standards for the control of any dangerous and objectionable elements in connection with such use; the height, size and dimensions of buildings or structures; the size or dimensions of lots, yards and other open spaces surrounding buildings; the provision, location, size, improvement and operation of off- street parking, loading and unloading spaces.

## 1153.02 PROHIBITED USES.

(a) Uses not expressly permitted in the Commercial Point Zoning Code, except as approved when appropriate under the Exceptional Use District (EU), are hereby prohibited.

(b) Adult entertainment uses, as defined herein, shall be prohibited in the Municipality.

## 1153.03 CONVERSION TO DWELLINGS.

The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units or households shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Zoning Code and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to minimum lot size, lot area per dwelling unit, percentage of lot coverage, dimensions of yards and other open spaces, and off-street parking. Each conversion shall be subject also to such further requirements as may be specified hereinafter to such district.

## 1153.04 ACCESSORY STRUCTURES WITHOUT MAIN STRUCTURE.

In any district, no accessory structure shall be erected or constructed prior to the erection or construction of the principal structure with the exception of the contractor's temporary building.

## 1153.05 REQUIRED AREA OR SPACE CANNOT BE REDUCED.

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

## 1153.06 UNSAFE BUILDINGS.

(a) The owners of premises shall maintain the structures and exterior property in compliance with the 2015 International Property Maintenance Code. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of the IPMC. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control. Likewise, vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided in the IPMC so as not to cause a blighting problem or adversely affect the public health or safety. *ORC 715.26, 715.261*

(b) Any revisions to the aforementioned International Property Maintenance Code are hereby adopted by reference and declared to be a part of these regulations.

## 1153.07 PENDING APPLICATIONS FOR BUILDING PERMITS.

Nothing herein contained shall require any change in the overall layout plans, construction, size and designated use of any development, building, structure or part thereof, for which official approvals and required building permits have been granted before the enactment of this Zoning Code and for which construction shall have begun prior to the effective date of this Zoning Code.

## 1153.08 CORNER LOT VISIBILITY.

On a corner lot in any residential district, nothing shall be erected, constructed, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 ½ ) feet and ten (10) feet above the center line grades of the intersecting

streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersection.

## 1153.09 STORAGE OF CONSTRUCTION MATERIALS.

In any residential district the storage of construction materials on any one (1) lot shall be limited to the quantity of material required for the construction, renovation or enlargement of the dwelling unit or units proposed for said lot, provided the plans for such dwelling unit or units have been previously reviewed by the Planning and Zoning Administrator and approved by the Building Department.

## 1153.10 OBJECTIONABLE ELEMENT OR CONDITION.

No land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided that any use permitted by this Zoning Code may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as determined by the Municipal ordinances.

## 1153.11 PLATTING REQUIRED.

No use shall be established or altered and no structure shall be constructed or altered except upon a lot that has been platted in accordance with or which otherwise meets the requirements of the Subdivision Regulations of Commercial Point. Development standards of the Commercial Point Zoning Code are minimum requirements, unless otherwise stated, for the arrangement of lots and spaces to be achieved in all developments.

## 1153.12 BUILDING LINES ESTABLISHED.

(a) Building Lines Established. Along every street right-of-way a building line shall be established from the existing right-of-way or proposed right-of-way as indicated in the Commercial Point Thoroughfare Plan, as amended, whichever is greater in width that shall constitute the required front yard setback as established in the applicable zoning district.

(b) Required Setback Defined. The required setback is that distance between the established building line and the actual or proposed right-of-way. No structure or other use of land, except parking as defined in subsection (c) herein, shall locate in the required setback. In no case shall the required setback be less than the minimum required in the applicable zoning district.

(c) Parking Within the Required Setback. Open parking or loading spaces shall be permitted to extend toward the street right-of-way from the established building line a distance equal to forty (40) percent of the required setback distance as measured from the actual or proposed right-of-way. In no case shall any part of a parking area be closer than fifteen (15) feet to any established or proposed right-of-way.

(d) Reduced Setback. If existing structures or uses on lots adjacent to each side of a lot have a setback less than the setback line established by these Regulations, the setback on the center lot shall be the average setback established on the adjacent lots.

(e) Display in Front Set Back Prohibited. Within the front building set back and side building setbacks adjacent to public right-of-way, there shall be no storage or display of any materials, equipment, inventory, merchandise or wares. This provision is applicable in all NC, GC, SO, and LM zoning district.

(1) Sidewalk sales in the Central Business District exempted. Sidewalk sales conducted in the Central Business District shall be exempt from this provision provided a temporary use permit is issued by the Planning and Zoning Administrator prior to the commencement of such a sale.

## 1153.13 PROHIBITION OF MINERAL EXTRACTION.

The extraction of oil, natural gas, coal, limestone, gravel, sand, clay and other similar minerals, excluding water, shall be prohibited within the Village of Commercial Point.

## 1153.14 PROHIBITION OF SLUGE PONDS AND SLUDGE APPLICATION

The storage and/or application of human waste within the Village of Commercial Point is prohibited. The use of a lagoon, pond, or other storage feature for animal wastes shall be prohibited within the Village of Commercial Point.

## 1153.15 MODIFICATION OF DEVELOPMENT STANDARDS.

In any district where dwellings are permitted, a permitted residential dwelling(s) may be erected on any lot of official record on the effective date of this Zoning Code even though such lot does not comply with the minimum lot area and minimum width requirements of such district, provided said lot has a minimum of forty (40) feet of frontage on an improved public street and further provided the following conditions are met:

(a) If the owner of such lot does not own adjoining property and did not own such property at the time this Zoning Code became effective:

(1) Each required side yard may be reduced by two (2) inches for every foot that is narrower than the required lot width at the building line, but in no case shall each required side yard be less than four (4) feet. Such dedications shall not apply to structures higher than two (2) stories.

(2) Required rear yards shall be twenty-five (25) percent of the lot depth, but in no case shall be less than fifteen (15) feet.

(3) Required building line, see Section 1153.12 (a).

(b) If the owner of such lot owns the adjoining property and owned such property at the time this Zoning Code became effective then in order to erect a dwelling(s) that meets district dimensional requirements, such lots shall be combined to create a parcel that meets said requirements.

(c) Administrative Variance. Administrative variances will only be considered when the proposed project is a supplement to or the reconstruction of an existing structure. If the approval of an administrative variance introduces new nonconforming conditions, the application will not be considered. Administrative variances will only be considered for residential properties located in the old town (pre-1960) district.

(1) Application to be Made. Written application for an administrative variance shall be made by the property owner(s) or lessee(s) to the Planning and Zoning Administrator.

(2) Application Fee. No fee is required.

(3) Application Contents. The application for a variance shall contain as a minimum:

A. Name, address, and phone number of the applicant(s) and representative(s) if any, and the signature of the property owner(s).

B. A current and accurate legal description of the property(s) in question.

C. The nature of the variance required including what provisions of the Zoning Code are affected.

D. A plot plan to show:

1. Boundaries and dimensions of the property and the size and location of all proposed and existing structures.
2. The nature of the special conditions or circumstances.
3. The proposed use of all parts of the lot and structures.
4. Such additional information as may be required by this Zoning Code and/or requested by the Planning and Zoning Administrator to review the application.

(4) Criteria for Approval.

A. Is the proposed addition/modification architecturally compatible with the existing structure and the neighborhood?

B. Is the proposed addition/modification location compatible with the existing structure and the structures in the neighborhood?

C. Is this a supplement to or the reconstruction of an existing structure?

D. Will the approval of the proposed variance improve existing conditions within the neighborhood?

(5) Review Procedure.

A. Filing of Application. One (1) copy of a completed application must be filed with the Planning and Zoning Administrator. Upon receipt of the application, the Planning and Zoning Administrator will review the submittal and determine whether such application is complete and meets all submittal requirements. Failure to submit a complete application, as determined by the Planning and Zoning Administrator, shall result in a rejection of the application.

B. Application Review. Upon receipt of a completed application, the Planning and Zoning Administrator has a maximum of ten (10) business days to review the application. The Planning and Zoning Administrator must be able to respond positively to all of the criteria listed in Section 1153.14 (c) (4) in order to approve the variance request. The Planning and Zoning Administrator may also approve the variance with modifications or disapprove the variance. In approving a variance(s), the Planning and Zoning Administrator may prescribe appropriate conditions and safeguards in conformity with this Zoning Code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is approved, shall be deemed a violation of this Zoning Code and punishable as prescribed herein. The Planning and Zoning Administrator's determination in taking action on a requested variance shall be accompanied by findings of fact and a statement of the reasons for the decision reached.

C. Issuance Of A Zoning Certificate. Upon approval of the Planning and Zoning Administrator, a Certificate of Zoning Compliance for all approved variances shall be issued to the applicant within ten (10) calendar days of approval. The requirements relative to expiration of Section 1135.05 shall apply. At the monthly Planning and Zoning Commission meetings, the Planning and Zoning Administrator shall provide a report outlining the administrative variances granted.

D. Appeals. Whoever is aggrieved or affected by the decision of the Planning and Zoning Administrator involving an application for an administrative variance(s) shall have the right to file an appeal with the Planning and Zoning Commission. The appeal shall be filed no later than ten (10) calendar days after the decision of the Planning and Zoning Administrator. At the time of filing, the Planning and Zoning Administrator shall turn over to the Planning and Zoning Commission the application and any relevant background information.

## 1153.16 CORNER LOT SETBACKS.

(a) In any district the front of a corner lot shall be deemed to be the shorter of the two (2) sides fronting on streets.

(b) The minimum setback on the side facing the side street shall be thirty-five (35) feet.

(c) The minimum lot width for corner lots shall be fifteen (15) feet greater than the width required for interior lots in the same district.

## 1153.17 ONE USE PER RECORDED LOT.

In all R-1, R-3, MF-A and MF-C residential districts there shall not be more than one (1) permitted, principal use on each recorded lot.

## 1153.18 PRINCIPAL BUILDINGS PER RECORDED LOT.

In all districts, no more than one principal building or structure may be constructed upon any one lot. The construction of more than one principal building or structure upon any one lot shall require a variance from the Planning and Zoning Commission.

## 1153.19 MULTIPLE NON-RESIDENTIAL USES PERMITTED.

In all NC, GC, SO, and LM districts, multiple uses may be permitted on a single lot of record subject to the following standards:

(a) Uses Shown on Approved Final Site Plan. Multiple uses may be permitted on a single lot of record when such uses are shown on an approved final site plan.

(b) Certificate of Zoning Compliance Issued. Multiple uses may be permitted on a single lot of record when such uses are located in a multi-tenant structure and a Certificate of Zoning Compliance is issued for the various uses.

## 1153.20 LOCATION OF VENDING MACHINES.

All vending machines shall only be displayed, maintained or stored in a covered or enclosed structure meeting the requirements of this Code.

(a) Vending Machines Defined Vending machine shall include but is not limited to beverage machines, candy machines, cigarette machines, and ice machines.

(b) Exemption for Telephones Public telephone facilities shown on an approved site plan shall be exempt from this provision.

(c) Exemption for Newspaper Sales Vending machines for the sale or distribution of newspapers of general circulation shall be exempt from this provision.

(d) Location of Newspaper Vending Machines Vending machines for the sale or distribution of newspapers of general circulation shall not be located in such a manner as to obstruct the public rights-of-ways or to impede traffic on said rights- of-ways.

## 1153.21 VEHICLE SALES.

The business of selling new, used, or previously owned vehicles is restricted to areas zoned for business use.

(a) Casual Sale Exempted: This section shall not control the casual sale of used vehicles. In all the zoning districts, the vehicles for sale must belong to either the property owner or tenant where the vehicle is parked. No more than one vehicle may be sold on the lot at any one time.

**1153.22 (reserved).**

**CHAPTER 1155**
**Limited Density Residential District (R-1)**

## 1155.01 PURPOSE.

The Limited Density Residential District (R-1) is established as a low density, detached, single-family residential district serviced by public water and sanitary sewer systems where physical conditions limit the suitability of servicing by on-site systems. The R-1 District is most appropriate in less developed portions of the Municipality, serving as a transition between rural, predominantly agricultural areas and more developed areas.

## 1155.02 PERMITTED USES.

Land and buildings in the Limited Density Residential District (R-1) shall be used only for the following purposes:

(a) Single-family detached dwellings.
(b) Accessory buildings and uses in association with a permitted dwelling.
(c) Home occupations in accordance with Chapter 1187.
(d) Private kennels.

## 1155.03 CONDITIONAL USES.

The following uses may be allowed in the Limited Density Residential District (R-1) subject to approval in accordance with Chapter 1145:

(a) Churches and other similar places of worship and parish houses provided said use occupies a lot of not less than three (3) acres;

The minimum lot width is three hundred (300 feet).

The lot is adequate to accommodate the required off-street parking requirements of the church in accordance with Chapter 1185.

The church building is set back from any adjacent residential property line a distance equal to or greater than the height of the structure exclusive of the steeple or spire.

The church lot is accessible to a major arterial in a manner that does not require the passage of traffic through local residential streets.

There is one (1) acre or more per one hundred (100) seats or similar accommodations in the main assembly hall.

Accessory living quarters may be provided on the church lot as a conditional use. The location, density, and the additional lot area required for such uses shall be subject to approval by the Planning and Zoning Commission. Accessory recreational uses may be provided on the church lot as a conditional use subject to approval by the Planning and Zoning Commission.

(b) Public uses: parks, playgrounds, recreation and community center buildings and grounds, golf courses, public swimming pools, tennis courts and similar recreational uses, provided that any principal building or swimming pool used therefore shall be located not less than one-hundred and fifty (150) feet from any other lot in any residential district unless otherwise approved as part of the development plan within a planned development district.

(1) All golf course facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:

A. The hours of operation of the golf course shall be limited from dawn to dusk to prevent undue disturbance to neighboring uses.

B. All maintenance equipment shall be stored in sheds or other structures and away from view.

C. No hole or green shall be located within two hundred (200) feet of an existing residential structure unless otherwise approved as part of the development plan within a planned district.
D. The Planning and Zoning Commission may require fencing, walls, landscaping, earth mounds or other measures where it is determined that buffering or screening is necessary to manage land use conflicts and/or protect the public safety unless otherwise approved as part of the development plan within a planned district.
E. Parking area requirements shall conform to Chapter 1185.
F. The minimum floor area requirements for the clubhouse or management structure shall be five thousand (5,000) square feet.
G. Any golf courses hereinafter constructed within designated areas of Commercial Point shall occupy not less than one hundred fifty (150) acres.
(2) All private outdoor recreational facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:
A. Minimum lot area for a private recreational facility shall be no less than six (6) acres.
B. Setbacks: Front = 100 feet for structures and 75 feet for parking; Rear = 75 feet; Side = 75 feet.
C. All structures and playing fields for outdoor recreation shall be located at least two-hundred and fifty (200) feet and drives and parking areas shall be at least fifty (50) feet from any adjacent parcels where residences are a permitted use.
D. Where a landscaped screen is not already required adjacent to another parcel, one (1) deciduous tree shall be provided for every forty (40) feet of parking lot boundary and loading/unloading area, plus a three (3) foot average height continuous planting, hedge, fence wall or earth mound. The same parking lot perimeter screening shall also be provided adjacent to the public right-of-way. At least one tree per 5,000 square feet of parking area shall be provided within the parking lot.
E. All outdoor playing fields, courts and other similar outdoor recreation facilities must be secured at night to prevent unauthorized access. While no lighting will be permitted on any such outdoor recreation facility, security lights may be approved for any permanent facilities at the site.
F. The maximum density allowed on any parcel shall not exceed one (1) field for every five (5) acres.
G. A minimum of thirty-five (35) parking spaces shall be provided for every field at the site. All parking areas shall be constructed in accordance with Chapter 1185.
H. A minimum eight (8) foot high landscaped screen or combination mound and plant material with a ninety (90) percent year round opacity shall be provided on any side of the site adjacent to parcels where dwellings are a permitted use. If a mound is used it shall be constructed with no more than a 4:1 slope. Mounds shall not be constructed to restrict the natural flow of surface water to or from the site.
I. Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy traffic on residential streets.
J. Permanent toilet facilities, connected to a sanitary sewer or other approved on site disposal system, must be provided with the following minimum number of fixtures: women - 5 toilets and 2 lavatories, men - 1 toilet, 2 urinals and 2 lavatories, additional fixtures must be added at the rate of 3 for every 2 fields over 4 fields per site.
(3) All private indoor recreational facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:

A. Minimum lot area for an indoor private recreational facility shall be no less than five (5) acres.
B. Setbacks: Front = 100 feet for structures and 75 feet for parking; Rear = 75 feet; Side = 75 feet.
C. Driveways and parking areas shall be at least fifty (50) feet from any adjacent parcels where residences are a permitted use.
D. Where a landscaped screen is not already required adjacent to another parcel, one (1) deciduous tree shall be provided for every forty (40) feet of parking lot boundary and loading/unloading area, plus a three (3) foot average height continuous planting, hedge, fence wall or earth mound. The same parking lot perimeter screening shall also be provided adjacent to the public right-of-way. At least one tree per 5,000 square feet of parking area shall be provided within the parking lot.
E. No exterior lighting shall be positioned so as to extend glare on adjacent property or public right-of-way.
F. All activities shall be conducted entirely within an enclosed building.
G. Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy traffic on residential streets.
H. Parking shall be in accordance with the requirements of Chapter 1185
(c) Public and private schools.
(d) Home occupations associated with a principal use and in accordance with Chapter 1187.
(e) Rest homes, nursing homes, children's nurseries of day care centers, and pre-school provided that the following conditions are met, where applicable:
(1) The building occupied by the use is compatible with neighborhood structures in dimension, size, and architecture.
(2) There is an outdoor play area of eighty-five (85) square feet or more per child.
(3) Such play area shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of five (5) feet to control accessibility of children to adjoining hazardous conditions such as streets, ponds, etc., or adjacent yards.
(4) A drop off area is provided so that children do not have to walk through the parking lot to enter the facility.
(5) Parking spaces are provided as specified in Chapter 1185.
(6) The facility meets or exceeds State of Ohio provisions for daycare operations.
(f) Customary agricultural operations, excluding horses, including the sale of produce raised on the premises, provided such operation is over ten (10) acres in area and further provided that no storage of manure or odor or dust producing substance or use of the housing of farm animals, excluding horses, shall be permitted. The housing of horses shall comply with Section 1181.06.
(g) Accessory structures used as private kennels.
(h) Bed and Breakfast Inns provided that the following conditions are met:
(1) Structure. The structure is a single family, detached dwelling.
(2) Guest Rooms. There shall be no more than four (4) separate guest rooms within a single family dwelling that are utilized by bed and breakfast guests nor more than twenty-five (25) percent of a dwelling's net floor area, whichever is greater. A guest room shall contain no less than one hundred (100) square feet of living space, not including closets, for two guests and thirty (30) square feet for each additional guest up to a total of four (4) guests per room.

(3) Owner/Operator. The owner/operator of the bed and breakfast shall live full-time on the inn's premises. Such owner/operator shall be the owner of record of no less than fifty (50) percent interest of the property in question.

(4) Approval of Fire and Health Officers. Written approval from fire and health officers shall be required for each conditional use application requesting approval for a bed and breakfast inn. Each guest room shall contain a separate installed smoke detector alarm approved by the fire officer. No premises shall be utilized for a bed and breakfast inn unless there are at least two (2) separate exits to the outdoors.

(5) Meals. No more than one (1) meal shall be served to each paying guest of the bed and breakfast inn and that meal shall be breakfast.

(6) Consecutive Nights. A paying guest may stay at a bed and breakfast inn for not more than seven (7) consecutive nights at any single visit nor more than a total of twenty-eight (28) nights in any given year.

(7) Kitchen Facilities. Only one (1) kitchen facility shall be permitted per structure for which a conditional use is granted to operate a bed and breakfast inn. No cooking facilities shall be permitted in individual guest quarters.

(8) Bathrooms. A minimum of one (1) full bathroom, including shower, toilet and sink, shall be required for every two (2) guest rooms to be available for the exclusive use of bed and breakfast paying guests. Bed and breakfast inns shall be serviced by public sanitary sewer and water service.

(9) Guest Register. A guest register listing the name, address, phone number, and dates of stay of all paying guests shall be maintained by the owner/operator and shall be made available for inspection by Municipal officials.

(10) Special Gatherings. Rental of the bed and breakfast inn for special gatherings such as wedding receptions and parties shall be prohibited in all residential zoning districts or properties adjacent to a residential zoning district.

(11) Business License. A business license shall be required to be obtained from Commercial Point.

(12) Public Nuisance. Bed and breakfast inns shall not be permitted and a conditional use shall be revoked or suspended by Council whenever the operation has been found by the Planning and Zoning Administrator to conflict with or violate public nuisance regulations under Section 1181.03.

(13) Employees. No more than two (2) individuals who are non-residents of the dwelling may be employed in the operation of a bed and breakfast inn, whether or not compensated.

## 1155.04 DEVELOPMENT STANDARDS.

(a) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Limited Density Residential District (R-1):

(1) Lot area: Twenty-five-thousand (25,000) square feet.

(2) Lot coverage (maximum): Thirty (30) percent.

(3) Lot width: One-hundred (100) feet of frontage on an improved public right- of-way.

(4) Lot width on a curving street or cul-de-sac: Sixty (60) feet of frontage on an improved public right-of-way and lot width shall be one-hundred (100) feet at the minimum building line.

(5) Front yard setback: Sixty (60) feet as measured between the street right-of- way line and the building setback line.

(6) Side yard setback: Fifteen (15) feet on each side as measured from the side property line.
(7) Rear yard setback: Forty (40) feet as measured from the rear property line; an accessory building may be located in the rear yard no less than eight (8) feet from the rear property line.
(8) Dwelling dimensions: The following dwelling minimum dimensions measured in terms of square footage apply to all residential structures:

| DWELLING TYPE | GROUND FLOOR AREA (square feet) | FINISHED FLOOR AREA (square feet) |
|---|---|---|
| Two-story | 1,100 | 2,200 |
| One-and-a-Half-Story | 1,400 | 2,000 |
| One-Story | 1,800 | 1,800 |
| Split Level | 1,800 | 1,800 |

(b) Supplemental Standards. The following supplemental standards shall apply within the Limited Density Residential District (R-1):
(1) No building shall exceed thirty-five (35) feet in height, nor more than two (2) stories in height.
(2) Any building with a height in excess of one and one-half (1 ½ ) stories or twenty (20) feet shall have a basement.
(3) Applicable standards shall be met in corresponding sections of this Zoning Code.

**CHAPTER 1157**
**Low Density Residential District (R-3)**

## 1157.01 PURPOSE.

The R-3 District is established as a moderate density, detached, single-family residential district and shall be serviced by public water and sanitary sewer systems. The R-3 provides for a residential character more dense than the R-1 District and where economies of scale support additional utility and infrastructure services.

## 1157.02 PERMITTED USES.

Land and buildings in the Low Density Residential District (R-3) shall be used only for the following purposes:
(a) Single-family detached dwellings.
(b) Accessory buildings and uses in association with a permitted dwelling.
(c) Home occupation in accordance with Chapter 1187.
(d) Private kennels.

## 1157.03 CONDITIONAL USES.

The following uses may be allowed in the Low Density Residential District (R-3) subject to approval in accordance with Chapter 1145:

(a) Churches and other similar places of worship and parish houses provided said use occupies a lot of not less than three (3) acres.

The minimum lot width is three hundred (300 feet).

The lot is adequate to accommodate the required off-street parking requirements of the church in accordance with Chapter 1185.

The church building is set back from any adjacent residential property line a distance equal to or greater than the height of the structure exclusive of the steeple or spire.

The church lot is accessible to a major arterial in a manner that does not require the passage of traffic through local residential streets.

There is one (1) acre or more per one hundred (100) seats or similar accommodations in the main assembly hall.

Accessory living quarters may be provided on the church lot as a conditional use. The location, density, and the additional lot area required for such uses shall be subject to approval by the Planning and Zoning Commission. Accessory recreational uses may be provided on the church lot as a conditional use subject to approval by the Planning and Zoning Commission.

(b) Public uses: parks, playgrounds, recreation and community center buildings and grounds, golf courses, public swimming pools, tennis courts and similar recreational uses, provided that any principal building or swimming pool used therefore shall be located not less than one-hundred and fifty (150) feet from any other lot in any residential district unless otherwise approved as part of the development plan within a planned development district.

(1) All golf course facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:

A. The hours of operation of the golf course shall be limited from dawn to dusk to prevent undue disturbance to neighboring uses.

B. All maintenance equipment shall be stored in sheds or other structures and away from view.

C. No hole or green shall be located within two hundred (200) feet of an existing residential structure unless otherwise approved as part of the development plan within a planned district.

D. The Planning and Zoning Commission may require fencing, walls, landscaping, earth mounds or other measures where it is determined that buffering or screening is necessary to manage land use conflicts and/or protect the public safety unless otherwise approved as part of the development plan within a planned district.

E. Parking area requirements shall conform to Chapter 1185.

F. The minimum floor area requirements for the clubhouse or management structure shall be five thousand (5,000) square feet.

G. Any golf courses hereinafter constructed within designated areas of Commercial Point shall occupy not less than one hundred fifty (150) acres.

(2) All private outdoor recreational facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:

A. Minimum lot area for a private recreational facility shall be no less than six (6) acres.

B. Setbacks: Front = 100 feet for structures and 75 feet for parking; Rear = 75 feet; Side = 75 feet.

C. All structures and playing fields for outdoor recreation shall be located at least two-hundred and fifty (200) feet and drives and parking areas shall be at least fifty (50) feet from any adjacent parcels where residences are a permitted use.
D. Where a landscaped screen is not already required adjacent to another parcel, one (1) deciduous tree shall be provided for every forty (40) feet of parking lot boundary and loading/unloading area, plus a three (3) foot average height continuous planting, hedge, fence wall or earth mound. The same parking lot perimeter screening shall also be provided adjacent to the public right-of-way. At least one tree per 5,000 square feet of parking area shall be provided within the parking lot.
E. All outdoor playing fields, courts and other similar outdoor recreation facilities must be secured at night to prevent unauthorized access. While no lighting will be permitted on any such outdoor recreation facility, security lights may be approved for any permanent facilities at the site.
F. The maximum density allowed on any parcel shall not exceed one (1) field for every five (5) acres.
G. A minimum of thirty-five (35) parking spaces shall be provided for every field at the site. All parking areas shall be constructed in accordance with Chapter 1185 of this Zoning Code.
H. A minimum eight (8) foot high landscaped screen or combination mound and plant material with a ninety (90) percent year round opacity shall be provided on any side of the site adjacent to parcels where dwellings are a permitted use. If a mound is used it shall be constructed with no more than a 4:1 slope. Mounds shall not be constructed to restrict the natural flow of surface water to or from the site.
I. Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy traffic on residential streets.
J. Permanent toilet facilities, connected to a sanitary sewer or other approved on site disposal system, must be provided with the following minimum number of fixtures: women -5 toilets and 2 lavatories, men - 1 toilet, 2 urinals and 2 lavatories, additional fixtures must be added at the rate of 3 for every 2 fields over 4 fields per site.
(3) All private indoor recreational facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:
A. Minimum lot area for an indoor private recreational facility shall be no less than 5 acres.
B. Setbacks: Front = 100 feet for structures and 75 feet for parking; Rear = 75 feet; Side = 75 feet.
C. Driveways and parking areas shall be at least fifty (50) feet from any adjacent parcels where residences are a permitted use.
D. Where a landscaped screen is not already required adjacent to another parcel, one (1) deciduous tree shall be provided for every forty (40) feet of parking lot boundary and loading/unloading area, plus a three (3) foot average height continuous planting, hedge, fence wall or earth mound. The same parking lot perimeter screening shall also be provided adjacent to the public right-of-way. At least one tree per 5,000 square feet of parking area shall be provided within the parking lot.
E. No exterior lighting shall be positioned so as to extend glare on adjacent property or public right-of-way.
F. All activities shall be conducted entirely within an enclosed building.

G. Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy traffic on residential streets.
H. Parking shall be in accordance with the requirements of Chapter 1185.
(c) Public and private schools.
(d) Home occupations associated with a principal use and in accordance with Chapter 1187.
(e) Customary agricultural operations, excluding horses, including the sale of produce raised on the premises, provided such operation is over ten (10) acres in area and further provided that no storage of manure or odor or dust producing substance or use of the housing of farm animals, excluding horses, shall be permitted. The housing of horses shall comply with Section 1181.06.
(f) Accessory structures used as private kennels.
(g) Day care centers and pre-schools provided that the following conditions are met, where applicable:
(1) The building occupied by the use is compatible with neighborhood structures in dimension, size, and architecture.
(2) There is an outdoor play area of eighty-five (85) square feet or more per child.
(3) Such play area shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of five (5) feet to control accessibility of children to adjoining hazardous conditions such as streets, ponds, etc., or adjacent yards.
(4) A drop off area is provided so that children do not have to walk through the parking lot to enter the facility.
(5) Parking spaces are provided as specified in Chapter 1185.
(6) The facility meets or exceeds State of Ohio provisions for daycare operations.
(h) Bed and Breakfast Inns provided that the following conditions are met:
(1) Structure. The structure is a single family, detached dwelling.
(2) Guest Rooms. There shall be no more than four (4) separate guest rooms within a single family dwelling that are utilized by bed and breakfast guests nor more than twenty-five (25) percent of a dwelling's net floor area, whichever is greater. A guest room shall contain no less than one hundred (100) square feet of living space, not including closets, for two guests and thirty (30) square feet for each additional guest up to a total of four (4) guests per room.
(3) Owner/Operator. The owner/operator of the bed and breakfast shall live full-time on the inn's premises. Such owner/operator shall be the owner of record of no less than fifty (50) percent interest of the property in question.
(4) Approval of Fire and Health Officers. Written approval from fire and health officers shall be required for each conditional use application requesting approval for a bed and breakfast inn. Each guest room shall contain a separate installed smoke detector alarm approved by the fire officer. No premises shall be utilized for a bed and breakfast inn unless there are at least two (2) separate exits to the outdoors.
(5) Meals. No more than one (1) meal shall be served to each paying guest of the bed and breakfast inn and that meal shall be breakfast.
(6) Consecutive Nights. A paying guest may stay at a bed and breakfast inn for not more than seven (7) consecutive nights at any single visit nor more than a total of twenty-eight (28) nights in any given year.
(7) Kitchen Facilities. Only one (1) kitchen facility shall be permitted per structure for which a conditional use is granted to operate a bed and breakfast inn. No cooking facilities shall be permitted in individual guest quarters.

(8) Bathrooms. A minimum of one (1) full bathroom, including shower, toilet and sink, shall be required for every two (2) guest rooms to be available for the exclusive use of bed and breakfast paying guests. Bed and breakfast inns shall be serviced by public sanitary sewer and water service.
(9) Guest Register. A guest register listing the name, address, phone number, and dates of stay of all paying guests shall be maintained by the owner/operator and shall be made available for inspection by Municipal officials.
(10) Special Gatherings. Rental of the bed and breakfast inn for special gatherings such as wedding receptions and parties shall be prohibited in all residential zoning districts or properties adjacent to a residential zoning district.
(11) Business License. A business license shall be required to be obtained from Commercial Point.
(12) Public Nuisance. Bed and breakfast inns shall not be permitted and a conditional use shall be revoked or suspended by Council whenever the operation has been found by the Planning and Zoning Administrator to conflict with or violate public nuisance regulations under Section 1181.03.
(13) Employees. No more than two (2) individuals who are non-residents of the dwelling may be employed in the operation of a bed and breakfast inn, whether or not compensated.

## 1157.04 DEVELOPMENT STANDARDS.

(a) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Low Density Residential District (R-3):
(1) Lot area: Twelve thousand two hundred (12,200) square feet.
(2) Lot coverage (maximum): Thirty (30) percent.
(3) Lot width: Seventy (70) feet of frontage on an improved public right-of- way.
(4) Lot width on a curving street or cul-de-sac: Forty-five (45) feet of frontage on an improved public right-of-way and lot width shall be seventy (70) feet at the minimum building line.
(5) Front yard setback: Thirty (30) feet as measured between the street right- of-way line and the building setback line.
(6) Side yard setback: Ten feet on each side as measured from the side property line.
(7) Rear yard setback: Thirty (30) feet as measured from the rear property line. Accessory building may be located in the rear yard no less than eight (8) feet from the rear property line.
(8) Dwelling dimensions: The following dwelling minimum dimensions measured in terms of square footage shall apply to all residential dwellings in the R-3 district:

| DWELLING TYPE | GROUND FLOOR AREA (square feet) | FINISHED FLOOR AREA (square feet) |
|---|---|---|
| Two-story | 950 | 1,900 |
| One-and-a-Half-Story | 1,250 | 1,700 |
| One-Story | 1,500 | 1,500 |
| Split Level | 1,500 | 1,500 |

(b) Supplemental Standards. The following supplemental standards shall apply within the Low Density Residential District (R-3):
(1) No building shall exceed thirty-five (35) feet in height, nor more than two (2) stories in height.
(2) Any building with a height in excess of one and one-half (1½) stories or twenty (20) feet shall have a basement.
(3) Applicable standards shall be met in corresponding sections of this Zoning Code.

**CHAPTER 1159**
**Optional Traditional Neighborhood Development Floating District (TND)**

## 1159.01 PURPOSE.

(a) The purpose of this district is to allow the optional development of land consistent with the design principles of "traditional" neighborhoods. These principles provide an opportunity for diversification and integration of land uses including residential, retail, office, recreation, etc., within close proximity to one another, thereby providing for many of the daily needs of the inhabitants of the neighborhood.

(b) The district is designed to be self-contained, tightly gridded, and pedestrian-oriented to encourage socializing, walking, and other aspects of a vibrant outdoor urban experience. The traditional neighborhood district (TND) is an optional zoning district/category.

## 1159.02 DESIGN OBJECTIVES.

The provisions of this district are intended to establish a neighborhood which:
(a) Is physically recognizable and limited in size.
(b) Places residences, shops, workplaces, and civic buildings in close proximity to one another within the neighborhood, thereby maximizing transportation choice and reducing the number and length of motor vehicle trips, traffic congestion, and need for road widening. Compatibility of buildings, uses, and other improvements is determined by their arrangement, scale, character, and landscaping to establish a livable, harmonious, and diverse environment.
(c) Establishes a hierarchy of streets serving equitably the needs of the pedestrian, the bicyclist, the bus rider, and the motorist. Streets are interconnected and blocks are small.
(d) Places civic buildings and squares in prominent locations that act as landmarks, symbols and focal points for community identity. Such buildings and squares provide places of assembly for social activities.
(e) Links civic buildings, squares, and parks with pedestrian paths and greenways to provide places for social activity and recreation.
(f) Includes private buildings forming a consistent, distinct edge, spatially delineating the public street space and the private block interior.
(g) Includes architecture and landscape that are consistent with the unique character of the region.
(h) Provides defined public spaces such as streets and squares, allowing citizens to know each other and watch over their collective security.
(i) Provides a full range of housing types and work places, allowing all age groups and economic classes to integrate in an authentic community.
(j) Provides trees of the same size, shape or type to create visual continuity and a unified.

## 1159.03 DEFINITIONS.

The following definitions shall be applicable in the TND District. When there are conflicts between the terms used herein and definitions as provided elsewhere in the Code of Zoning Codes, the provisions of this district shall take precedence. Terms used throughout this district shall take their commonly accepted meaning unless otherwise defined in this Zoning Codes. Terms requiring interpretation specific to this district are as follows:

(1) "A" Street. A street which is designed with, or otherwise characterized by, features that promote the safety, comfort, and convenience of pedestrians, and does so in a relatively exceptional way. Such streets typically feature sidewalks at least five feet wide, narrow streets, buildings pulled up close to the street, no front yard off-street parking, pedestrian-scaled lighting, on- street parking, landscaped medians, articulated building walls, aligned building facades, a building entrance on the street, modest turning radii, trash receptacles remote from the sidewalk, and outdoor mechanical equipment on the side, rear or roof of buildings.

(2) Alley. A vehicular passageway providing secondary and/or service access to the sides or rear of building lots.

(3) Artisanal Use. The manufacture and sale of artifacts utilizing only hand- held and/or table-mounted electrical tools. Such a use must be contained within a completely enclosed building.

(4) Block. The gross area of lots and adjacent alleys, circumscribed by streets.

(5) Civic Building. A building, either publicly or privately owned, located on a civic lot used for any permitted or required civic use.

(6) Colonnade. A roof or building structure, extending over the sidewalk, open to the street and sidewalk except for supporting columns or piers. Awnings are permitted within the TND but are not considered colonnades. Colonnades shall not cause roof drainage into the public right-of-way.

(7) Cornice Line. A molded and projecting horizontal member that crowns an architectural composition. A cornice line shall project a minimum of 2 inches from the front elevation of the structure.

(8) Drive-through. Establishments which provide services or sales that are extended mechanically or personally to customers who do not exit their motorized vehicle. Such facilities include banking facilities, restaurants, food sales, dry cleaning, express mail services and other services. Not included in this definition are auto fuel pumps and depositories which involve no immediate exchange or dispersal to the customer, such as mailboxes, library book depositories and recycling facilities.

(9) Edge Area. A continuous open area which defines and buffers the edge of a TND and each neighborhood proper. Edge areas shall be preserved in perpetuity to buffer adjacent land uses, preserve natural areas, and provide linked greenway corridors.

(10) Formal landscaping. Street trees or shrubs that form an aligned street wall parallel to the street. When used, brick-paved sidewalks or tree grates may be required to be constructed using engineered soil to accommodate root growth for long-term tree stability and infrastructural compatibility. This tree arrangement forms an intimate, comfortable, dignified public place along a corridor. The arrangement is often useful to visually "narrow down" a corridor when facing buildings on a street are set too far apart or are of insufficient height to establish a comfortable street width to building height ratio of 3:1 to 1:1.

(11) Front Porch An un-air conditioned roofed structure attached to the front and along a side walked street side of the unit, having a minimum depth of 6 feet and a minimum width of 12

feet. Except for insect screening and supporting columns, front porches shall not be enclosed above the minimum railing height allowed by the Standard Building Code. All or a portion of the front porch may encompass a ramp providing handicap access. Front porches may encroach up to 10 feet beyond the build-to line.

(12) Frontage. That side of a lot abutting a street right-of-way. When a lot abuts more than one street, it is that side that abuts the more primary street or the street designed for the highest pedestrian volume. For a corner lot, all sides abutting a street shall be considered frontage.

(13) Lodging Use. Buildings providing food service and bedrooms for rent or lease.

(14) Lodging Use, Limited. The provision of no more than 4 bedrooms for rent or lease. Food service may be included between the hours of 6:00 am to 11:00 am. The maximum length of stay shall not exceed 14 consecutive days.

(15) Lot or Building Lot. A separately platted portion of private land, not including the specified sidewalk area.

(16) Meeting Hall. A building designed for public assembly.

(17) Neighborhood Proper. The built-up area planned for development within a TND, including blocks, streets, squares, and parks, but excluding adjacent edge areas and through streets.

(18) Office Use, Limited. The transaction of business or the supply of professional services, employing no more than eight (8) persons.

(19) Outbuilding. A detached accessory use building on a residential lot, for residential, parking, or storage use only.

(20) Park. A public open space whose area is delineated by the surrounding building frontage lines within the neighborhood proper. Parks shall be surrounded by building frontage lines on at least 50 percent of the park's perimeter.

(21) Pedestrian Pathways. Interconnecting paved walkways that provide pedestrian passage through blocks running from street to street. For the purposes of this district, pathways are not sidewalks.

(22) Plaza. An open space area within a town center on which many or all Shopfront lots front. Plazas shall be limited to parking, landscaping, and permanent architectural and/or water oriented features.

(23) Private Open Space. That space on each building lot that is for the private use of the inhabitants of such lot. Said space shall be unenclosed except for being fenced or walled, and open to the sky except for roofed porches. Atriums, gardens, garden courts, walks, patios, and other similar spaces shall count as private open space. Up to one third of the private open space area may be a roof terrace.

(24) Screening wall. A wall made of fieldstone, brick, stucco, wrought-iron (or equivalent to wrought-iron), or wood picket excluding round industrial railing and chain link fence.

(25) Square. An outdoor public civic tract whose area is defined by streets or adjacent buildings. Squares shall include streets on at least three sides. Squares shall be surrounded by Shopfronts, Rowhouses, or Civic Use lots on at least 60 percent of their perimeter. No more than 40 percent of the square may be used for parking.

(26) Streetedge. The vertical face formed by building facades, street trees, and screening walls which is aligned along a street and forms a comfortable people-scaled space.

(27) Street Vista. A view through or along a street centerline which is at least 600 feet in length.

(28) Through Street. A major collector or arterial street which serves more than one neighborhood, or carries traffic between neighborhoods proper.
(29) Town Center. An optional and accessory use to the TND providing for larger scale commercial Shopfront uses in buildings that front a plaza.
(30) Vertical integration. Mixed, dissimilar land uses are contained within the same building usually on different floors of a multi-story building. By contrast, a horizontal integration represents a mix of land uses that are near each other but in separate buildings.

## 1159.04 MINIMUM AND MAXIMUM SIZE, DENSITY OF TND.

All applications for a TND shall comply with the following development parameters:
(a) Size and Location of Site. The minimum size of each neighborhood proper shall be sixteen (16) acres unless approved by the Planning and Zoning Administrator. A neighborhood proper shall be developed on contiguous lots or tracts.
(b) Density. The requested densities, in terms of number of units per gross residential acre and total number of dwelling units, shall be made at the time of application, and shall be at least eight (8) du/ac but may not exceed twelve (12) du/ac.

## 1159.05 GENERAL DEVELOPMENT CRITERIA.

(a) Land Use.
(1) The entire land area of the TND shall be divided into blocks, streets, and lots, and optional edge areas.
(2) Permitted Uses. All uses permitted in R-1, R-3, MF-A, MF-C, NC, GC and SO districts are permitted within the TND.
(3) Similar land uses (uses within the same land use category) shall generally face across streets. Dissimilar uses, when adjacent, shall abut at rear lot lines. Parks and Squares Uses and Civic Uses are considered similar land uses for the purposes of this provision.
(4) Neighborhoods shall be limited in size or shape to allow residents to walk to the neighborhood square.
(5) The TND shall contain a meeting hall or clubhouse, and neighborhood square within 1,000 feet of the geographic center of each neighborhood.
(6) A neighborhood proper shall provide areas of mixed use (residential and commercial) buildings and shall encourage by design the clustering of living, working, recreation, shopping, and civic uses.
(7) A drive-through is allowed under the following conditions:
A. No more than one drive-through lane is allowed within the neighborhood proper.
B. The drive-through must not have its entrance or exit drive onto an "A" Street.
C. The drive-through is located at the rear or side of the building.
(b) Streets and Alleys.
(1) Streets shall provide access to all lots and all residential lots shall abut an alley, unless the Planning and Zoning Administrator determines that good cause exists to omit an alley or a portion of an alley.
(2) All streets and alleys shall connect to other streets within the TND. All streets shall connect to existing and projected streets outside the TND, when possible. Cul-de-sacs, T-turnarounds and gated or dead-end streets are not permitted within the TND.
(3) Pedestrian pathways shall be not less than four (4) feet in width.
(4) Utilities shall run underground or along an alley to the rear of a lot.

(5) Street lighting shall be provided along all streets. The general rule for lighting in a TND is to prefer more, smaller lights as opposed to fewer, high-intensity lights, to provide a more human scale. Street light structures shall not exceed 18 feet in height. Streetlights shall be installed on both sides of streets at intervals no longer than 75 feet measured parallel to the street. Building, wall, and freestanding exterior lighting fixtures shall be directed downward in order to reduce glare onto adjacent properties and streets. If the provisions for lighting of this TND District conflict with the municipal lighting policy, the provisions of the TND District shall prevail.
(6) The TND plan shall designate publicly and privately owned civic lots and, where possible, the general location of a civic building at the terminus of street vistas for all major internal streets. Termination of street vistas with a prominent public monument, specifically designed building facade, or a gateway to the ensuing space, is also encouraged.
(7) A neighborhood's residences, shopping, employment, and recreation shall be connected by sidewalks, pedestrian paths, bicycle paths, and local streets.
(8) All streets shall have a six-inch high curb except for streets in House Use areas, where they are encouraged but not required. A curb, six inches in height, is required at all street intersections. There shall be curb cuts providing handicap access at all intersections and points of pedestrian crossing. Curb interruptions are permitted only for alleys, handicap access, and parking access points specified herein.
(9) Shopfront Use lots, Rowhouse Use lots, House Use lots, and Workplace Use lots shall have their rear lot lines coinciding with an alley. Alleys shall be designed in such a manner as to ensure compatibility with its intended use.
(10) Other street specifications:

| | **Shopfront** | **Rowhouse** | **House** | **Workplace** |
|---|---|---|---|---|
| Typical street right-of-way | 60 feet | 50 feet | 46 feet | 60 feet |
| Number of street travel lanes | 2 | 2 | 2 | 2 |
| Travel lane widths | 11 feet | 10 feet | 10 feet | 12 feet |
| Number of parallel parking lanes | At least 1 | At least 1 | 0 | At least 1 |
| Width of parallel parking lane | 8 feet | 8 feet | NA | 8 feet |
| Sidewalk on both sides of street | Yes | Yes | Yes | Yes |
| Minimum width of sidewalk | 8 feet | 6 feet | 6 feet | 8 feet |
| Maximum intersection curb radius* | 10 feet | 10 feet | 10 feet | 15 feet |
| Design speed of streets | 25 mph | 25 mph | 25 mph | 25 mph |

* Or larger as determined by the Planning and Zoning Administrator due to reasonably expected traffic volumes or traffic types as noted by "Traditional Neighborhood Development Street Design Guidelines," by ITE, 6/97.

(11) Parallel parking shall be located adjacent to all Shopfront lots when such lots front a square, park and/or plaza. Otherwise, parallel parking is encouraged.
(12) Shopfront Use lots and Rowhouse Use lots may front on a square or park tract. In addition, a public access easement shall provide for public passage for Shopfront Use sidewalks -- excepting an area within four (4) feet of the Shopfronts which may be occupied by furniture for restaurants.
(13) For House Use lot streets, planting strips are required on each side. However, a parallel parking lane may be used in place of either planting strip.
(14) Shopfront Use lots and Workplace Use lots may front on through streets if approved by the Planning and Zoning Administrator. Shopfront Use lots may also front on a town center.
(15) If colonnades are provided on Shopfront Use lot streetside sidewalks, no street trees are required on that side of the street.

(c) Lots and Buildings.
(1) Consistent build-to lines shall be established along all streets and public space frontages. This build-to line shall determine the width and ratio of enclosure desired for each street or public space. A minimum percentage build-out at the build-to line shall be established on the plan along all streets and public square frontages.
(2) All buildings shall have their main entrance opening to a street or square (except outbuildings).
(3) Stoops, colonnades, chimneys, arcades, awnings, cafes, projecting signs and front porches may encroach up to 10 feet into the front setback, as long as sufficient space for the required sidewalk width is retained.
(d) Facade Treatment.
(1) No more than 20 feet of horizontal distance of wall shall be provided without facade articulation or architectural relief for building walls and frontage walls facing the street. Façade articulation or architectural relief can include, but is not limited to, pilasters, windows, pedestrian entrances, arcades, awnings, shutters and canopies, or other types of building massing that modulates the building mass or surface texture. Facade articulation shall maintain a distinction between the street-level story and upper stories.
(2) The rhythm established by the repetition of the facade elements shall be maintained.
(e) All outdoor mechanical equipment, such as heating, air conditioning, and ventilation systems, must be placed on the roof, in the rear or side of the building, or otherwise visually screened from the street. In no case shall mechanical equipment be allowed along street frontage(s). Mechanical equipment on the roof shall be screened from abutting streets with parapets or other types of visual screening.
(f) Signage. A comprehensive sign program is required for the entire TND which establishes a uniform sign theme. Signs shall share a common style (color scheme, type, size, material), as approved by the Planning and Zoning Commission.

## 1159.06 LAND USE CATEGORIES.

(a) Parks and Squares Use.
(1) Land use.
A. Land designated for Parks and Squares Use shall be tracts consisting of parks, squares, edge areas, and Civic Use lots and buildings.
B. The only buildings permitted in Parks and Squares Use tracts shall be Civic Use buildings.

C. A maximum of fifteen (15) percent of a park or square may be used as a Civic Use lot.
D. Large-area recreational uses requiring more than three (3) acres of land, such as golf courses and multiple ball fields, shall be located outside the neighborhood proper, but may be located within edge areas between neighborhoods proper.
(2) Land allocation.
A. A minimum of five (5) percent of the gross area of the neighborhood proper shall be permanently allocated to tracts totally composed of parks or squares. No single square or park can be more than 45 percent of the Parks and Squares Use area.
B. Squares and parks shall have at least 50 percent of their perimeter abutting streets. A square shall be surrounded by Shopfront Use lots or Rowhouse Use lots on at least 60 percent of its perimeter (perimeter being defined as the aggregate of the frontage lines of the surrounding lots). Such lots surrounding the square shall serve as a focal point for the social life of the neighborhood by providing a neighborhood store, bus stop, and/or other neighborhood services. In addition, it is strongly recommended that a day care center be provided. Parks shall be surrounded by building frontage lines whose collective linear footage is equivalent to at least 50 percent of the park perimeter's linear footage.
(3) Parking. Parking on Parks and Squares Use tracts shall be restricted to required parking for Civic Use facilities located thereon.
(b) Civic Use.
(1) Land use.
A. Land designated for Civic Use shall be lots containing community buildings which shall be open to the public, including, but not limited to, meeting halls, libraries, schools, day care centers, police stations, fire stations, post offices, clubhouses, religious buildings, museums, cultural societies, visual and performance arts buildings, and governmental buildings.
B. The maintenance of commonly-owned buildings on Civic Use lots shall be supported by a permanent assessment dedicated to this purpose and administered according to the common maintenance provisions provided in the Ownership and Maintenance of Common Open Space(s) and Civic Use Buildings section.
(2) Land allocation.
A. Civic Use building lots shall constitute a minimum of 2 percent of the gross area of the neighborhood proper.
B. Civic Use lots shall be located within or adjacent to a square or park tract, or on a lot terminating a street vista.
C. The developer shall include a covenant in the property owners association or condominium association documents to construct a meeting hall or clubhouse on a Civic Use lot, on or adjacent to the mandatory square, upon the sale of 50 percent of the lots and/or units of the neighborhood proper end users.
(3) Lots and buildings. Buildings located on Civic Use lots do not have a height limit.
(4) Parking.
A. The required parking spaces for Civic Uses shall be in accordance with Chapter 1185; however, the minimum number of spaces required by Chapter 1185shall be the maximum.
B. When on-site parking is provided, no less than 75 percent of the off- street parking places shall be to the rear of the building. Access may be through the frontage.
(5) Signage. Two wall signs, not to exceed a combined total of 16 square feet, shall be permitted for each building.

(c) Shopfront Use.

(1) Land use.

A. Land designated for Shopfront Use shall be in building lots containing buildings for residential, including lodging, and commercial uses as provided in the General Commercial District, and other similar uses as approved by Council at the time of rezoning to TND, except those listed as prohibited uses, general development criteria.

B. Residential uses are not permitted on the ground floors of Shopfront Use buildings.

C. An outbuilding is permitted on each lot.

(2) Land allocation.

A. Shopfront Use building lots shall comprise a minimum of 2 percent and a maximum of 30 percent of the gross area of the neighborhood proper.

B. A maximum of two (2) Shopfront Use lots may be consolidated for the purpose of constructing a single building.

C. A maximum of 50 percent of all Shopfront Use lots may be consolidated.

D. A minimum of two (2) Shopfront Use lots shall front on the mandatory square.

(3) Lots and buildings.

A. Street-front entries shall be at grade to allow handicap access.

B. Buildings on Shopfront Use lots shall have the facade built directly on the frontage line along at least 70 percent of its linear frontage. For lots at street intersections, the building shall be built directly on the side street frontage for at least 50 percent of its linear frontage.

C. The unbuilt portion of the frontage line shall have a decorative screening wall built directly upon it. Walls shall have an opening at no more than 100 feet to allow pedestrian access.

D. Buildings on Shopfront Use lots shall have a setback of zero feet along at least one side property line. There shall be no required rear setback.

E. Buildings on Shopfront Use lots shall be at least two (2) stories in height and shall not exceed four (4) stories in height.

F. Unenclosed balconies shall be permitted to extend up to six (6) feet over the sidewalk.

G. Colonnades are required when Shopfront Use lots front on the mandatory square. Enclosed space shall be permitted directly above the sidewalk.

(4) Parking. No less than 75 percent of the parking spaces shall be to the rear of the building. Access may be through the frontage only if an alley or side street providing access to the alley is not within 200 linear feet of the lot.

(5) Signage. All signs shall be wall signs or cantilever signs. Signs shall not exceed a cumulative total of 24 square feet per building, with no more than three (3) signs per building. Individual cantilever signs shall be mounted perpendicular to the building face and shall not exceed eight (8) square feet. No sign shall be mounted above the first floor of the building.

(d) Rowhouse Use.

(1) Land use.

A. Land designated for Rowhouse Use shall be on lots containing buildings for residential uses including townhouse, family day care, and limited office, limited lodging, and artisanal use. Where non- residential uses are proposed, at least fifty percent (50%) of the gross square footage shall be restricted to residential use for each Rowhouse land use district.

B. 100 percent of the building area above the ground floor shall be designated for residential use.

C. An outbuilding is permitted on each lot.

(2) Land allocation.

A. Rowhouse and/or House Use building lots shall constitute a minimum of 20 percent and a maximum of 60 percent of the gross area of the neighborhood proper.
B. A maximum of five (5) Rowhouse Use lots may be consolidated for constructing a single building containing multi-family dwellings.
C. A maximum of 50 percent of all Rowhouse Use lots may be consolidated.
(3) Lots and buildings.
A. No minimum or maximum lot width.
B. Rowhouse Use buildings with the minimum setback shall have their front entry set to one side of the facade.
C. Rowhouse Use buildings shall be attached (built with no side setback or as a single building) at not less than five (5) unit segments. Lots comprising the end of the block adjacent to the street or alley may be attached in segments of two (2) to five (5) units.
D. Buildings on Rowhouse Use lots shall be set back zero (0) to fifteen (15) feet from the frontage line. Buildings at street intersections shall be set back six (6) feet from frontage line and side street line. Setback requirements shall apply to the enclosed portion of the buildings only.
E. Buildings on Rowhouse Use lots shall have a setback of zero feet from at least one side property line. There shall be no required rear setback.
F. Outbuildings shall have no required setbacks.
G. Setbacks on consolidated Rowhouse Use lots shall apply as in a single lot.
H. Buildings on Rowhouse Use lots shall not exceed four (4) stories in height and, when fronting a square, be no less than three (3) stories in height. A cornice line shall be used to define the first floor.
I. Buildings on Rowhouse Use lots shall be raised a minimum of 18 inches from finished exterior sidewalk grade.
J. A minimum of 30 percent of the building lot area shall be developed as private open space.
K. Rowhouse Use lots shall have a streetedge built along the unbuilt parts of the frontage line.
L. A minimum of 25 percent of the buildings on Rowhouse Use lots shall have front porches. Front porches may encroach beyond the build-to line and shall count towards private open space requirements.
(4) Parking. All off-street parking places shall be to the rear of the building. Access shall be through a vehicular alley only.
(5) Signage.
A. All signs shall be wall signs. Signs shall be limited to two (2) per building and shall not exceed a cumulative total of four (4) square feet. No signs shall be mounted above the first floor of a structure.
B. Entry features are not included in the above signage totals.
(e) House Use.
(1) Land use.
A. Land designated for House Use shall be on lots containing buildings for residential uses, including single-family houses, guest houses as outbuildings, home occupations pursuant to Chapter 1187.
B. One hundred percent (100%) of the building area above the ground floor shall be designated for residential use.
C. An outbuilding is permitted on each lot.
(2) Land allocation.

A. House and/or Rowhouse Use building lots shall constitute a minimum of 20 percent and a maximum of 60 percent of the gross area of the neighborhood proper.
B. A maximum of two House Use lots may be consolidated for constructing a single residence.
C. A maximum of 50 percent of all House Use lots may be consolidated.
(3) Lots and buildings.
A. Buildings on House Use lots shall be set back zero (0) to twenty (20) feet from the frontage line. Buildings at street intersections shall be set back 10 feet from the frontage line and the side street frontage.
B. House Use building lots shall have a maximum width of 75 feet.
C. Setbacks on consolidated House Use lots shall apply as on a single lot.
D. Buildings on House Use lots shall be set back from the side building lot lines equivalent (in total) to at least 20 percent of the width of the building lot. The entire setback may be allocated to one side.
E. Buildings on House Use lots shall be set back no less than 20 feet from the rear lot line. Outbuildings on House Use lots shall have no required setback.
F. Buildings on House Use lots shall not exceed three (3) stories in height.
G. Buildings on House Use lots shall have a streetedge built along the frontage line.
H. A minimum of fifty percent (50%) of the buildings on House Use lots shall have front porches. Front porches may encroach into the front setback.
(4) Parking. All off-street parking places shall be to the side or the rear of the building. Where no alley access exists and vehicular access is through the frontage, garage or carports shall be located a minimum of 20 feet behind the front building setback.
(f) Workplace Use.
(1) Land use. Land designated for Workplace Use shall contain buildings for any of the uses contained in the General Commercial or Suburban Office District.
(2) Land allocation.
A. Workplace Use building lots shall constitute a minimum of two percent and a maximum of twenty percent of the gross area of the neighborhood proper.
B. All Workplace Use lots shall be located within one geographic area with no intervening uses.
(3) Lots and buildings.
A. Buildings on Workplace Use lots shall have a setback of zero (0) to five (5) feet from the frontage line. The setback at street intersections shall not exceed five (5) feet from the frontage line and the side street line. Buildings have no setbacks from the side or rear lot lines.
B. Street-front entries shall be at grade to allow handicap access.
C. A minimum of 15 percent of the building lot area shall be developed as landscaped open space.
D. Buildings on Workplace Use lots shall not exceed three (3) stories in height.
E. Workplace Use lots shall be separated from other use types at the side and rear lot lines (excepting an entry on the alley) by a continuous masonry wall no less than three feet and no more than eight feet in height. Walls shall have an opening at no more than 100 feet to allow pedestrian access.
F. Workplace Use building lots shall have a maximum width of 300 feet.
(4) Parking. Off-street parking places shall be to the side or the rear of the building.
(5) Signage. All signs shall be wall-mounted and may be perpendicular to the building face with an 8-foot clearance to the sidewalk. Signs shall not exceed a cumulative total of 24 square feet, and shall be limited to three signs per building.

## 1159.07 OWNERSHIP AND MAINTENANCE OF COMMON AREA(S) AND CIVIC USE BUILDINGS.

All land designated on approved plans as common area, including squares and parks, alleys and all structures devoted to the common use of the inhabitants of a TND, will be owned and/or maintained as follows:

(a) Those projects developed under a condominium ownership shall be in accordance with applicable Ohio law.

(b) On projects not developed under condominium ownership, the common area and Civic Uses shall be owned by a property owners' association, in which case the ownership shall be subject to covenants providing for the maintenance of common facilities in a manner that assures its continuing use for its intended purpose and provided that the property owners' association shall comply with the following requirements:

(1) Approval by the municipal attorney for form and legality as to compliance with this paragraph.

(2) An association shall be established before the units or individual building lots are sold.

(3) Membership shall be mandatory for each property owner and said association shall have the authority to adjust the assessment to meet the needs of maintaining the open space and common facilities.

(4) Any sums levied by the homeowners' association that remain unpaid shall become a lien on the individual property and said lien shall be superior to all other liens except tax liens and mortgage liens, provided said mortgage liens are first liens against the property encumbered thereby, subject only to tax liens and secure indebtedness which are amortized in monthly or quarter annual payments over a period of not less than 10 years.

## 1159.08 APPLICABILITY.

In the case of conflict between the Traditional Neighborhood Development District, and the Subdivision Regulations or any other sections of the Zoning Code, the provisions of the Traditional Neighborhood Development District, shall govern and prevail. To the extent that the provisions of the Traditional Development District, do not expressly amend or supersede the provisions of the underlying zoning districts, the provisions of the underlying districts shall apply.

**CHAPTER 1161**
**Old Town Zoning Districts**

## 1161.01 PURPOSE.

The following Old Town Zoning Districts are hereby established for preserving the character and development pattern of the Old Town area. The Old Town Zoning Districts allow for development intended to be compatible with existing properties in Old Town Commercial Point.

**1161.02 OLD TOWN RESIDENTIAL SINGLE FAMILY (OT-SF).**

(a) Permitted Uses. Land and buildings in the Old Town Residential Single Family District (OT-SF) shall be used only for the following purposes:

(1) Single-family detached dwellings.

(2) Accessory buildings and uses in association with a permitted dwelling.

(3) Home occupations in accordance with Chapter 1187, unless expressly prohibited in Section 1161.04(c).

(b) Conditional Uses. The following uses may be allowed in the Old Town Residential Single Family District (OT-SF) subject to approval in accordance with Chapter 1145:

(1) Churches and other similar places of worship and parish houses provided the following conditions are met:

A. The church building is set back from any adjacent residential property line a distance equal to or greater than the height of the structure exclusive of the steeple or spire.

B. The church lot is accessible to a major arterial in a manner that does not require the passage of traffic through local residential streets.

C. Private parking on the lot and public parking within two hundred (200) feet of the property are adequate to accommodate the required off-street parking requirements of the church in accordance with Chapter 1185.

D. There is one (1) acre or more per one hundred (100) seats or similar accommodations in the main assembly hall.

E. Accessory living quarters may be provided on the church lot as a conditional use. The location, density, and the additional lot area required for such uses shall be subject to approval by the Planning and Zoning Commission. Accessory recreational uses may be provided on the church lot as a conditional use subject to approval by the Planning and Zoning Commission.

(2) Public uses: parks, playgrounds, recreation and community center buildings and grounds, public swimming pools, tennis courts and similar recreational uses, provided that any principal building or swimming pool used therefore shall be located not less than fifty (50) feet from any other lot in any residential district unless otherwise approved as part of the development plan within a planned development district.

(3) Public and private schools.

(4) Home occupations associated with a principal use and in accordance with Chapter 1187.

(5) Day care centers and pre-schools provided that the following conditions are met, where applicable:

A. The building occupied by the use is compatible with neighborhood structures in dimension, size, and architecture.

B. There is an outdoor play area of eighty-five (85) square feet or more per child.

C. Such play area shall be enclosed with a fence or its equivalent in strength and protective character to a height of five (5) feet to control accessibility of children to adjoining hazardous conditions such as streets, ponds, etc., or adjacent yards.

D. A drop off area is provided so that children do not have to walk through the parking lot to enter the facility.

E. Parking spaces are provided as specified in Chapter 1185.

F. The facility meets or exceeds State of Ohio provisions for daycare operations.

(6) Bed and Breakfast Inns provided that the following conditions are met:

A. The structure is a single family, detached dwelling.

B. Guest Rooms. There shall be no more than four (4) separate guest rooms within a single family dwelling that are utilized by bed and breakfast guests nor more than twenty-five (25) percent of a dwelling's net floor area, whichever is greater. A guest room shall contain no less than one hundred (100) square feet of living space, not including closets, for two guests and thirty (30) square feet for each additional guest up to a total of four (4) guests per room.

C. Owner/Operator. The owner/operator of the bed and breakfast shall live full-time on the inn's premises. Such owner/operator shall be the owner of record of no less than fifty (50) percent interest of the property in question.

D. Approval of Fire and Health Officers. Written approval from fire and health officers shall be required for each conditional use application requesting approval for a bed and breakfast inn. Each guest room shall contain a separate installed smoke detector alarm approved by the fire officer. No premises shall be utilized for a bed and breakfast inn unless there are at least two (2) separate exits to the outdoors. Adherence to the Ohio Building Code and National Fire Code is required.

E. Meals. No more than one (1) meal shall be served to each paying guest of the bed and breakfast inn and that meal shall be breakfast.

F. Consecutive Nights. A paying guest may stay at a bed and breakfast inn for not more than seven (7) consecutive nights at any single visit nor more than a total of twenty-eight (28) nights in any given year.

G. Kitchen Facilities. Only one (1) kitchen facility shall be permitted per structure for which a conditional use is granted to operate a bed and breakfast inn. No cooking facilities shall be permitted in individual guest quarters.

H. Bathrooms. A minimum of one (1) full bathroom, including shower, toilet and sink, shall be required for every two (2) guest rooms to be available for the exclusive use of bed and breakfast paying guests. Bed and breakfast inns shall be serviced by public sanitary sewer and water service.

I. Guest Register. A guest register listing the name, address, phone number, and dates of stay of all paying guests shall be maintained by the owner/operator and shall be made available for inspection by Municipal officials.

J. Special Gatherings. Rental of the bed and breakfast inn for special gatherings such as wedding receptions and parties shall be prohibited in all residential zoning districts or properties adjacent to a residential zoning district.

K. Business License. A business license shall be required to be obtained from Commercial Point.

L. Public Nuisance. Bed and breakfast inns shall not be permitted and a conditional use shall be revoked or suspended by Council whenever the operation has been found by the Planning and Zoning Administrator to conflict with or violate public nuisance regulations under Section 1181.03.

M. Employees. No more than two (2) individuals who are non-residents of the dwelling may be employed in the operation of a bed and breakfast inn, whether or not compensated.

(c) Development Standards.

(1) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Old Town Residential Single Family District (OT-SF):

A. Lot area: No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.

B. Lot coverage (maximum): No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the required yard space.

C. Lot width: No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.

D. Front yard build to line: The principal structure shall be located no more than three (3) feet from the build to line. At least fifty (50) percent of the building's front elevation shall be located within the applicable variation from the build-to line range. No part of any structure shall be permitted within the public right of way. The build to line shall be calculated as the distance from the right of way equal to the average setback from the right of way of the existing buildings on the same side of the street. Buildings used in the build to line calculation shall meet the following:

i. Front on the same street as the subject property.

ii. Be located between the nearest cross streets, not including alleys.

iii. Be located on a property with an OT-C, OT-SF or OT-MF zoning.

E. Side yard setback: Five (5) feet on each side as measured from the side property line.

F. Rear yard setback: Twenty (20) feet as measured from the rear property line; an accessory building may be located in the rear yard no less than five (5) feet from the rear property line.

G. Dwelling dimensions: The following dwelling dimensions measured in terms of square footage shall apply to all residential dwellings in the Old Town Residential Single Family District (OT-SF):

| DWELLING TYPE | GROUND FLOOR AREA (square feet) | FINISHED FLOOR AREA (square feet) |
|---|---|---|
| Two-story | 950 | 1,900 |
| One-and-a-Half-Story | 1,250 | 1,700 |
| One-Story | 1,500 | 1,500 |
| Split Level | 1,500 | 1,500 |

(2) Supplemental Standards. The following supplemental standards shall apply within the Old Town Residential Single Family District (OT-SF):

A. The height of a building shall not exceed any of the following: Thirty-five (35) feet, two (2) stories, or ten (10) percent higher than the immediately adjacent structures on the same side of the street. Buildings on corner lots shall not be ten (10) percent higher than the structure immediately adjacent on the same side of the street or ten (10) percent higher than the structure immediately to the rear.

B. Any building with a height in excess of one and one-half (1 1/2) stories or twenty (20) feet shall have a basement.

C. Applicable standards shall be met in corresponding sections of this Zoning Code.

**1161.03 OLD TOWN RESIDENTIAL MULTI FAMILY (OT-MF).**

(a) Permitted Uses. Land and buildings in the Old Town Residential Multi Family District (OT-MF) shall be used only for the following purposes:

(1) Multiple-unit residential structures not exceeding six (6) units per acre and twelve (12) units per building.

(2) Accessory buildings and uses in association with a permitted multiple-unit apartment residential structure, such as recreational facilities.

(b) Conditional Uses. The following uses may be allowed in the Old Town Residential Multi Family District (OT-MF) subject to approval in accordance with Chapter 1145:

(1) Churches and other similar places of worship and parish houses provided the following conditions are met:

A. The church building is set back from any adjacent residential property line a distance equal to or greater than the height of the structure exclusive of the steeple or spire.

B. The church lot is accessible to a major arterial in a manner that does not require the passage of traffic through local residential streets.

C. Private parking on the lot combined with public parking within two hundred (200) feet of the property are adequate to accommodate the required off street parking requirements of the church in accordance with Chapter 1185.

D. There is one (1) acre or more per one hundred (100) seats or similar accommodations in the main assembly hall.

E. Accessory living quarters may be provided on the church lot as a conditional use. The location, density, and the additional lot area required for such uses shall be subject to approval by the Planning and Zoning Commission. Accessory recreational uses may be provided on the church lot as a conditional use subject to approval by the Planning and Zoning Commission.

(2) Public uses: parks, playgrounds, recreation and community center buildings and grounds, public swimming pools, tennis courts and similar recreational uses, provided that any principal building or swimming pool used therefore shall be located not less than one-hundred and fifty (150) feet from any other lot in any residential district unless otherwise approved as part of the development plan within a planned development district.

(3) Public and private schools.

(c) Development Standards.

(1) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Old Town Residential Multi Family District (OT-MF):

A. Lot area: No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.

B. Lot coverage (maximum): No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the required yard space.

C. Lot width: No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.

D. Front yard build to line: The principal structure shall be located no more than three (3) feet from the build to line. At least fifty (50) percent of the building's front elevation shall be located within the applicable variation from the build-to line range. No part of any structure shall be permitted within the public right of way. The build to line shall be calculated as the distance

from the right of way equal to the average setback from the right of way of the existing buildings on the same side of the street. Buildings used in the build to line calculation shall meet the following:

i. Front on the same street as the subject property.

ii. Be located between the nearest cross streets, not including alleys.

iii. Be located on a property with an OT-C, OT-SF or OT-MF zoning.

E. Side yard setback: Five (5) feet on each side as measured from the side property line.

F. Rear yard setback: Twenty (20) feet as measured from the rear property line; an accessory building may be located in the rear yard no less than five (5) feet from the rear property line.

G. Dwelling dimensions: The following dwelling dimensions measured in terms of square footage shall apply to all residential dwellings in the Old Town Residential Multi Family District (OT-MF):

| DWELLING TYPE | FINISHED FLOOR AREA (square feet) |
|---|---|
| One Bedroom | 1,000 |
| Each Additional Bedroom | 225 |

(2) Supplemental Standards. The following supplemental standards shall apply within the Old Town Residential Multi Family District (OT-MF):

A. The height of a building shall not exceed any of the following: Thirty-five (35) feet, two (2) stories, or ten (10) percent higher than the immediately adjacent structures on the same side of the street. Buildings on corner lots shall not be ten (10) percent higher than the structure immediately adjacent on the same side of the street or ten (10) percent higher than the structure immediately to the rear.

B. Two (2) or more multiple-unit structures located on the same lot shall locate no closer than five (5) feet from each structure.

C. Applicable standards shall be met in corresponding sections of this Zoning.

**1161.04 OLD TOWN COMMERCIAL (OT-C).**

(a) Permitted Uses. Land and buildings in the Old Town Commercial District (OT-C) shall be used only for the following purposes:

(1) Retail Stores. Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods (including the buying or processing of goods for resale) including:

A. General Merchandise: Hardware stores, department stores, mail order houses, limited price variety stores, and miscellaneous general merchandise stores.

B. Food: Grocery stores, meat and fish (seafood) markets, fruit stores and vegetable markets, candy, nut and confectionery stores, dairy products stores, retail bakeries, supermarkets, and miscellaneous food stores.

C. Apparel: Clothing, accessories and personal furnishing stores, shoe stores, custom tailors, furriers and fur shops, and miscellaneous apparel and accessory stores.

D. Home Furnishings: Furniture, home furnishings, and equipment stores, household appliance stores, and radio, television and music stores.

E. Eating and drinking places.

F. Electronic products.

G. Video rental store.

H. Miscellaneous Retail: Drug stores and proprietary stores, antique stores and secondhand stores, stationery stores, sporting goods stores and bicycle shops, jewelry stores, florists, cigar stores, news dealers, camera and photographic supply stores, gift, novelty and souvenir shops, optical goods stores, and miscellaneous retail stores not elsewhere classified.

I. Business Services: Advertising, duplicating, addressing, blueprinting, photocopying, mailing, stenography, and business services not elsewhere classified.

J. Artisan Workshop.

K. Specialty food and beverage facility.

(2) Business and Professional Offices. Business offices engaged in providing tangible and intangible services to the public, involving both persons and their possessions, including:

A. Administrative, Business and Professional Offices: Administrative offices primarily engaged in general administration, supervision, purchasing, accounting and other management functions, and professional offices engaged in providing tangible and intangible services to the general public, involving both persons and possessions, including financial services, real estate and insurance.

B. Professional: Offices of physicians and surgeons, dentists and dental surgeons, chiropractors, medical and dental laboratories, health and allied sciences not elsewhere classified, legal services, design services including engineering, architecture, landscape architecture, urban planning, graphic arts and interior design, and accounting, auditing and bookkeeping services.

C. Health care maintenance and emergency services.

(3) Personal and Consumer Services. Personal services generally involving the care of the person or his/her personal effects and consumer services generally involving the care and maintenance of tangible property or the provision of intangible services for personal consumption, including:

A. Personal: Photographic studios, including commercial photography, beauty shops, barber shops, laundromats, shoe repair shops, pressing, alteration and garment repair, and miscellaneous personal service.

B. Repair Services: Electrical repair shops, watch, clock and jewelry repair, reupholsters and furniture repair, and similar household item repair shops and related services.

C. Artisan Studio.

(4) Museums.

(5) Residential. Single family or multi-family residential shall be permitted following the standards of Sections 1161.02 and 1161.03, respectively, and any other sections of this Zoning Code applicable to residential development.

(b) Conditional Uses. The following uses may be allowed in the Old Town Commercial District (OT-C) subject to approval in accordance with Chapter 1145:

(1) Automobile repair and services, automobile convenience markets, and automobile car washes as an accessory use.

(2) Recreation. Theaters, dance halls, dance studios, dance schools, bowling, swimming pools, martial arts studios, and skating rinks.

(3) Convenient Food Markets. Establishments for the sale of food only, gas pumps are not permitted.

(4) Bed and Breakfast. Following the same standards as found in Section 1161.02(b)(6).

(5) Licensed massage parlors.

(6) Animal Grooming or Training. Any grooming, training, or related activities of more than one animal commenced outside shall not be located within two-hundred (200) feet of R-1, R-3, MF-A, MF-C, AR-1, OT-SF, OT-MF and PRD zoning districts or residential sections of PUD, TND and PCND zoning districts. A designated area shall be identified for animals to relieve themselves.

(7) Sale of firearms, ammunition, or other deadly weapons.

(8) Drive-up window service or drive in restaurants.

(9) Exterminators.

(10) Other compatible uses not expressly prohibited by 1161.04(c).

(c) Prohibited Uses. The following uses shall be prohibited in the Old Town Commercial District (OT-C):

(1) Automobile service stations, automobile car washes as a principal use, automobile parking lots or garages as a principal use unless publicly owned, and automobile sales unless exempted as a casual sale in Section 1153.20.

(2) Hotels and motels.

(3) Recreational uses except publicly owned and operated parks and recreational facilities.

(4) Offices of veterinarians and animal hospitals.

(5) Commercial kennels.

(6) Pool halls and amusement arcades as defined in Section 701.01(c).

(7) Outdoor lumberyards.

(8) An establishment principally for the retail sale of alcoholic beverages for off premise consumption, unless produced on site.

(9) Pawn shops.

(10) Check cashing or short term loan establishments as a primary use.

(11) Funeral homes.

(12) Rehabilitation centers for drug addiction, alcohol addiction or other dependency.

(d) Development Standards.

(1) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Old Town Commercial District (OT-C):

A. Lot area: No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.

B. Lot coverage (maximum): No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the required yard space.

C. Lot width: No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.

D. Front yard build to line: The principal structure shall be located no more than three (3) feet from the build to line. At least fifty (50) percent of the building's front elevation shall be located within the applicable variation from the build-to line range. No part of any structure shall be permitted within the public right of way. The build to line shall be calculated as the distance from the right of way equal to the average setback from the right of way of the existing buildings on the same side of the street. Buildings used in the build to line calculation shall meet the following:

i. Front on the same street as the subject property.

ii. Be located between the nearest cross streets, not including alleys.

iii. Be located on a property with an OT-C, OT-SF or OT-MF zoning.

E. Side yard setback: Zero (0) feet if the property does not directly abut a residentially zoned district. If the property abuts a residential district, the side yard setback from the side abutting the residential zoning district shall be eight (8) feet as measured from the side property line. Eaves, cornices, canopies, windowsills, balconies, bay windows, chimneys, or other architectural features shall not extend past any property line.

F. Rear yard setback: Twenty (20) feet as measured from the rear property line; an accessory building may be located in the rear yard no less than eight (8) feet from the rear property line.

(2) Outdoor Display or Storage of Materials: The placement of outdoor display or storage of materials shall be permitted per the following requirements:

A. The size of outdoor display or storage of materials areas for a single property shall not exceed twenty-five (25) square feet or exceed eight (8) feet in height. Outdoor display or storage of materials encompassing more than twenty-five (25) square feet in area shall be subject to Section 1181.02.

B. Any items displayed or stored shall only be placed outdoors during normal business hours of the business displaying or storing the item.

C. Outdoor display or storage areas shall not project into the right of way.

D. The outdoor display or storage of materials shall not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.

E. Any outdoor display or storage of materials not in conformance with this Zoning Code shall be considered in violation of Section 1135.10.

(3) Outdoor Seating in the Public Right of Way. Outdoor seating in the public right of way shall be permitted per the following requirements:

A. Permit Required. No outdoor seating in the public right of way shall be conducted until a Special Right of Way Permit application has been submitted and issued per the requirements of Sections 1197.03 and 1197.04. Staff may administratively renew the grant of consent on a year-to-year basis provided the continued use of the right of way does not adversely affect the public health, safety and welfare.

B. Indemnity Agreement. An indemnity agreement shall be submitted with the Special Right of Way Permit application. Such agreement shall provide that the applicant will hold the Village of Commercial Point and its officials and employees harmless of all liability which might arise as a result of accidents, injuries or damages suffered within the public right of way or as a result of the use of the right-of-way as authorized by this section, and to fully indemnify the Village of Commercial Point, its officials and employees, in the event the Village is required to pay such losses. The applicant must keep current liability insurance in the minimum amount of one million ($1,000,000.00) listing the Village of Commercial Point as an additional insured during the time of operation of any outdoor seating in the public right of way.

C. The permit holder is responsible for ensuring that all activity is contained within the approved area identified on the permit.

D. The use of public right of way for outdoor dining shall only be permitted incidental to the operation of a business on private abutting property. The outdoor dining area shall only project into the right of way directly adjacent to the subject business space.

E. Any projections into the right of way shall maintain a minimum of five (5) feet of unobstructed sidewalk width between the outdoor seating and the curb for pedestrian traffic.

F. All items placed in the right of way, including, but not limited to chairs, tables, fencing, lighting and refuse containers, shall be temporary in nature and shall be constructed and displayed in such a manner as to allow for their easy removal. The design, quality, materials and colors used for such items shall complement the architectural style and colors used on the associated building.

G. Portable umbrellas are permitted provided they do not interfere with the required unobstructed sidewalk and do not contain advertising.

H. The preparation of food, beverages, and other items shall take place inside the associated establishment.

I. Outdoor dining in the public right of way shall not be open to patrons between the hours of 11:00 p.m. and 6:00 a.m.

J. A Special Right of Way Permit for outdoor seating in the public right of way may be suspended or revoked at any time (upon a fourteen (14) day notice) for a public use of the right of way such as street, sidewalk or utility maintenance, sidewalk or street widening, public festivals or other event. All, or a portion of, outdoor dining shall be removed from the right of way during the permit suspension at the discretion of the Village of Commercial Point.

K. A Special Right of Way Permit for outdoor seating in the public right of way may be revoked at any time (upon a fourteen (14) day notice) for failure to comply with the regulations set forth in Section 1161.04(3). Outdoor seating remaining in the public right of way after a notice to remove has been issued shall be in violation of Section 1135.10.

L. In the event the outdoor seating is abandoned or not being utilized, the right of way shall be restored to the current condition.

(4) Supplemental Standards. The following supplemental standards shall apply within the Old Town Commercial District (OT-C):

A. The height of a building shall not exceed any of the following: Thirty-eight (38) feet, three (3) stories, or ten (10) percent higher than the immediately adjacent structures on the same side of the street. Buildings on corner lots shall not be ten (10) percent higher than the structure immediately adjacent on the same side of the street or ten (10) percent higher than the structure immediately to the rear.

B. Applicable standards shall be met in corresponding chapters of this Zoning Code.

**CHAPTER 1163**
**Multi-Family Residential Districts**

## 1163.01 PURPOSE.

(a) The Multi-Family Residential Districts shall consist of the following subdistricts: Multi-Family Apartment Residential District (MF-A) and Multi-Family Condominium Residential District (MF-C).

(b) The Multi-Family Apartment Residential District (MF-A) is established as a medium density multi-family district intended to allow renter properties in an apartment configuration at suitable locations with on-site amenities, such as recreational facilities, and off-street parking.

(c) The Multi-Family Condominium Residential District (MF-C) is established as a medium density multi-family district intended to allow owner occupied properties in a condominium

configuration at suitable locations with on-site amenities, such as recreational facilities, and off-street parking.

(d) Such uses in the Multi-Family Residential Districts (MF-A or MF-C) shall be serviced by public water and sanitary sewer systems.

## 1163.02 PERMITTED USES.

Land and buildings in the Multi-Family Residential Districts (MF-A and MF-C) shall be used only for the following purposes as indicated under each specific subdistrict:

(a) Multi-Family Apartment Residential District (MF-A).

(1) Multiple-unit residential structures not exceeding six (6) apartment units per acre and twelve (12) apartment units per building.

(2) Accessory buildings and uses in association with a permitted multiple-unit apartment residential structure, such as recreational facilities.

(b) Multi-Family Condominium Residential District (MF-C).

(1) Multiple-unit residential structures not exceeding six (6) condominium units per acre and twelve (12) condominium units per building.

(2) Accessory buildings and uses in association with a permitted multiple-unit condominium residential structure, such as recreational facilities.

## 1163.03 CONDITIONAL USES.

The following uses may be allowed in the Multi-Family Residential Districts (MF-A and MF-C) subject to approval in accordance with Chapter 1145:

(a) Churches and other similar places of worship and parish houses provided:

(1) The minimum lot size is three (3) acres.

(2) The minimum lot width is three hundred (300) feet.

(3) The lot is adequate to accommodate the required off-street parking requirements of the church in accordance with Chapter 1185.

(4) The church building is set back from any adjacent residential property line a distance equal to or greater than the height of the structure exclusive of the steeple or spire.

(5) The church lot is accessible to a major arterial in a manner that does not require the passage of traffic through local residential streets.

(6) There is one (1) acre or more per one hundred (100) seats or similar accommodations in the main assembly hall.

Accessory living quarters may be provided on the church lot as a conditional use. The location, density, and the additional lot area required for such uses shall be subject to approval by the Planning and Zoning Commission. Accessory recreational uses may be provided on the church lot as a conditional use subject to approval by the Planning and Zoning Commission.

(b) Public uses: parks, playgrounds, recreation and community center buildings and grounds, golf courses, public swimming pools, tennis courts and similar recreational uses, provided that any principal building or swimming pool used therefore shall be located not less than one-hundred and fifty (150) feet from any other lot in any residential district unless otherwise approved as part of the development plan within a planned development district.

(1) All golf course facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:

A. The hours of operation of the golf course shall be limited from dawn to dusk to prevent undue disturbance to neighboring uses.

B. All maintenance equipment shall be stored in sheds or other structures and away from view.

C. No hole or green shall be located within two hundred (200) feet of an existing residential structure unless otherwise approved as part of the development plan within a planned district.

D. The Planning and Zoning Commission may require fencing, walls, landscaping, earth mounds or other measures where it is determined that buffering or screening is necessary to manage land use conflicts and/or protect the public safety unless otherwise approved as part of the development plan within a planned district.

E. Parking area requirements shall conform to Chapter 1185.

F. The minimum floor area requirements for the clubhouse or management structure shall be five thousand (5,000) square feet.

G. Any golf courses hereinafter constructed within designated areas of Commercial Point shall occupy not less than one hundred fifty (150) acres.

(2) All private outdoor recreational facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:

A. Minimum lot area for a private recreational facility shall be no less than six (6) acres.

B. Setbacks: Front = 100 feet for structures and 75 feet for parking; Rear = 75 feet; Side = 75 feet.

C. All structures and playing fields for outdoor recreation shall be located at least two-hundred and fifty (250) feet and drives and parking areas shall be at least fifty (50) feet from any adjacent parcels where residences are a permitted use.

D. Where a landscaped screen is not already required adjacent to another parcel, one (1) deciduous tree shall be provided for every forth (40) feet of parking lot boundary and loading/unloading area, plus a three (3) foot average height continuous planting, hedge, fence wall or earth mound. The same parking lot perimeter screening shall also be provided adjacent to the public right-of-way. At least one tree per 5,000 square feet of parking area shall be provided within the parking lot.

E. All outdoor playing fields, courts and other similar outdoor recreation facilities must be secured at night to prevent unauthorized access. While no lighting will be permitted on any such outdoor recreation facility, security lights may be approved for any permanent facilities at the site.

F. The maximum density allowed on any parcel shall not exceed one (1) field for every five (5) acres.

G. A minimum of thirty-five (35) parking spaces shall be provided for every field at the site. All parking areas shall be constructed in accordance with Chapter 1185 of this Zoning Code.

H. A minimum eight (8) foot high landscaped screen or combination mound and plant material with a ninety (90) percent year round opacity shall be provided on any side of the site adjacent to parcels where dwellings are a permitted use. If a mound is used it shall be constructed with no more than a 4:1 slope. Mounds shall not be constructed to restrict the natural flow of surface water to or from the site.

I. Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy traffic on residential streets.

J. Permanent toilet facilities, connected to a sanitary sewer or other approved on site disposal system, must be provided with the following minimum number of fixtures: women - 5 toilets and 2 lavatories, men - 1 toilet, 2 urinals and 2 lavatories, additional fixtures must be added at the rate of 3 for every 2 fields over 4 fields per site.

(3) All private indoor recreational facilities shall be in accordance with the following provisions in addition to any other conditions required by the Planning and Zoning Commission:

A. Minimum lot area for an indoor private recreational facility shall be no less than five (5) acres.

B. Setbacks: Front = 100 feet for structures and 75 feet for parking; Rear = 75 feet; Side = 75 feet.

C. Driveways and parking areas shall be at least fifty (50) feet from any adjacent parcels where residences are a permitted use.

D. Where a landscaped screen is not already required adjacent to another parcel, one (1) deciduous tree shall be provided for every forty (40) feet of parking lot boundary and loading/unloading area, plus a three (3) foot average height continuous planting, hedge, fence wall or earth mound. The same parking lot perimeter screening shall also be provided adjacent to the public right-of-way. At least one tree per 5,000 square feet of parking area shall be provided within the parking lot.

E. No exterior lighting shall be positioned so as to extend glare on adjacent property or public right-of-way.

F. All activities shall be conducted entirely within an enclosed building.

G. Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy traffic on residential streets.

H. Parking shall be in accordance with the requirements of Chapter 1185.

(c) Public and private schools.

(d) Accessory structures used as private kennels.

## 1163.04 DEVELOPMENT STANDARDS.

(a) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Multi-Family Residential Districts (MF-A and MF-C):

(1) Lot Area (minimum): Fifteen thousand (15,000) square feet.

(2) Lot Coverage (maximum): Thirty-five (35) percent.

(3) Lot Width: Eighty (80) feet of frontage on an improved public right-of-way.

(4) Lot Width on a Curving Street or Cul-De-Sac: Forty-five (45) feet of frontage on an improved public right-of-way and lot width shall be eighty (80) feet at the minimum building line.

(5) Front Yard Setback: Twenty-five (25) feet as measured between the street right-of-way line and the building setback line.

(6) Side Yard Setback: Ten (10) feet; for a Conditional Use, the side yard setback shall be fifteen (15) feet.

(7) Rear Yard Setback: Twenty-five (25) feet as measured from the rear property line; an accessory building may be located in the rear yard no less than eight (8) feet from the rear property line.

(8) Dwelling Dimensions: The following dwelling dimensions measured in terms of square footage shall apply to all residential dwellings in the Multi-Family Residential Districts:

| DWELLING TYPE | FINISHED FLOOR AREA |
|---|---|
| One Bedroom | 1,000 square feet |
| Each Additional Bedroom | 225 square feet |

(b) Supplemental Standards. The following supplemental standards shall apply within the Multi-Family Residential Districts (MF-A and MF-C):

(1) No building shall exceed thirty-five (35) feet in height, nor more than two and one half (2 ½) stories in height.

(2) Applicable standards shall be met in corresponding sections of this Zoning Code.

(3) Two (2) or more multiple-unit structures located on the same lot shall locate no closer than twenty (10) feet to each structure.

(4) One (1) covered parking space may be provided per dwelling unit in clusters not to exceed six (6) spaces.

CROSS REFERENCES

Swimming Pools - see P. & Z. 1181.01
Yard and Frontage Modifications - see P. & Z. Chapter 1183
Off-Street Parking and Loading - see P. & Z. Chapter 1185
Home Occupations - see P. & Z. Chapter 1187
Signs - see P. & Z. Chapter 1189
Landscaping - see P. & Z. Chapter 1191
Wireless Communication Facilities - see P. & Z. Chapter 1193
Accessory Uses and Structures - see P. & Z. Chapter 1195

**CHAPTER 1165**
**Neighborhood Commercial District (NC)**

CROSS REFERENCES

Off-Street Parking and Loading - see P. & Z. Chapter 1185
Signs - see P. & Z. Chapter 1189
Landscaping and Screening - see P. & Z. Chapter 1191
Wireless Communication Facilities - see P. & Z. Chapter 1193
Commercial Development Standards - see P. & Z. Chapter 1199

## 1165.01 PURPOSE.

The Neighborhood Commercial District (NC) is intended to encourage the clustering of small individual retail and personal service establishments to promote convenience in serving the daily staple needs of the surrounding residential areas.

## 1165.02 PERMITTED USES.

Land and buildings in the Neighborhood Commercial District (NC) shall be used only for the following purposes:

(a) Retail Stores. Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods (including the buying or processing of goods for resale) including:

(1) Hardware stores.
(2) Convenience food markets.
(3) Meat and fish (seafood) markets.
(4) Fruit stores and vegetable markets.
(5) Candy, nut and confectionery stores.
(6) Dairy products stores.
(7) Retail bakeries.
(8) Drug stores and proprietary stores.
(9) Florists.
(10) Electronic products.
(11) Video rental store.
(12) Eating and drinking establishments with no drive-thru window service.

(b) Personal Services. Personal services generally involving the care of the person or his/her personal effects including:

(1) Beauty shops.
(2) Barber shops.
(3) Shoe repair shops.
(4) Pressing, dry-cleaning, alteration and garment repair.

(c) Business and Professional Offices. Business offices carrying on no retail trade with the general public and having no stock of goods maintained for sale to customers and professional offices engaged in providing tangible and intangible services to the general public, involving both persons and their possessions including:

(1) Commercial and stock savings banks.
(2) Credit agencies other than banks.
(3) Personal credit institutions.
(4) Insurance agents, brokers and service.
(5) (Real estate) agents, brokers and managers.
(6) Combinations of real estate, insurance, loan and law offices.
(7) Offices of physicians and surgeons.
(8) Offices of dentists and dental surgeons.
(9) Offices of chiropractors.
(10) Legal services.
(11) Health care maintenance and emergency services.

(d) Children's Nurseries, Day Care Centers and Pre-schools provided that the following conditions are met, where applicable:

(1) The building occupied by the use is compatible with neighborhood structures in dimension, size, and architecture.
(2) There is an outdoor play area of eighty-five (85) square feet or more per child.

(3) Such play area shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of five (5) feet to control accessibility of children to adjoining hazardous conditions such as streets, ponds, etc., or adjacent yards.
(4) A drop off area is provided so that children do not have to walk through the parking lot to enter the facility.
(5) Parking spaces are provided as specified in Chapter 1185.
(6) The facility meets or exceeds State of Ohio provisions for daycare operations.

## 1165.03 CONDITIONAL USES.

The following uses may be allowed in the Neighborhood Commercial District (NC) subject to approval in accordance with Chapter 1145:

(a) Drive-up window service. Drive-up window service or outdoor service facility developed in association with and subordinate to a permitted use. Drive-up window service shall be limited to the rear of the building. Landscaping and buffering shall be required.

(b) Electric vehicle charging stations. Electric vehicle charging stations when a property has more than five (5) electric vehicle charging stations or an electric vehicle charging station that includes an overhead-canopy.

## 1165.04 DEVELOPMENT STANDARDS.

(a) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Neighborhood Commercial District (NC):
(1) Lot area: No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.
(2) Lot coverage (maximum): No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the yard space required.
(3) Lot width: No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.
(4) Front yard setback: The minimum front yard setback shall be no less than fifty (50) feet measured from the street right-of-way.
(5) Side yard setback: For main and accessory structures, including open service and loading areas, the required side yard shall be not less than twenty (20) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District, and Planned Unit District whereby the side yard shall be no less than fifty (50) feet.
(6) Rear yard setback: For main and accessory structures, the required rear yard shall be not less than twenty-five (25) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District, and Planned Unit District whereby the side yard shall be no less than fifty (50) feet.
(7) Building Size. Principle structures in the NC District are limited to 5,000 square feet.

(b) Supplemental Standards. The following supplemental standards shall apply within the Neighborhood Commercial District (NC):
(1) No building shall exceed thirty-five (35) feet in neither height, nor more than two (2) stories in height.
(2) Applicable standards shall be met in corresponding chapters of this Zoning Code.
(3) Operating hours are normally limited to 6:00 am to 11:00 pm.
(4) The building setbacks and architectural elements of the principle structure must be consistent with existing neighborhood character.
(5) Off-street parking and drive-up window service shall be limited to the rear of the property. Landscaping and buffering will be required.

**CHAPTER 1167**
**General Commercial District (GC)**

CROSS REFERENCES
Off-Street Parking and Loading - see P. & Z. Chapter 1185
Signs - see P. & Z. Chapter 1189
Landscaping and Screening - see P. & Z. Chapter 1191
Wireless Communication Facilities - see P. & Z. Chapter 1193
Commercial Development Standards - see P. & Z. Chapter 1199

## 1167.01 PURPOSE.

The General Commercial District (GC) is intended to encourage the concentration of a broad range of individual commercial establishments which together may constitute a cluster of general commercial activity that serves a substantial portion of the Municipality's residential population. Concentrated general commercial developments should be ideally located near major circulation routes and accessible to the population served.

## 1167.02 PERMITTED USES.

Land and buildings in the General Commercial District (GC) shall be used only for the following purposes:
(a) Retail Stores. Retail stores primarily engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods (including the buying or processing of goods for resale) including:
(1) General Merchandise: Hardware stores, department stores, mail order houses, limited price variety stores, and miscellaneous general merchandise stores.
(2) Food: Grocery stores, meat and fish (seafood) markets, fruit stores and vegetable markets, candy, nut and confectionery stores, dairy products stores, retail bakeries, supermarkets, and miscellaneous food stores.
(3) Building Materials, Retail: Lumber and other building materials, heating and plumbing equipment, electrical supply equipment, and hardware and farm equipment.
(4) Apparel: Clothing, accessories and personal furnishing stores, shoe stores, custom tailors, furriers and fur shops, and miscellaneous apparel and accessory stores.

(5) Home Furnishings: Furniture, home furnishings, and equipment stores, household appliance stores, and radio, television and music stores.
(6) Eating and drinking places.
(7) Electronic products.
(8) Video rental store.
(9) Miscellaneous Retail: Drug stores and proprietary stores, liquor stores, antique stores and secondhand stores, stationery stores, sporting goods stores and bicycle shops, jewelry stores, florists, cigar stores, news dealers, camera and photographic supply stores, gift, novelty and souvenir shops, optical goods stores, and miscellaneous retail stores not elsewhere classified.
(10) Business Services: Advertising, duplicating, addressing blueprinting, photocopying, mailing, stenography, and business services not elsewhere classified.
(11) Artisan Workshop.
(12) Specialty Food and/or Beverage Facility.
(b) Business and Professional Offices. Business offices engaged in providing tangible and intangible services to the public, involving both persons and their possessions, including:
(1) Administrative, Business and Professional Offices: Administrative offices primarily engaged in general administration, supervision, purchasing, accounting and other management functions, and professional offices engaged in providing tangible and intangible services to the general public, involving both persons and possessions, including financial services, real estate and insurance.
(2) Professional: Offices of physicians and surgeons, dentists and dental surgeons, chiropractors, medical and dental laboratories, health and allied sciences not elsewhere classified, legal services, design services including engineering, architecture, landscape architecture, urban planning, graphic arts and interior design, and accounting, auditing and bookkeeping services.
(3) Health care maintenance and emergency services.
(c) Personal and Consumer Services. Personal services generally involving the care of the person or his/her personal effects and consumer services generally involving the care and maintenance of tangible property or the provision of intangible services for personal consumption, including:
(1) Personal: Photographic studios, including commercial photography, beauty shops, barber shops, laundromats, funeral services, shoe repair shops, pressing, alteration and garment repair, and miscellaneous personal service.
(2) Repair Services: Electrical repair shops, watch, clock and jewelry repair, reupholsters and furniture repair, and similar household item repair shops and related services.
(3) Artisan Studio.

**1167.03 CONDITIONAL USES.**

The following uses may be allowed in the General Commercial District (GC) subject to approval in accordance with Chapter 1145:

(a) Drive-Up Window Service or Open Display. Drive-up window service or outdoor service, or open display facility, developed in association with a principal permitted use.

(b) Residential. Living quarters as an integral part of and subordinate to a principal permitted use.

(c) Automobile Convenience Markets. Automobile Repair and Services, and Automobile Service Stations. No portion of an Automobile Service Station's structure or its appurtenances,

including ancillary, associated or auxiliary equipment, shall be located in front of the established building line.

(d) Recreation. Theaters, dance halls, dance studios, dance schools, bowling, swimming pools, and skating rinks.

(e) Hotels and Motels. Lodging facilities and subordinate eating and drinking facilities and recreational facilities, provided that the minimum lot area is two (2) acres.

(f) Offices of Veterinarians and Animal Hospitals.

(g) Commercial Kennel. Commercial kennels shall not be located within two-hundred (200) feet of a residential zoning district, including PUD, TND, PRD, and PCND.

(h) Automobile Parking Lot or Garage. An automobile parking lot or garage as a principal use.

(i) Automobile car wash. Automobile car washes shall not be located within one hundred and fifty (150) feet of a residential zoning district, including PUD, PRD, TND and PCND. No portion of a structure or its appurtenances, including ancillary, associated or auxiliary equipment, shall be located in front of the established building line.

(j) Electric Vehicle Charging Stations. Electric vehicle charging stations when a property has more than five (5) electric vehicle charging stations or an electric vehicle charging station that includes an overhead canopy.

(k) Mini-warehouses. Mini-warehouses shall be located on a major or minor arterial as identified in the Commercial Point Thoroughfare Plan. They shall be located on a lot with a maximum lot width of one-hundred and fifty (150) feet of frontage measured at the building line.

## 1167.04 DEVELOPMENT STANDARDS.

(a) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the General Commercial District (GC):

(1) Lot area: No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.

(2) Lot coverage (maximum): No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the yard space required.

(3) Lot width: No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.

(4) Front yard setback: The minimum front yard setback shall be no less than fifty (50) feet measured from the street right-of-way.

(5) Side yard setback: For main and accessory structures, including open service and loading areas, the required side yard shall be not less than twenty (20) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District, or Planned Unit District whereby the side yard shall be no less than fifty (50) feet.

(6) Rear yard setback: For main and accessory structures, the required rear yard shall be not less than twenty-five (25) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District or Planned Unit District whereby the side yard shall be no less than fifty (50) feet. A use

to be serviced from the rear shall have a service court, alleyway or combination thereof not less than forty (40) feet in width.

(b) Supplemental Standards. The following supplemental standards shall apply within the General Commercial District (GC):

(1) No building shall exceed forty (40) feet in height, nor more than three (3) stories in height.

(2) Applicable standards shall be met in corresponding chapters of this Zoning Code.

**CHAPTER 1169**

**Suburban Office and Institution District (SO)**

CROSS REFERENCES

Off-Street Parking and Loading - see P. & Z. Chapter 1185
Signs - see P. & Z. Chapter 1189
Landscaping and Screening - see P. & Z. Chapter 1191
Wireless Communication Facilities - see P. & Z. Chapter 1193

## 1169.01 PURPOSE.

The Suburban Office and Institution District (SO) is provided in recognition of the need to locate office and institutional land uses where adequate space can be made available in accordance with current development trends and standards. The SO District is intended for offices and institutions that may locate independently or in small clusters and that may desire buildings or groups of buildings surrounded by landscaped open areas away from the concentrations of people and traffic of retail, wholesale and industrial areas in the Municipality. The space, location and aesthetic characteristics of these uses make a location near low density residential neighborhoods or rural countryside desirable.

## 1169.02 PERMITTED USES.

Land and buildings in the Suburban Office and Institutional District (SO) shall be used only for the following purposes:

(a) Administrative and Business Offices. Administrative offices primarily engaged in general administration, supervision, purchasing, accounting and other management functions and business offices carrying on no retail trade with the general public and having no stock of goods maintained for sale to customers, including financial services, real estate and insurance.

(b) Professional Offices. Professional offices engaged in providing tangible and intangible services to the general public, involving both persons and their possessions, including: offices of physicians and surgeons, dentists and dental surgeons, osteopathic physicians, and chiropractors, medical and dental laboratories, health and allied services, legal services, design services including engineering, architecture, landscape architecture, urban planning, graphic arts and interior design, accounting, auditing and bookkeeping services, and professional services not elsewhere classified.

(c) Institution. Institutions providing social, cultural, educational and health services to member agencies, organizations and individuals or to the general public, including: hospitals, elementary and secondary schools, colleges and universities, vocational schools, professional schools, libraries, museums and art galleries, and religious organizations.

(d) Organizations and Associations. Organizations and associations organized on a profit-making or nonprofit-making basis, for the promotion of membership interests, including:

business associations, professional membership organizations, labor unions and similar labor organizations, civic, social and fraternal associations, political organizations, charitable organizations, and nonprofit membership organizations not elsewhere classified.
(e) Residential. Residential Dwelling ancillary and subordinate to a principal permitted use.
(f) Churches. Churches and other similar places of worship and parish houses provided said use occupies a lot of not less than three (3) acres.
(1) The minimum lot width is three hundred (300 feet);
(2) The lot is adequate to accommodate the required off-street parking requirements of the church in accordance with Chapter 1185;
(3) The church building is set back from any adjacent residential property line a distance equal to or greater than the height of the structure exclusive of the steeple or spire;
(4) The church lot is accessible to a major arterial in a manner that does not require the passage of traffic through local residential streets; and
(5) There is one (1) acre or more per one hundred (100) seats or similar accommodations in the main assembly hall.

Accessory living quarters may be provided on the church lot as a conditional use. The location, density, and the additional lot area required for such uses shall be subject to approval by the Planning and Zoning Commission. Accessory recreational uses may be provided on the church lot as a conditional use subject to approval by the Planning and Zoning Commission.

## 1169.03 CONDITIONAL USES.

The following uses may be allowed in the Suburban Office and Institutional District (SO) subject to approval in accordance with Chapter 1145:
(a) Drive-up Window Service. Drive-up window service or outdoor service facilities developed in association with a principal permitted use.
(b) Personal Services. Personal services generally involving the care of the person or his/her apparel, including: photographic services and commercial photography, beauty shops, barber shops, and funeral service and crematories.
(c) Educational and Research Educational and research establishments engaged in providing tangible and intangible services to members or the general public, including: research, development and testing laboratories, school and educational services not elsewhere classified, and nonprofit educational and scientific research agencies.
(d) Food and Lodging. Food and lodging includes commercial establishments and institutions engaged in furnishing lodging and meals on a fee basis, including: eating and drinking places, and organizational hotels and lodging houses on a membership basis.
(e) Offices of Veterinarian and Animal Hospitals.
(f) Children's Nurseries and Day Care Centers and pre-schools provided that the following conditions are met, where applicable:
(1) The building occupied by the use is compatible with neighborhood structures in dimension, size, and architecture.
(2) There is an outdoor play area of eighty-five (85) square feet or more per child.

(3) Such play area shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of five (5) feet to control accessibility of children to adjoining hazardous conditions such as streets, ponds, etc., or adjacent yards.
(4) A drop off area is provided so that children do not have to walk through the parking lot to enter the facility.
(5) Parking spaces are provided as specified in Chapter 1185.
(6) The facility meets or exceeds State of Ohio provisions for daycare operations.
(g) Electric vehicle charging stations. Electric vehicle charging stations when a property has more than five (5) electric vehicle charging stations or an electric vehicle charging station that includes an overhead canopy.

## 1169.04 DEVELOPMENT STANDARDS.

(a) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Suburban Office and Institutional District (SO):
(1) Lot area: No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.
(2) Lot coverage (maximum): No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the yard space required.
(3) Lot width: No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.
(4) Front yard setback: The minimum front yard setback shall be no less than fifty (50) feet measured from the street right-of-way.
(5) Side yard setback: For main and accessory structures, including open service and loading areas, the required side yard shall be not less than twenty (20) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District, and Planned Unit District whereby the side yard shall be no less than fifty (50) feet.
(6) Rear yard setback: For main and accessory structures the required rear yard shall be not less than twenty (20) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District, and Planned Unit District whereby the rear yard shall be no less than fifty (50) feet. A use to be serviced from the rear shall have a service court, alleyway or combination thereof not less than forty (40) feet in width.
(b) Supplemental Standards. The following supplemental standards shall apply within the Suburban Office and Institutional District (SO):
(1) No building shall exceed forty (40) feet in height, nor more than three (3) stories in height.
(2) Applicable standards shall be met in corresponding chapters of this Zoning Code.

**CHAPTER 1171**
**Limited Manufacturing District (LM)**

CROSS REFERENCES
Open Storage and Display of Material - see P. & Z. Chapter 1181
Public Nuisance Regulations - see P. & Z. Section 1181.03

Off-Street Parking and Loading - see P. & Z. Chapter 1185
Signs - see P. & Z. Chapter 1189
Landscaping and Screening - see P. & Z. Chapter 1191
Wireless Communication Facilities - see P. & Z. Chapter 1193

## 1171.01 PURPOSE.

(a) The Limited Manufacturing District (LM) is established for the purpose of preserving areas of the Municipality for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses, and to make provision for certain kinds of commercial uses which are most appropriately located ancillary to industrial users or which are necessary to service the immediate needs of people in these areas.

(b) Uses under the LM District generally require a minimum of services and facilities. Such uses typically operate within enclosed structures and have little or no adverse effect on adjacent land by producing noise, odor, dust, smoke, glare or other hazards. The intent of the district is to encourage industrial development that is architecturally sensitive, incorporating landscaping, generous setbacks, and minimal signage.

(c) Performance standards are identified and required to be met by all uses under the LM District to ensure that those uses are appropriate to the Municipality and that such development is a positive addition to the Municipality without creating undue negative environmental impacts.

## 1171.02 PERMITTED USES.

Land and buildings in the Limited Manufacturing District (LM) shall be used only for the following purposes:

(a) Manufacturing.

(1) Canning and preserving fruits, vegetables and seafood.

(2) Bakery products; candy and other confectionery products.

(3) Men's, youth's and boys' clothing, furnishings and allied garments; women's, misses', children's and infants clothing, furnishings and allied garments; fur goods and miscellaneous apparel and accessories.

(4) Miscellaneous fabricated textile products; broad and narrow woven fabric mills, including cotton, man-made fiber and silk, and dyeing and finishing, floor covering mills, yarn and thread mills, and miscellaneous textile goods.

(5) Publishing and printing of newspapers, magazines, books and other publications, and commercial printing; manifold business forms, greeting cards, bookbinding and related industries, and service industries for the printing trade.

(6) Pharmaceuticals.

(7) Footwear, gloves and mittens, luggage, handbags and other personal leather goods; boot and shoe cut stock and findings, and leather goods not elsewhere classified.

(8) Glass products made of purchased glass.

(9) Communication equipment, electronic components and accessories, engineering, laboratory, scientific and research instruments and associated equipment, and instruments for measuring, controlling and indicating physical characteristics.

(10) Optical instruments and lenses, surgical, medical and dental instruments and supplies, and ophthalmic goods; photographic equipment and supplies.

(11) Watches, clocks, clockwork operated devices and parts; jewelry, silverware and plated ware.

(12) Automobile accessories and electronic components, including automotive and truck assembly parts.

(13) Sausages and other prepared meat products, dairy products, grain mill products, and beverage industries.

(14) Household and office furniture, partitions, shelves, lockers and office and store fixtures, miscellaneous furniture and fixtures.

(15) Nonferrous foundries, sheet metal work, and machine shops, jobbing and repair.

(16) Household appliances, electrical lighting and wiring equipment, and miscellaneous electrical machinery, equipment and supplies.

(17) Musical instruments and parts, toys, amusements, sporting and athletic goods.

(18) Pens, pencils and other office and artists' materials, costume jewelry, costume novelties, buttons and miscellaneous notions, except precious metal.

(19) Plastic products.

(b) Wholesaling.

(1) Pharmaceuticals, chemicals and allied products.

(2) Dry goods and apparel.

(3) Groceries and related products.

(4) Electrical goods.

(5) Hardware, plumbing and heating equipment and supplies.

(6) Machinery equipment and supplies.

(7) Tobacco and its products.

(8) Beer, wine and distilled alcoholic beverages.

(9) Paper and its products.

(10) Furniture and home furnishings.

(c) Wholesaling, Warehousing and Transportation Services.

(1) Trucking, local and long distance.

(2) Public warehousing and freight forwarding.

(3) Terminal and joint terminal maintenance facilities for motor freight transportation and miscellaneous services incidental to transportation.

(4) Motor vehicles and automotive equipment.

(5) Pharmaceuticals, chemicals and allied products, dry goods, apparel, groceries and related products.

(6) Farm products and raw materials, electrical goods, hardware, plumbing and heating equipment and supplies.

(7) Machinery, equipment, and supplies.

(8) Miscellaneous wholesalers except scrap and waste materials.

(d) Service Industries.

(1) General construction contractors.

(2) Plumbing, heating and air conditioning, painting, paperhanging and decorating.

(3) Electrical work, masonry, stonework, tile setting, and plastering, carpentering and wood flooring, roofing and sheet metal work, concrete work, and water well drilling.

(4) Miscellaneous special trade contractors.

(e) Commercial Retail. Commercial retail uses associated with and subordinate to another permitted use and limited to no more than twenty-five (25) percent of the total gross floor area of all structures on the subject lot(s).

(f) Research, Development and Testing Laboratories.

(g) Business and Professional Offices, but excluding medical and dental offices;

(h) Administrative Offices. Administrative offices primarily engaged in general administrative supervision, purchasing, accounting and other management functions.

**1171.03 CONDITIONAL USES.**

The following uses may be allowed in the Limited Manufacturing District (LM) subject to approval in accordance with Chapter 1145:

(a) Other lawful Industrial Uses. Any other lawful industrial use compatible with the permitted uses, fulfilling the intent of this district, and developed in accordance with the development standards and performance standards of this district.

(b) Personal and Consumer Services. Personal and consumer services generally involving the care and maintenance of tangible property or the provision of intangible services for personal consumption intended to serve the industrial establishments of their employees, including:

(1) Personal: beauty shops, barber shops, shoe repair shops, pressing, alteration and garment repair, and miscellaneous personal services.

(2) Business: advertising, consumer credit reporting agencies, mercantile reporting agencies, adjustment and collecting agencies, business services including duplicating, addressing, blueprinting, photocopying, mailing, mailing list, and stenographic, private employment agencies, and business services not elsewhere classified, except research, development and testing laboratories.

(c) Recycling Centers. Not to include manufacturing.

(d) Commercial Kennels. Commercial kennels shall not be located within two hundred (200) feet of any residential zoning district, including PUD and PRD.

(e) Automobile Convenience Markets, Automobile Repair and Services, and Automobile Service Stations. No portion of an Automobile Service Station's structure or its appurtenances, including ancillary, associated or auxiliary equipment, shall be located in front of the established building line.

(f) Electric Vehicle Charging Stations. Electric vehicle charging stations when a property has more than five (5) electric vehicle charging stations or an electric vehicle charging station that includes an overhead canopy.

**1171.04 DEVELOPMENT STANDARDS.**

(a) Lot and Building Requirements. The following lot and building requirements are minimum standards, except where noted, and shall apply in the Limited Manufacturing District (LM):

(1) Lot Area: No minimum lot area is required, however, all lots shall abut an improved public right-of-way and lot area shall be adequate to provide the required yard space.

(2) Lot Coverage (Maximum): No maximum lot coverage is required, however, the lot coverage shall be adequate to provide the yard space required.

(3) Lot Width: No minimum lot width is required, however, all lots shall abut an improved public right-of-way and have adequate width to provide the required yard space and meet minimum access requirements.

(4) Front Yard Setback: The minimum front yard setback shall be no less than fifty (50) feet measured from the street right-of-way.

(5) Side Yard Setback: For main and accessory structures, including open service and loading areas, the required side yards shall not be less than twenty (20) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District, and Planned Unit District whereby the side yard shall be no less than fifty (50) feet.

(6) Rear Yard Setback: For main and accessory structures the required rear yard shall be not less than twenty (20) feet, unless adjacent to any residential zoning district, Planned Residential District, Planned Conservation District, Traditional Neighborhood Development District, and Planned Unit District whereby the rear yard shall be no less than fifty (50) feet.

(b) Supplemental Standards. The following supplemental standards shall apply within the Limited Manufacturing District (LM):

(1) No building shall exceed sixty (60) feet in height.

(2) Applicable standards shall be met in corresponding chapters of this Zoning Code.

### 1171.05 PERFORMANCE STANDARDS.

No land or building in the Limited Manufacturing District (LM) shall be used or occupied in any manner in violation of Section 1181.03. The cost of any testing necessary, as determined by the Municipality, for determining whether a violation of such regulations exists, has occurred, or may occur in the future shall be paid by the violator to Commercial Point.

## CHAPTER 1173
## Planned Districts (PRD, PCD, PID, PUD, PCND)

CROSS REFERENCES

Subdivision Design Standards - see P. & Z. Title One
Private Swimming Pools - see P. & Z. Section 1181.01
Off-Street Parking and Loading - see P. & Z. Chapter 1185
Home Occupations - see P. & Z. Chapter 1187
Signs - se P. & Z. Chapter 1189
Landscaping and Screening - see P. & Z. Chapter 1191
Wireless Communication Facilities - see P. & Z. Chapter 1193

### 1173.01 PURPOSE AND INTENT.

(a) Planned districts shall include residential, commercial, industrial, and mixed-use sub-districts: Planned Residential District (PRD), Planned Commercial District (PCD), Planned Industrial District (PID), Planned Unit District (PUD), and Planned Conservation District (PCND).

(b) It is the intent of the Planned Districts to promote the progressive development of land and construction thereon and to encourage imaginative architectural design and layout, flexibility in building styles and types, and sensitivity to the natural environment.

(c) The Planned Districts are designed to guide development in an orderly, coordinated and comprehensive manner that preserves natural quality and beauty and provides supporting community facilities in the development of diverse, sound urban environments consistent with accepted land planning, landscape architecture practices and engineering principals. Such developments should:

(1) Provide a more useful pattern of open space and recreation areas.

(2) Preserve and utilize natural topography and geologic features, scenic vistas, trees and other vegetation, while preventing disruption of normal drainage patterns.

(3) Provide a more efficient pattern of development that reduces investments in utility lines, streets, and similar infrastructure.

(4) Promotes a development pattern in harmony with the Municipal land use objectives and priorities.

## 1173.02 PERMITTED USES.

Land and buildings in the Planned Districts (PRD, PCD, PID, PUD, and PCND) shall be used only for the following purposes as indicated under each specific sub-district:

(a) Planned Residential District (PRD).

(1) Residential Dwellings: single-family, two-family and multi-family dwellings and accessory uses and buildings in association with a permitted dwelling.

(2) Public uses: parks, playgrounds, recreation and community center buildings and grounds, golf courses, public swimming pools, tennis courts and similar recreational uses.

(3) Accessory buildings and uses in association with a permitted single or multiple-unit residential structure.

(4) Home occupations associated with a principal use and in accordance with Chapter1187.

(b) Planned Commercial District (PCD). Uses permitted, including conditional uses, under the Neighborhood Commercial District (NC), General Commercial District (GC), and Suburban Office District (SO).

(c) Planned Industrial District (PID). Uses permitted, including conditional uses, under the Limited Manufacturing District (LM).

(d) Planned Unit District (PUD).

(1) Uses permitted under the Planned Residential District (PRD).

(2) Uses permitted under the Planned Commercial District (PCD) but limited to no more than forty (40) percent of the net developable site.

(3) Accessory buildings and uses in association with a permitted use.

(4) Home occupations associated with a principal use and in accordance with Chapter 1187.

(e) Planned Conservation District (PCND).

(1) Uses permitted under the Planned Residential District (PRD).

(2) Cluster housing units.

(3) Common wall single family attached dwelling units.

(4) Single-family zero lot line, attached twin singles, townhouses, or other innovative forms of residential development, provided all density criteria and applicable requirements are met.

(5) Accessory buildings and uses in association with a permitted use.

(6) Public buildings and/or uses which are supported in whole or part by taxes or by special public assessment. Such uses include but are not limited to libraries, schools, fire stations, water treatment, pumping and storage facilities, and wastewater treatment and pumping facilities.
(7) Forest and wildlife preserves.
(8) Projects specifically designed for watershed protection, conservation of soil or water or flood control.
(9) Family care homes and group care homes.
(10) Home occupations associated with a principal use and in accordance with Chapter 1187.

## 1173.03 DEVELOPMENT STANDARDS.

(a) Project Ownership. The planned development area shall be under contract for purchase by a single entity or owned by a single entity at the time of application. For the purposes of this subchapter a single entity includes the following: an individual, a husband and wife; corporation; partnership; or two or more property owners enjoined as a single entity.

(b) Minimum Lot Requirements. The minimum lot requirements of a parcel that can be zoned under the Planned Districts are the following:

| DEVELOPMENT STANDARD | PRD | PCD | PID | PUD | PCND |
|---|---|---|---|---|---|
| Minimum lot area (acres) | 5 | None | 10 | 20 | 10 |
| Minimum lot width (feet) at building line | 350 | 350 | 500 | 750 | 350 |
| Minimum frontage (feet) | 250 | 250 | 400 | 600 | 250 |
| Maximum Coverage | N/A | 45% | 50% | N/A | N/A |
| Maximum building height (feet) | 35 | 40 | 40 | 40 | 35 |

(1) For each use the lot and building requirements of the appropriate district other than the Planned District shall apply unless superseded herein.
(2) Parking areas shall be no closer to the main structure(s) than ten (10) feet.
(3) Under PRD and PUD individual home sites or clusters thereof must be designated under one of the Municipality's residential zoning districts. At the time of the application, the Municipality has the ability to negotiate development standards.
(4) Under PRD, PUD, and PCND adjacent residential homes shall not have identical facades relative to style and color, and all residential building front yard setbacks shall meet the applicable district requirement and be staggered.
(5) Under PCND, there are no minimum yard requirements for residential units. Other permitted uses shall have front, side, and rear yards each of which is at least fifty (50) feet. No building shall be located closer than fifty (50) feet to any residential district boundary line. Buildings within developments adjacent to major thoroughfares and arterial streets shall be setback no less than one hundred, fifty (150) feet from the centerline of said major thoroughfare or arterial street.

(c) Site Development Standards. The following site development standards shall apply in the Planned Districts:
(1) The applicable sections of the Subdivision Regulations and the off-street parking, sign and landscaping regulations of this Zoning Code shall apply.

(2) The traffic and parking system shall meet the requirements relative to access as indicated in Chapter 1185. Access points shall be kept to a minimum to reduce traffic congestion and mitigate potential conflict points. Vehicular and pedestrian conflict points shall also be minimized.
(3) Under PCD and PUD, where applicable, the parking system shall be so designed as to discourage single large unbroken paved lots for off-street parking and shall encourage smaller defined parking areas within the total parking system. Such defined parking areas should be delineated and accented by landscaped areas. Parking aisles, whenever possible, shall be oriented perpendicular to the building fronts.
(4) The maximum PRD and PUD density shall be four (4) dwelling units per acre based upon the number of units proposed divided by the net developable site.
(5) The maximum PCND density shall be four (4) dwelling units per acre based upon the number of units proposed divided by the gross developable site (including open space).
(6) Under PRD and PUD a minimum of twenty (20) percent of the gross site minus publicly dedicated streets and alleys shall be set aside as public open space. Such open space shall be used for such public purposes as a natural area, recreational area, or the site of a community or school facility.
(7) Under PCND no less than fifty-percent (50%) of the total gross area of the site shall be set aside as common open space. Open space land may, at the discretion of the Municipality, be dedicated as public park land or public institutional use; or placed within other protected land classification systems which will assure that such land will remain in a natural state prohibiting further development, and the establishment of appropriate standards safeguarding the sites special assets as identified by the Planning and Zoning Commission.
A. The location, shape, size and character of common open space shall be suitable for the Planned Conservation Development in relation to the location, number and types of buildings it is intended to serve. In any case, it shall be highly accessible to all residents or users of the planned development. Entry features, detention and retention basins shall not be included in the area required for common open space.
B. The common open space shall be used for amenity or recreational purposes. Any uses and/or buildings authorized for the common open space must be appropriate to the scale and character of the planned development in relation to its size, density, expected population, topography, and the type of dwellings.
C. The common open space may be suitably improved for its intended use, but common open space containing natural features worthy of preservation such as slopes over twelve (12) percent and wooded areas shall be left unimproved. The buildings, structures, and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space with regard to its topography and unimproved condition.
(8) Under PCD and PUD where applicable all service and delivery shall be made to the rear of the structure(s) or use unless special design treatment or circumstances warrant an alternative, but only with the approval of the Planning and Zoning Commission. Landscaping and Screening requirements of Chapter 1191 shall apply.
(9) Under PRD, PUD and PCND the location and arrangement of areas of various density shall be so designed as to balance higher density areas adjacent to open space.

(10) Under PRD, PUD, and PCND private roads as a common easement may be used to provide access to clustered lots and/or structures serving residential uses in accordance with the following:

A. The easement shall not be counted as required open space.

B. The easement does not serve an area larger than two (2) acres, except that such area will contain six (6) dwellings or less.

C. Approved as a part of the Subdivision Plat as the most appropriate form of access to the lots and/or structures.

(11) Under PRD, PUD and PCND off-street parking shall be provided in accordance with Chapter 1185, except residential parking may be provided in group garages or parking lots within one hundred and fifty (150) feet of the dwellings served.

(12) Under PCD, PID, PUD, and PCND where appropriate whenever multiple structures are to be located on the site and the site abuts a collector or arterial street, access onto the collector or arterial shall be via interior local streets or marginal access (frontage) roads. All uses within the PCD, PID, PUD, and PCND shall derive their access from the interior streets in the district, unless specific exemptions are made as a part of the approved Development Plan.

(13) Drainage and runoff from the proposed development shall not cause property damage. All drainage improvements shall be designed in conformance with the requirements of the Municipal Subdivision Regulations and shall be approved by the Municipal Engineer prior to Development Plan approval.

(14) Details regarding sanitary sewage collection and disposal and water supply techniques to be utilized shall be addressed in the Development Plan, together with letters of approval from the pertinent local, state and, if applicable, private agencies, and approved by the Municipal Engineer prior to Development Plan approval.

(15) Under PCD, PUD, and PCND no unscreened outside storage shall be permitted and no rubbish or debris of any kind shall be placed or permitted to accumulate on any portion of the parcel or lot so as to render any portion of the property unsanitary, unsightly or detrimental to the public health, safety or welfare.

(16) All utilities shall be placed underground and all utility boxes shall be screened.

(17) Public nuisance regulations under Section 1181.03 shall apply.

(d) Conflict With Other Chapters. Because of the special characteristics of Planned Conservation Developments (PCND), special provisions governing the development of land for this purpose are required. Whenever there is a conflict or difference between the provisions of Chapter 1141 and those of the other Chapters of this Zoning Code, the more restrictive provisions shall prevail. Subjects not covered by this Chapter shall be governed by the respective provisions found elsewhere in this Zoning Code.

(e) Relationship to the Subdivision Regulations. The uniqueness of each proposal for a Planned Conservation Development (PCND) may require that there be modification from the specifications established in the Subdivision Regulations of Commercial Point, Ohio. Modifications may be incorporated into the plan by the developer only after the review of the Planning and Zoning Administrator.

(f) Utilities. The following regulations apply to the provision of utilities in planned conservation developments.

(1) Planned Conservation Developments (PCND) shall have an adequate source of potable water. All water lines constructed within a planned conservation development shall be at the financial responsibility of the owner or developer.

(2) The owner or developer of a planned conservation development shall be financially responsible for the extension of the existing network of sanitary sewage lines to serve the planned development area. No construction of buildings within any segment of a planned conservation development shall be commenced until after the extension of sanitary sewage lines has been completed.
(3) The following utility equipment shall be provided, constructed and installed underground within a planned development: gas lines, sanitary and storm sewer lines, water lines, electrical lines, telephone lines, and cable television lines.
(4) All utility systems shall be located and designed in such a manner and method as to preserve the natural features of the land such as streams, rock outcropping, topsoil, trees and shrubs and the same shall be incorporated into and with the landscaping of said lands.
(5) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be of adequate width to facilitate the proposed usage.
(6) All utility boxes shall be screened.
(g) Storm Water Management. Due to the size and nature of planned conservation developments and the fact that several types of developments may be exempt from platting requirements, all site plans must have a storm water management plan, approved by the Municipal Engineer, with the improvements constructed before a zoning certificate will be issued for construction of buildings.
(h) Walkways. All Planned Conservation Developments (PCND) where the average lot frontage is less than ninety (90) feet shall be provided with concrete sidewalks on both sides of the street throughout the development. All other walkways shall be constructed of a suitable, dust free, hard surface material. Mulch or other similar surfaces may be permitted for walking trails in areas the Planning and Zoning Commission feels are appropriate.
(i) Trees.
(1) The clearing of land shall be kept to a minimum to help preserve the existing natural conditions.
(2) No land shall be cleared of trees eight (8) to ten (10) feet away from the existing tree canopy. An exception to this requirement shall be granted in the case of those trees which should be removed due to malformation, disease, safety hazards, or to the general benefit of surrounding trees. The foregoing shall be considered as a guideline for preservation of the natural environment.

## 1173.04 PLAN CONTENTS AND REQUIREMENTS.

(a) As part of the request for rezoning to a Planned District, a Preliminary Plan must be submitted to the Planning and Zoning Commission along with the text of all applicable development standards text. A Zoning Certificate will not be issued for any site or sites until a Development Plan is approved by the Planning and Zoning Commission and found in conformance with the adopted Preliminary Plan and Development Standards.
(1) Preliminary Plan. The Preliminary Plan is a conceptual plan submitted at the time of a request for rezoning generally describing the proposed uses for the site to be rezoned and their relationship with surrounding properties and uses. The Preliminary Plan shall contain the following elements.
A. A topographic map of the site and adjacent property showing existing natural features including wooded areas and major trees. A description of how the proposed development has

planned to utilize the existing site, identifying changes to the existing site grading and noting major trees that will be removed as a part of the proposed development.
B. A schematic plan showing the general development of the tract, location of existing and proposed structures, parking lot layout and other development features including the location of all out parcels.
C. An engineering feasibility statement in sufficient detail to indicate how the proposed development will be serviced with water, sanitary sewer and storm drainage facilities.
D. The proposed traffic circulation pattern showing public and private streets and other transportation facilities, including major pedestrian routes, with evidence through a traffic study that the proposed development will not adversely impact existing transportation facilities.
E. A conceptual landscaping plan that shows the ability of the proposed development to meet all aspects of Chapter 1191.
F. A proposed schedule or phasing of development of the site.
G. Evidence that the applicant has sufficient control over the land to accomplish proposed and required land improvements.
H. Any additional information required by the Planning and Zoning Commission necessary to determine that the proposed development meets the intent and purposes of the appropriate Planned District.
(2) Development Standards Text. A Development Standards Text shall be submitted as part of the Preliminary Plan and shall be narrative and graphics, as necessary, in order to detail the development standards to be applied to the development concept described in the Preliminary Plan. The Development Standards Text should clearly identify any standard that is less than the standards established by this Chapter. These modifications shall be justified by fully stating what adjustments, amenities or other compensations are provided as part of the Preliminary Plan to offset the use of reduced standards and by demonstrating how the modified standards will result in the best possible development for the site. Unless specifically modified by the Development Standards Text, the standards established by this Chapter shall apply to the proposed development.
(3) Development Plan. Following approval of the Preliminary Plan and prior to issuance of a Zoning Certificate, a Development Plan shall be submitted to the Planning and Zoning Commission for the part of the area defined in the Preliminary Plan. The Development Plan is a detailed Site Plan that shall contain the following information and adhere to the Development Standards Text approved as part of the Preliminary Plan:
A. Site Survey. On a survey, show boundary information, existing and proposed development, existing and proposed topography, existing and proposed easements, rights-of-way and utilities.
B. Setbacks. The Site Plan shall indicate building, service areas, parking lot and signage setbacks including front yard, rear yard and side yard areas and shall be in accordance with the approved Development Standards Text.
C. Modifications of Development Standards Text. Any desired modifications of the Development Standards Text approved as part of the Preliminary Plan shall be so indicated in a modified Development Standards Text document.
D. Height Requirements. Maximum height requirements, including mechanical areas, parapets, etc. shall be made per the Development Standards Text requirements and shown on building front, rear and side elevation drawings.

E. Parking and Loading. All parking and loading spaces shall be shown including typically dimensions of parking stalls, aisles and loading spaces, size, number of spaces and general location shall also be governed by the Development Standards Text.
F. Waste and Refuse. Handling of waste and refuse materials shall be indicated and described by the Development Standards Text and shall include appropriate screening and type of containerization.
G. Circulation. All major circulation routes, including arterial, adjacent curb cuts, collector and local streets shall be indicated including rights-of-way, dimensions, pavement widths and intersection improvements. All driveways/curb cuts shall be indicated, including major aisle ways and service routes. Major pedestrian circulation routes shall also be indicated including dimensions of path and pedestrian crossings, etc. plus any attempts at separating vehicular and pedestrian/recreation movement.
H. Landscaping. As part of the Development Plan, proposed landscaping shall be shown including the general landscaping pattern and type of materials, mounding and fencing. Landscaping may vary in density, spacing and other treatment to reflect variations in topography, existing landscaping or adjacent land uses and conform to Chapter 1191. Landscape features shall be shown as well as planting dimensions, height, d.b.h. and type of plant materials per the Development Standards Text.
I. Signage and Graphics. All signage and graphics shall comply with the Development Standards Text. Letter and other graphic size, sign material, shape, color and illumination (internal only) shall be indicated. This includes dimensions of all ground and wall signage as well as distances from rights-of-way and intensity of illumination. Directional signage shall also be indicated.
J. Lighting. All exterior lighting fixtures shall be shown including parking lot lighting, street walkway or pedestrian lighting, walkway accent lighting and building accent lighting. Lighting intensity and installation height shall be indicated.
K. Accessory Structures, Decks, Patios and Fencing. All accessory structures, decks, patios and fences shall conform to the Development Standards Text and appropriate materials, heights, location and style indicated.
L. Architectural Treatment. As part of the Development Plan front, rear and side building elevations shall be shown in accordance with the Development Standards Text indicated building material, color and height. Color material samples shall also be made available for inspection.

## 1173.05 REVIEW BASIS.

(a) Preliminary Plan. The basis for the approval of the Preliminary Plan shall be:
(1) That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code.
(2) That the proposed development is in conformity with appropriate comprehensive planning or portion thereof as it may apply.
(3) That the acceptability of setbacks, distances between buildings, yard space, suitability of open space systems, traffic accessibility and other elements having a bearing on the overall acceptability of the Development Plan shall contribute to the orderly development of land within the municipality.
(4) That any modifications or minimum development standards established by the Zoning Code are properly identified and adequately justified in the Development Standards Text as necessary to insure a higher quality development.

(5) That the proposed development is in conformity with any design or site planning guidelines adopted by the Planning and Zoning Commission.
(6) That the plan provides for the coordination and integration of individually designed buildings into one planned district.
(b) Development Plan. Basis for approval of a Development Plan shall be:
(1) That the plan is complete in all respects relative to the requirements set forth in Section 1173.05 (a).
(2) That any modifications of the Development Standards Text approved as part of the Preliminary Plan support and enhance the purposes and intent of the Zoning Code, any applicable comprehensive planning program and any design or site planning guidelines adopted by the Planning and Zoning Commission.
(3) That all engineering issues for the phase(s) submitted in the Development Plan Application have been resolved to the satisfaction of the appropriate municipal staff.

## 1173.06 PROCEDURES FOR APPROVAL.

(a) Submission of Application for Preliminary Plan:
(1) Prior to filing an application for rezoning to a Planned District, the applicant shall meet with Planning and Zoning Administrator in a pre- application review meeting to discuss the requirements for a Preliminary Plan and Development Standards Text which are required as part of the rezoning request.
(2) The applicant shall submit the rezoning application along with twenty copies of the proposed Preliminary Plan and Development Standards Text in accordance with the submission schedule established by the Planning and Zoning Commission. In order to defray the cost of examination of the rezoning application and the Plan and Text and review by the Planning Commission, the applicant shall pay a fee in accordance with the fee as stipulated by ordinance. Staff shall circulate the Preliminary Plan and other comments to appropriate departments in the municipality for review and comment.
(3) Once the applicant has submitted a completed application in accordance with the submission schedule, staff shall submit the application to the Planning and Zoning Commission for their review and action at the next regular meeting of Planning and Zoning Commission as specified in their submission schedule. It shall be the duty of Planning and Zoning Commission to review the Plan and determine whether it complies with the regulations of this Chapter. Planning and Zoning Commission will forward a recommendation to Council.
(4) A Preliminary Plan shall be valid for five years after Council approval. Construction of any phase of the development must begin within this period or a new Preliminary Plan is required.
(b) Submission of Development Plan.
(1) Prior to filing for Development Plan Approval, the applicant shall meet with the Planning and Zoning Administrator to review the Development Plan relative to the previously approved Preliminary Plan and Development Standards Text as well as procedures for approval.
(2) The applicant shall submit an application to the municipality including the required number of copies of the proposed Development Plan, Development Standards Text modification if appropriate and any other required information in accordance with the submission schedule of the Planning and Zoning Commission. In order to defray the cost of examination of the materials and review by the Planning and Zoning Commission, the applicant shall pay a fee in accordance with the fee schedule as stipulated by ordinance.

(3) It shall be the duty of the Planning and Zoning Commission to review the plan and determine whether it complies with the regulations of this Chapter. Such determination shall be made at the first regular meeting of the Planning and Zoning Commission in accordance with the submission and hearing schedule established by the Commission. If the Planning and Zoning Commission finds that the Development Plan complies in all respects with the regulations of this Chapter and the previously approved Preliminary Plan and Development Standards Text, the Commission shall approve the plan. With the approval of the Planning and Zoning Commission, minor modifications of the approved preliminary plan may be made. Such modifications shall not increase the overall density of the site or change the essential character of the approved plan. If the Planning and Zoning Commission determines that such proposed changes significantly alter the approved plan, it is considered a major change and the plan must be resubmitted to Council for approval.

(4) In the event that the Planning and Zoning Commission does not approve the plan, each applicant shall be notified in writing of the reason for disapproval or modification along with the decision of the Planning and Zoning Commission. Decisions of the Planning and Zoning Commission disapproving the plan are appealable to Council in accordance with the provisions of Chapter 1147.

(c) Conformance with the Development Plan. Development shall be in conformance with the Development Plan and construction site improvements must be commenced within two years of Planning and Zoning Commission or Council approval; otherwise, no development of the land shall take place until a new Development Plan is approved pursuant to this section.

(d) Modification of the Development Plan. With the approval of the Planning and Zoning Commission, minor modifications of the approved Preliminary Development Plan may be made. Such modification shall not increase the overall density of the site or change the essential character of the approved plan. If the Planning and Zoning Commission determines that such proposed changes significantly alter the approved preliminary development plan, it is considered a major change and the revised plan must be resubmitted to Council for approval. Development of land shall not proceed prior to final approval of the Development Plan. Any development undertaken without such final approval is in violation of this Zoning Code and an abatable nuisance.

(e) Variances from Development Standards. The Planning and Zoning Commission and/or Council may approve variances from the Development Standards of this Chapter as part of the Development Standards Text and Development Plan. These variances shall be consistent with the intent of the zoning district.

## 1173.07 OWNERSHIP OF COMMON OPEN SPACE IN PCND.

Different ownership and management options apply to the permanently protected common open space created through the PCND development process. The common open space shall remain undivided and may be owned and managed by a homeowners association, the Municipality, or a recognized land trust or conservation district (conservancy). A public land dedication, not exceeding ten (10) percent of the total parcel size, may be required by the Municipality to facilitate trail or pathway connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities, and open spaces.

(a) Ownership Standards. Common open space within the PCND development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the Municipality.

(1) Offer of Dedication. The Municipality shall have the first offer of dedication of undivided common open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The Municipality may, but not be required to accept undivided common open space provided: 1) such land is accessible to all the residents of the Municipality; 2) there is no cost of acquisition other than incidental costs related to the transfer of ownership; 3) the Municipality agrees to maintain such lands; 4) the land is not potentially hazardous. Where the Municipality accepts dedication of common open space that contains improvements, the Municipality may require the posting of financial security to ensure structural integrity of improvements for a term not to exceed eighteen (18) months.

(2) Homeowners Association. The undivided common open space and associated facilities may be held in common ownership by a homeowners association. The association shall be formed and operated under the following provisions:

A. The developer shall provide a description of the association, including its bylaws and methods for maintaining the common open space.

B. The association shall be organized by the developer and shall be operated by the developer, before the sale of any lots within the development.

C. Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.

D. The association shall be responsible for maintenance of insurance and taxes on the undivided common open space, enforceable by liens placed by the Municipality on the association. The association may establish rules to ensure proper maintenance of property, including monetary liens on the homes and home sites of its members who fail to pay their association dues in a timely manner. Such liens may impose a penalty of interest charges.

E. The members of the association shall share equitably the costs of maintaining and developing, where appropriate, such undivided common open space. Shares shall be defined within the association bylaws.

F. In the event of transfer, within the methods here permitted, of undivided common open space land by the homeowners association, or the assumption of maintenance of undivided common open space land by the Municipality, notice of such pending action shall be given to all property owners within the development.

G. The association shall provide for adequate staff to administer common facilities and property and continually maintain the undivided common open space.

H. The lease shall be subject to the approval of the homeowners association board and any transfer or assignment of the lease shall be further subject to the approval of the board. Lease agreements shall be recorded with the Franklin County or Pickaway County Recorders Office, whichever is applicable, and notification shall be provided to Council within thirty (30) calendar days of action by the board.

I. The homeowners association may lease common open space lands to any other qualified person, or corporation, for operation and maintenance of common open space lands, but such a lease agreement shall provide:

a. That the residents of the development shall at all times have access to the common open space lands contained therein (except croplands during the growing season);

b. That the undivided common open space shall be maintained for purposes set forth in this Chapter; and

c. That the operation of common open space facilities may be for the benefit of the residents only, or may be open to all residents of the Municipality, at the election of the developer and/or homeowners association. In cases where public trails or paths are provided as linkage between developments or as a continuous link of common open space within the Municipality, all residents of the Municipality shall have access to such identified paths/walkways.

(3) Condominiums. The undivided common open space and associated facilities may be controlled through the use of condominium agreements, approved by the Municipality. Such agreements shall be in conformance with all applicable laws and regulations. All undivided common open space land shall be held as a "common element".

(4) Dedication of Easements. The Municipality may, but shall not be required to, accept easements for public use of any portion or portions of undivided common open space land, title of which is to remain in ownership by condominium or homeowners association, provided:

A. Such land is accessible to Municipal residents;

B. There is no cost of acquisition other than incidental transfer of ownership costs; and

C. A satisfactory maintenance agreement is reached between the developer, association and the Municipality.

(5) Transfer of Easements to a Private Conservation Organization. With the permission of the Municipality, an owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources, provided that:

A. The organization is acceptable to the Municipality, and is a bona fide conservation organization with perpetual existence;

B. The conveyance contains appropriate provisions for the proper reverter or retransfer in the event that organization becomes unwilling or unable to continue carrying out its function; and,

C. A maintenance agreement acceptable to Council is entered into by the developer and the organization.

## 1173.08 MAINTENANCE OF OPEN SPACE IN PCND.

(a) The ultimate owner of the open space shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc. The owner shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.

(b) In the event that the organization established to own and maintain common open space shall at any time after establishment of the planned development fail to maintain the common open space in reasonable order and condition in accordance with the Final Development Plan, the Planning and Zoning Administrator may serve written notice upon such organization or upon the residents of the planned conservation development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. The notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) calendar days thereof, and shall state the date and place of a hearing thereon which shall be held within fourteen (14) calendar days of the notice. At such hearing Council may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall

not be cured within said thirty (30) calendar days or any extension thereof, Council, in order to preserve the taxable values of the properties within the planned development and to prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one (1) year. Said entry and maintenance shall not vest in the public any rights to use the common open space. Before the expiration of said year, Council shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the common open space, call a public hearing upon notice to such organization, or to the residents of the planned development, to be held by Council, at which hearing such organization or the residents of the planned development shall show cause why such maintenance by Council shall not, at the election of Council, continue for a succeeding year. If Council determines such organization is ready and able to maintain said common open space in reasonable condition, Council shall cease to maintain said common open space at the end of said year. If Council shall determine such organization is not ready and able to maintain said common open space in a reasonable condition, Council may, in its discretion, continue to maintain said common open space during the next succeeding year and subject to a similar hearing and determination, in each year thereafter. The decision of Council in any such case shall constitute a final administrative decision subject to review as provided by law.

(c) The cost of such maintenance by the Municipality shall be assessed against the properties within the planned development that have a right of enjoyment of the common open space, and shall become a tax lien on said properties. The Municipality, at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the Franklin or Pickaway County Recorder, upon the properties affected by such lien within the planned development.

## CHAPTER 1175
## Overlay Districts

CROSS REFERENCES

Swimming Pools - see P. & Z. Section 1181.01
Yard and Frontage Modifications - see P. & Z. Chapter 1183
Home Occupations - see P. & Z. Chapter 1187
Signs - see P. & Z. Chapter 1189
Wireless Communication Facilities - see P. & Z. Chapter 1193
Accessory Uses and Structures - see P. & Z. Chapter 1195

**1175.01 (reserved)**

**1175.02 (reserved)**

**1175.03 (reserved)**

## 1175.04 STREAM CORRIDOR PROTECTION POLICY.

(a) Except as noted herein, no open channels (natural or man-made) will be enclosed within a storm sewer when an area is developed. This policy will apply even when the open watercourse is located on a property line.

(b) If exceptions are granted on any project, it will be with the requirement that any enclosure will convey flow from the entire tributary drainage area up to the 10-year recurrence interval. A flood routing flow path must be provided through the development site for all storms greater than the 10-year recurrence interval. This flood routing path must be clearly shown on the site development plans.

(c) For all natural or manmade open channels, a stream corridor protection zone (riparian setback) will be required. This zone shall be kept in as natural a state as possible so that it can perform its inherent function of erosion protection, flood storage and water quality protection.

## 1175.05 STREAM CORRIDOR PROTECTION ZONE.

(a) The Stream Corridor Protection Zone (SCPZ) for streams within Commercial Point are shown as "preservation" land use areas in the Village of Commercial Point Comprehensive Plan. A copy of the mapped protection zones may be obtained from the Director of Public Works. The setback width on any specific parcel will be that area indicated on the Comprehensive Plan and as determined by the Municipal Engineer calculated using the methodology specified in Commercial Point's Specifications, Materials, and Standard Drawings Manual.

(b) The SCPZ must be clearly shown on site development plans.

(c) All applicable State and Federal regulations shall be followed, including Sections 401 and 404 or the Clean Water Act. No exceptions to this rule will be allowed to raise flood elevations upstream of the project.

(d) All conveyances and conduits containing a stream, if allowed, shall have the capacity to carry a minimum of a 10-year design storm from the entire upstream drainage area. In addition, a flood routing flow path shall be included to carry the 100-year storm flow. This flood routing path must be clearly shown on the site development plans, and the Applicant shall provide stormwater calculations for the proposed enclosure and flood routing to the municipality for approval.

(e) Construction Limitations.

(1) Except as otherwise provided in this regulation, the SCPZ shall be preserved in its natural state.

(2) Prior to any earth moving or clearing and grubbing activity on a development property, the SCPZ shall be clearly delineated by the Applicant or their designated representative on the site. Such delineation shall also be identified on the Erosion and Sediment Pollution Control Plan (See Section 1115.10 of the Codified Ordinances) and this delineation shall be maintained throughout soil disturbing activity.

(3) No later than the conclusion of construction, the Applicant shall permanently delineate the SCPZ in an aesthetically harmonious manner, approved by the Director of Public Works, such that the location of the riparian setback boundary defining the SCPZ is apparent to the casual observer and that permits access to the zone.

(4) Language preventing property owners from constructing facilities and performing activities that are prohibited within the SCPZ shall be shown on the plat or separate instrument and reflected on all deeds.

(5) Land contained within the SCPZ may, at the Applicant's option and if approved by Council, be deeded in fee simple to the municipality. Alternatively, the land contained within the SCPZ shall be preserved via dedicated conservation easement or reserve.

(6) The Applicant shall obtain all necessary permits from the Army Corps of Engineers, OEPA and other regulatory agencies as needed. The Applicant is responsible for all permitting fees.

(f) Post-Construction Requirements.

(1) Permitted uses and activities.

A. Passive Uses. Uses that are passive in character shall be permitted in the SCPZ, including but not limited to, passive recreational uses, as permitted by federal, state, and local laws, such as hiking, fishing, picnicking and similar uses. Construction of paved trails to further such passive recreation uses are also permitted. However, trails that become damaged due to natural erosion shall not be repaired but shall be moved upland or removed altogether.

B. Removal of Damaged or Diseased Trees. Damaged or diseased trees may be removed. Due to the potential for felled logs and branches to damage downstream properties and/or block watercourses or otherwise exacerbate flooding, logs and branches resulting from the removal of damaged or diseased trees that are greater than 6-inches in diameter at the cut end shall be cut into sections no longer than 6-feet, anchored to the shore or removed.

C. Revegetation and/or Reforestation. The Urban Forester maintains a list of plant and shrub species recommended for stabilizing flood prone areas. Proper selection of species is dependent on soil conditions, available water and amount of sun exposure. Proper species selection will take into account these factors.

D. Public Utilities. Sanitary sewer, storm sewer, and/or water lines and public utility transmission lines may be located within the riparian setback and disturbances of the setback necessary to place and/or maintain such utilities are also authorized. The placement, construction and maintenance of such utilities shall minimize disturbance to riparian areas and shall mitigate any necessary disturbances. The developer and/or landowner shall secure the appropriate state and federal permits required for installations of this type. Utilities that are parallel to the stream shall not be constructed or placed within the SCPZ.

E. Public Roadways. Public Roadways may cross the riparian setback and disturbances of the setback necessary to place and/or maintain the roadways are authorized. The placement, construction and maintenance of the roadway shall minimize disturbance to riparian areas and shall mitigate any necessary disturbances. There shall be no more than two roadway crossings of the setback within any proposed development. The developer and/or landowner shall secure the appropriate state and federal permits required for installations of this type.

F. Construction activities associated with properly permitted stream restoration projects.

G. Disturbances resulting from permitted stream and/or wetland mitigation projects provided that mitigation is to offset impacts to local wetlands.

H. "Emergency Channel Maintenance Activity" may be authorized by the Village engineer, as needed to restore and/or maintain the flood carrying capacity of the main channel area. Such activity may include, but not be limited to removal of offending trees or brush or the accumulation of sediment in the main channel, as necessary to restore flood flow carrying capacity of the main channel.

(2) Prohibited uses. Any use not authorized under these regulations shall be prohibited in the SCPZ. By way of example, the following uses are specifically prohibited, however prohibited uses are not limited to those examples listed here.

A. Construction. There shall be no structures of any kind.

B. Dredging or filling. There shall be no drilling, filling, dredging, grading or dumping of soils, spoils, liquid or solid materials. No floodplain fill permits will be granted for areas within the SCPZ except those that are required for activities listed as permitted uses above.

C. Motorized Vehicles. There shall be no use of motorized vehicles except as needed for activities associated with those listed as permitted uses above.

D. Parking Lots. There shall be no parking lots or other human made impervious cover except as allowed above.

E. Stormwater Detention Facilities. Stormwater detention facilities may be located adjacent to, but not within, the SCPZ unless otherwise approved by the Director of Public Works.

F. Platted Lots. No part of any lot to be developed will be located within the SCPZ.

(3) Non-conforming Uses and Structures within the SCPZ.

A. Any non-conforming use, existing at the time of passage of this regulation and within a SCPZ that is not permitted under this regulation, may be continued but shall not be changed to a new use or enlarged unless changed to a use permitted under this regulation.

B. A non-conforming use, existing at the time of passage of this regulation and within a SCPZ that is not permitted under this regulation, may be continued but shall not have the existing building footprint or roofline expanded or enlarged.

C. A non-conforming use, existing at the time of passage of this regulation and within a SCPZ that has substantial damage and that is discontinued, terminated, or abandoned for a period of six (6) months or more may not be revived, restored or re-established. Substantial damage is defined in Section 1149.04(d) as damages that equate to greater than half of the fair value of the property.

(g) Maintenance of the Stream Corridor Protection Zone.

(1) Disturbance of natural vegetation. There shall be no disturbance of the natural vegetation at any time, including construction of the remainder of the site, except for such plantings as are consistent with these regulations; for removal of invasive species and their replacement with native vegetation; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of these regulations except as needed for activities associated with those listed above.

(2) Recommended vegetation for stabilizing floodprone areas. Proper selection of species for stabilization of flood prone areas is dependent on several factors, including soil conditions, available water and amount of sun exposure. Proper species selection and installation will take into account these factors. A list of appropriate plant species is maintained by the Urban Forester.

## 1175.06 CONFLICTS.

In cases where the requirements and standards of the Overlay District conflicts with similar requirements and standards of the underlying zoning district, the Overlay District shall supersede such underlying zoning district.

**CHAPTER 1177**
**Floodplain District (FP)**

CROSS REFERENCES

Basis of zoning districts - see Ohio R.C. 713.10
Marking flood areas - see Ohio R.C. 1521.14
Conservancy districts - see Ohio R.C. 6101.04

## 1177.01 GENERAL PROVISIONS.

(a) Statutory Authorization. Article XVIII, Section 3 of the Ohio Constitution grants municipalities the legal authority to adopt land use control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the Village Council of Commercial Point, State of Ohio, does ordain as follows:

(b) Findings of Fact. Commercial Point, Ohio has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, flood proofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(c) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

(1) Protect human life and health,

(2) Minimize expenditure of public money for costly flood control projects,

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public,

(4) Minimize prolonged business interruptions,

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard,

(6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas,

(7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions,

(8) Minimize the impact of development on adjacent properties within and near flood prone areas,

(9) Ensure that the flood storage and conveyance functions of the floodplain are maintained,

(10) Minimize the impact of development on the natural, beneficial values of the floodplain,

(11) Prevent floodplain uses that are either hazardous or environmentally incompatible, and

(12) Meet community participation requirements of the National Flood Insurance Program.

(d) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities,

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction,

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters,

(4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage, and

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(e) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of Commercial Point, Ohio as identified in Section 1177.01 (f) , including any additional areas of special flood hazard annexed by Commercial Point, Ohio.

(f) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and/or maps are adopted:

(1) "Flood Insurance Rate Map Pickaway County, Ohio and Incorporated Areas" and "Flood Insurance Study Pickaway County, Ohio and Incorporated Areas" both effective September 19, 2007.

(2) Other studies and/or maps that may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard include: Floodplain Study in Franklin and Pickaway County, Ohio,

(3) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by Commercial Point, Ohio as required by Section 1177.04(c).

(4) Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are part of the Village of Commercial Point Comprehensive Plan, and may be reviewed at 10 West Scioto Street, Commercial Point, Ohio.

(g) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction, covenant or easement but the land subject to such interests shall also be governed by the regulations.

(h) Interpretation. In the interpretation and application of these regulations, all provisions shall be:

(1) Considered as minimum requirements,

(2) Liberally construed in favor of Commercial Point, Ohio, and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of these regulations may be in conflict with a state or federal law, such state or federal law shall take precedence over these regulations.

(i) Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of Commercial Point, Ohio, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

(j) Severability. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the

regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

## 1177.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

(a) Accessory Structure. A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

(b) Appeal. A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.

(c) Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.

(d) Base (100-Year) Flood Elevation (BFE). The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

(e) Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

(f) Development. Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Note Section 1153.13

(g) Enclosure Below the Lowest Floor. See "Lowest Floor."

(h) Executive Order 11988 (Floodplain Management). Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.

(i) Federal Emergency Management Agency (FEMA). The agency with the overall responsibility for administering the National Flood Insurance Program.

(j) Fill. A deposit of earth material placed by artificial means.

(k) Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters, and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(l) Flood Hazard Boundary Map (FHBM). Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

(m) Flood Insurance Rate Map (FIRM). An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.

(n) Flood Insurance Risk Zones. Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:

(1) Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.

(2) Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100- year flood; base flood elevations are determined.

(3) Zone AO: Special flood hazard areas inundated by the 100-year flood with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.

(4) Zone AH: Special flood hazard areas inundated by the 100-year flood with flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

(5) Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.

(6) Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

(7) Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.

(o) Flood Insurance Study (FIS). The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.

(p) Flood Protection Elevation. The Flood Protection Elevation, or FPE, is the base flood elevation plus 1 ½ feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.

(q) Floodway. A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.

The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

(r) Freeboard. A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.

(s) Historic structure. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.

(t) Hydrologic and hydraulic engineering analysis. An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.

(u) Letter of Map Change (LOMC). A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:

(v) Letter of Map Amendment (LOMA). A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.

(w) Letter of Map Revision (LOMR). A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.

(x) Conditional Letter of Map Revision (CLOMR). A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

(y) Lowest floor. The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.

(z) Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.

(aa) Manufactured home park. As specified in the Ohio Administrative Code 3701-27- 01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

(bb) National Flood Insurance Program (NFIP). The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard

areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

(cc) New construction. Structures for which the "start of construction" commenced on or after the initial effective date of the Commercial Point, Ohio Flood Insurance Rate Map, June 4, 1980, and includes any subsequent improvements to such structures.

(dd) Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.

(ee) Recreational vehicle. A vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self- propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(ff) Registered Professional Architect. A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Ohio Revised Code.

(gg) Registered Professional Engineer. A person registered as a professional engineer under Chapter 4733 of the Ohio Revised Code.

(hh) Registered Professional Surveyor. A person registered as a professional surveyor under Chapter 4733 of the Ohio Revised Code.

(ii) Special Flood Hazard Area. Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

(jj) Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 calendar days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

(kk) Structure. A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

(ll) Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its' before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(mm) Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

(1) Any improvement to a structure which is considered "new construction,"

(2) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(3) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

(nn) Variance. A grant of relief from the standards of these regulations consistent with the variance conditions herein.

(oo) Violation. The failure of a structure or other development to be fully compliant with these regulations.

## 1177.03 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Planning and Zoning Administrator is hereby appointed to administer and implement this chapter and is referred to herein as the Floodplain Administrator.

(b) Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

(1) Evaluate applications for permits to develop in special flood hazard areas.

(2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.

(3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.

(4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.

(5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.

(6) Enforce the provisions of these regulations.

(7) Provide information, testimony, or other evidence as needed during variance hearings.

(8) Coordinate map maintenance activities and FEMA follow-up.

(9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(c) Floodplain Development Permits. It shall be unlawful for any Person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1177.01 (f), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(d) Application Required. An application for 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. Such 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.

(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:

A. Flood proofing certification for non-residential flood proofed structure as required in Section 1177.04(e).

B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1177.04 (d) (5) are designed to automatically equalize hydrostatic flood forces.

C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1177.04 (i) (3).

D. 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 Section 1177.04 (i) (2).

E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1177.04 (i) (1).

F. Generation of base flood elevation(s) for subdivision and large scale developments as required by Section 1177.04 (c).

(6) A floodplain development permit fee of $500 (five hundred) which includes the village engineer review fee shall be paid by the property owner or applicant, payable to the General Fund.

(e) Review and Approval of a Floodplain Development Permit Application.

(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 in Section 1177.03 (d) 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) calendar 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 (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(f) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(g) Post-Construction Certifications Required. 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 all development activities subject to the standards of Section 1177.03 (j) (1), a Letter of Map Revision.

(h) 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 Appeals Board in accordance with Section 1177.05Appeals & Variances.

(i) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:

(1) 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.

(2) 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.

(3) Major utility facilities permitted by the Ohio Power Sitting Board under Section 4906 of the Ohio Revised Code.

(4) Hazardous waste disposal facilities permitted by the Hazardous Waste Sitting Board under Section 3734 of the Ohio Revised Code.

(5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

(j) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the municipality's flood maps, studies and other data identified in Section 1177.01 (f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data.

A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;

2. 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;

3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and

4. Subdivision or large scale development proposals requiring, the establishment of base flood elevations in accordance with Section 1177.04 (c).

B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1177.03 (j) (1), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

1. Proposed floodway encroachments that increase the base flood elevation; and

2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1177.03 (j) (1).

(2) Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of Commercial Point, and may be submitted at any time.

(3) Annexation I Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the municipality have been modified by annexation or the community has assumed authority over an area, or no longer has authority to

adopt and enforce floodplain management regulations for a particular area. In order that the municipality's Flood Insurance Rate Map accurately represent the municipality boundaries, include within such notification a copy of a map of the municipality suitable for reproduction, clearly showing the new corporate limits or the new area for which the municipality has assumed or relinquished floodplain management regulatory authority.

(k) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

(1) In areas where FEMA has. not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

(2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.

(3) When Preliminary Flood Insurance Rate Maps or Flood Insurance Study have been provided by FEMA:

A. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.

B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1177.05 Appeals and Variances.

(5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

(l) Substantial Damage Determinations. Damages to structures may result from a variety of causes including tornado, wind, heavy snow, flood, fire, etc. After such a damage event, the Floodplain Administrator shall:

(1) Determine whether damaged structures are located in special flood hazard areas;

(2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and

(3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements; and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations;

providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

## 1177.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1177.01(f) or 1177.03 (k) (1):

(a) Use Regulations.

(1) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the municipality are allowed provided they meet the provisions of this chapter.

(2) Prohibited Uses.

A. Structures designed or used for human habitation.

B. The storage or processing of materials that are pollutants, buoyant, flammable, poisonous, explosive, or could be injurious to human, animal, or plant life in time of flooding, or that have a high flood damage potential.

C. Garbage and waste disposal facilities.

D. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.

E. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.

(b) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

(2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(c) Subdivisions and Large Developments.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.

(5) The applicant shall meet the requirement to submit technical data to FEMA in Section 1177.03 (j) (1) (a) (4) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1177.04 (c) (4).

(d) Residential Structures.

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring 1177.04 (d) (1) and construction materials resistant to flood damage 1177.04 (d) (2) are satisfied.

(2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.

(3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation; or the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade; whichever is more restrictive.

(5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:

A. Be used only for the parking of vehicles, building access, or storage; and

B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or

C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 1177.04 (d).

(8) New construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(e) Nonresidential Structures.

(1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1177.04 (d) (1)– (3) and (5)– (7).

(2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:

A. Be dry flood proofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

C. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Flood proofing Certificate, that the design and methods of construction are in accordance with Section 1177.04 (e) (a) and (b).

(3) Where flood protection data are not available the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

(f) Accessory Structures. Relief to the elevation or dry flood proofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

(1) They shall not be used for human habitation;

(2) They shall be constructed of flood resistant materials;

(3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;

(4) They shall be firmly anchored to prevent flotation;

(5) Service facilities such as electrical and heating equipment shall be elevated or flood-proofed to or above the level of the flood protection elevation; and

(6) They shall meet the opening requirements of Section 1177.04 (d) (5) c;

(g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:

(1) They shall not be located on sites in special flood hazard areas for more than 180 calendar days, or

(2) They must be fully licensed and ready for highway use, or

(3) They must meet all standards of Section 1177.04 (d).

(h) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(i) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

(1) Development in Floodways

A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or

B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. Meet the requirements to submit technical data in Section 1177.03 (j) (1);

2 An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;

3. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;

4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and

5. Concurrence of the Mayor of Commercial Point and the Chief Executive Officer of any other communities impacted by the proposed actions.

(2) Development in Riverine Areas with Base Flood Elevations but No Floodways.

A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than one (1) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,

B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:

1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;

2. Section 1177.04(i)(1)B.1. and 3.-5.)

(3) Alterations of a Watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.

B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.

C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the municipality specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

D. The applicant shall meet the requirements to submit technical data in Section 1177.03 (j) (1) a, 3 when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

## 1177.05 APPEALS AND VARIANCES.

(a) Appeals Board. The Planning and Zoning Commission shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of this chapter.

(b) Powers and Duties.

(1) The Planning and Zoning Commission shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.

(2) Authorize variances in accordance with Section 1177.05 (d) of this chapter.

(c) Appeals.

(1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within ten (10) calendar days of the date of such notice and order, or other official action, a statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed and dated by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Planning and Zoning Commission.

(2) Upon receipt of the notice of appeal, the Planning and Zoning Commission shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Planning and Zoning Commission shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owning to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application for a Variance.

A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Planning and Zoning Commission.

B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.

C. A fee as stipulated by ordinance shall be paid by the applicant payable to the General Fund.

(2) Notice for Public Hearing. The Planning and Zoning Commission shall schedule and hold a public hearing within thirty (30) calendar days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) calendar days before the date of the hearing.

(3) Public Hearing. At such hearing the applicant shall present such statements and evidence as the Planning and Zoning Commission requires. In considering such variance applications, the Planning and Zoning Commission shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations, and the following factors:

A. The danger that materials may be swept onto other lands to the injury of others.

B. The danger to life and property due to flooding or erosion damage.

C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

D. The importance of the services provided by the proposed facility to the community.

E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

F. The necessity to the facility of a waterfront location, where applicable.

G. The compatibility of the proposed use with existing and anticipated development.

H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

I. The safety of access to the property in times of flood for ordinary and emergency vehicles.

J. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) Variances shall only be issued upon:

A. A showing of good and sufficient cause,

B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant,

C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws,

D. A determination that the structure or other development is protected by methods to minimize flood damages, and

E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Planning and Zoning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.

(5) Other Conditions for Variances.

A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1177.05 (d)(3), A – K have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(e) Procedure at Hearings.

(1) All testimony shall be given under oath.

(2) A complete record of the proceedings shall be kept, except confidential deliberations of the Planning and Zoning Commission, but including all documents presented and a verbatim record of the testimony of all witnesses.

(3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.

(4) The Floodplain Administrator may present evidence or testimony in opposition to the appeal or variance.

(5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.

(6) Evidence that is not admitted may be proffered and shall become part of the record for appeal.

(7) The Planning and Zoning Commission shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.

(8) The decision of the Planning and Zoning Commission may be announced at the conclusion of the hearing or the decision may be issued in writing within a reasonable time after the hearing. The Planning and Zoning Commission will memorialize its decision in Findings of Fact and Conclusions of Law when a Notice of Appeal is filed.

(f) Appeal to the Court. Those aggrieved by the decision of the Planning and Zoning Commission may appeal such decision to the Franklin County or Pickaway County, as applicable, Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

## 1177.06 ENFORCEMENT.

(a) Compliance Required.

(1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1177.03 (i).

(2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1177.06 (c).

(3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1177.06 (c).

(b) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

(1) Be put in writing on an appropriate form;

(2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations;

(3) Specify a reasonable time for performance;

(4) Advise the owner, operator, or occupant of the right to appeal;

(5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(c) Violations and Penalties. Violation of the provisions of this chapter or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the municipality. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the municipality from taking such other lawful action as is necessary to prevent or remedy any violation. The municipality shall prosecute any violation of these regulations in accordance with the penalties stated herein.

CROSS REFERENCES

Special Provisions - see P. & Z. Chapter 1181
Height, Area and Yard Modifications - see P. & Z. Chapter 1183
Off-Street Parking and Loading - see P. & Z. Chapter 1185
Signs - see P. & Z. Chapter 1189
Landscaping and Screening - see P. & Z. Chapter 1191
Wireless Communication Facilities - see P. & Z. Chapter 1193
Accessory Uses and Structures - see P. & Z. Chapter 1195

## 1179.01 PURPOSE.

(a) The Exceptional Use District (EU) is designed to permit certain uses which are not addressed in any other adopted district and which are of a nature as to warrant individual consideration and regulation due to unique demands placed upon the public health, safety and general welfare and the requirements of location and development that generally are peculiar to these uses.

(b) The Exceptional Use District (EU) is intended to allow these uses to be suitably located and developed to appropriate and necessary standards of development in relation to other land

uses and development with a minimum of conflict, without undue demand on necessary public services and facilities, and without adverse impact on the natural environment. To this end, these uses are intended to be developed in a manner of appropriate architectural, engineering, and landscape design and layout with necessary space or other provisions regarding development or operation to overcome any obnoxious or hazardous effect on adjacent lands as such effect may be a potential in the proposed use.

(c) The Exceptional Use District (EU) is a holding district for recently annexed land into the Village of Commercial Point until a development plan is submitted. Any change to the current use of the annexed property is required to go through the rezoning process of Chapter 1143.

## 1179.02 SPECIAL USES.

(a) Land or buildings may be approved as permitted uses in the Exceptional Use District (EU) provided that such use is not a permitted or conditional use in any other district. For purposes of this Section,

(1) "Pawnbroker" means a person engaged in the business of lending money on deposit or pledges of personal property, other than securities, printed evidence of indebtedness, titles, deeds, or bills of sale, at a total charge, rate of interest, or discount or other remuneration in excess of eight percent per annum, and includes a person engaged in the business of purchasing personal property from another person with an agreement that the personal property will be made available to that person for repurchase with an agreed-to-time period for an amount greater than the price originally paid to that other person for the purchase of property.

(2) "Plasma" means the fluid portion of blood that has been stabilized against clotting, and is collected by plasmapheresis.

(3) "Plasmapheresis" means a procedure in which blood is drawn from a donor, the plasma is separated from the formed elements, and the formed elements are returned to the donor during a single visit to the plasmapheresis center, but excludes such a procedure performed for the purpose of improving the health of a donor.

(4) "Plasmapheresis center" means a blood bank or other establishment except a hospital that collects plasma.

(b) The Exceptional Use District shall be limited to the following issues:

(1) Golf club, country club, fishing club or lake, gun club, riding stable, including boarding of animals or similar recreational facility operated on an admission fee or membership basis.

(2) Cemetery or crematory not otherwise allowed by the provisions of the Zoning Code. The following standards shall apply to the development and construction of cemeteries within the Municipality.

A. The site proposed for a cemetery shall not interfere with the development of a system of collector and larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare which Planning and Zoning Commission determines is adequate to serve the size of the facility proposed.

B. Any new cemetery shall be located on a site containing not less than twenty (20) acres.

C. All buildings, including but not limited to mausoleums and maintenance buildings, shall respect the required yards setback of the district in which it is located.

D. All graves or burial lots shall be set back not less than twenty-five (25) feet from any street right-of-way line.

E. All required yards shall be landscaped and maintained in good order. A plan for perpetual care of the grounds shall be required.

(3) Agriculture.

(4) Pawnbrokers not otherwise allowed by the provisions of the Zoning Code. All requirements set forth in the Ohio Revised Code Chapter 4727 shall apply.

(5) Plasmapheresis centers not otherwise allowed by the provisions of the Zoning Code. All requirements set forth in Ohio Revised Code Chapter 3725 shall apply.

(6) Other legal uses of unique or exceptional requirements of circumstances that are otherwise not permitted by this Zoning Code.

## 1179.03 APPLICATION PROCEDURE.

The application procedure for amendments shall apply as stated in Section 1143.02 except subsection (c) (7) thereof which shall be replaced with a Development Plan, fifteen (15) copies of which shall be submitted with the application. The Development Plan shall include in text and map form:

(a) The proposed location and size of areas of use, in dictating size, location and type of structure(s).

(b) The proposed location, size and use of all open areas landscaped and other open space with ownership of such areas.

(c) The proposed provision of water, sanitary sewer and surface drainage facilities including engineering feasibility or other evidence of reasonableness.

(d) The proposed circulation pattern including streets, both public and private, driveways, parking areas, walking and other access ways including their relation to topography, existing streets and other evidence of reasonableness.

(e) The proposed schedule of site development and construction of buildings and associated facilities, and sketches or other documentation indicating design principals or concepts for site development, buildings, lighting and illumination, landscapes or other features. Such schedule shall include the use or redevelopment of existing features such as structures, streets, easements, utility lines, and land use.

(f) The relationship of the proposed development to the existing and future land use in the surrounding areas, the street system, community facilities and services, and other public improvements.

(g) Evidence that the Applicant has sufficient control over the land to effectuate the proposed Development Plan within three (3) years. Such control includes property rights, economic resources, and engineering feasibility as may be necessary.

## 1179.04 CRITERIA FOR REVIEW.

The Planning and Zoning Commission shall, at the minimum, consider the following factors in the review of the application:

(a) That the proposed development is consistent in all respects to the purpose, intent and applicable standards of this Zoning Code.

(b) That the proposed development is compatible with adjacent land use, adjacent zoning and to appropriate plans for the area.

(c) That the proposed development advances the general welfare of the Municipality and that the benefits to be derived from the proposed use justifies the change in land use character of the area.
(d) That the proposed development promotes the public health, safety, convenience, comfort, prosperity and general welfare.

## 1179.05 REVIEW PROCEDURE.

The review procedure shall be as stated and required in Section 1143.04 except as to effect of approval as stated in Section 1179.06.

## 1179.06 EFFECT OF APPROVAL; TIME EXTENSION OR MODIFICATION.

(a) Effect of Approval. The Development Plan as approved by Council shall constitute an amendment of the official zoning map. Such approval shall be for a three (3) year period commencing from the date of approval by Council to allow the preparation of a subdivision plat or application for Certificate of Zoning Compliance, whichever shall apply. The approval shall become voided and the land shall revert to its last previous zoning district if a final subdivision plat has not been approved or a Certificate of Zoning Compliance has not been issued, unless an extension of time is granted as per subsection (b) below.
(b) Time Extension or Modification. An extension of the time limit or the modification of the approved Development Plan may be approved by Council following receipt of a recommendation from the Planning and Zoning Commission. Such approval shall be given upon the finding of the purpose and necessity for such extension or modification and evidence of reasonable effort toward the accomplishment of the approved Development Plan, and that such extension or modification is not in conflict with the general health, safety and welfare of the public or the development standards of the Exceptional Use District (EU).

## 1179.07 DEVELOPMENT STANDARDS.

The provisions of Title Seven, Supplemental Regulations, shall pertain to the Exceptional Use District (EU). Because of the unique nature and requirements of these uses, and because their locations cannot be readily predetermined, appropriate development standards, requirements, and other provisions of this Zoning Code, as appropriate, shall be used.

**TITLE SEVEN - Supplemental Zoning Regulations**

CROSS REFERENCES

Definitions - see P. & Z. Section 1133.02
Accessory Uses and Structures - see P. & Z. Chapter 1195

## 1181.01 SWIMMING POOLS.

A "Private Swimming Pool" as regulated herein means any pool or tank, exclusive of "storable swimming pools," not located within a completely enclosed building and containing water at any point to a depth of twenty-four (24) inches. No private swimming pool, above or below ground, shall be allowed in a residential district except as an accessory use, and unless such private swimming pool has received a Certificate of Zoning Compliance prior to issuance of a Building Permit and provided such pool complies with the following conditions and requirements:

(a) The pool is an accessory structure intended and used primarily for the enjoyment of the occupants of the principal use of the property.

(b) The pool may not be located in an easement or installed in any manner that negatively impacts storm water runoff or causes flooding to adjoining properties.

(c) The pool, or the entire lot on which such pool is located, shall be enclosed by a structure with a minimum height of four (4) feet to prevent uncontrolled access from the street and from adjacent properties.

(d) Access gates must be self-closing and have a self-latching device and shall be equipped to accommodate a locking device.

(e) No person, firm or corporation shall construct or install a swimming pool or make any alteration therein or in the appurtenances thereof without having received an approved Certificate of Zoning Compliance.

(f) Any lighting to illuminate the pool area shall be so arranged as to deflect the light away from the adjoining properties.

(g) The pool must be a minimum of ten (10) feet away from the property line.

NOTE: Deed restrictions or covenants may also prohibit certain kinds of fences or specify locations in the subdivision. The village does not regulate nor enforce deed restrictions; other home owners or civic associations in a subdivision may regulate them as well as other subdivision rules.

## 1181.02 OPEN STORAGE AND DISPLAY OF MATERIAL.

The open storage and display of material and equipment incidental to a nonresidential use adjacent to a residential zoning district, Planned Residential District, Planned Unit District, or visible from a public right-of-way shall only be permitted provided the area used for open storage and display shall be effectively screened on adjoining sides and public rights-of-way by means of walls or fences with a one hundred (100) percent opaqueness and is located behind the building line and not in a required yard. Walls or fences shall be a minimum of six (6) feet in height without advertising thereon and shall not include chain-link fences. Walls and fences may be further screened with plantings comprised of evergreen hedges six (6) feet in height.

## 1181.03 PUBLIC NUISANCE REGULATIONS.

No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious, or otherwise objectionable conditions which could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this Zoning Code may be undertaken and maintained if acceptable measures or safeguards to reduce dangerous and

objectionable conditions to acceptable limits are established by the performance requirements in subsections (a) to (l) hereof.

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

(b) Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity at any point, or electrical disturbance adversely affecting the operation of any equipment at any point than that of the creator of such disturbance.

(c) Noise and Vibration. Noise or vibration shall be so controlled that at the property line on which such noise or vibration is produced it will not be at a level above that normally perceptible from other development activities in the area or from the usual street traffic observed at the street right-of-way line of the lot, except occasional blast or shock required in normal operation and produced in such manner as not to create a hazard.

(d) Toxic and Hazardous Substances. No toxic substance shall be emitted or otherwise discharged into the atmosphere, ground, surface waters or ground waters. No storage, use or transport of toxic or hazardous substances shall be permitted unless such activity is in full compliance with applicable state and federal environmental protection regulations and the expressed prior written approval of the Fire Chief.

(e) Air Pollution. No pollution of air by fly-ash, dust, vapors, odors, smoke or other substances shall be permitted which are harmful to health, animals, vegetation or other property, or which can cause excessive soiling.

(f) Glare. No direct or reflected glare shall be permitted which is visible from any property or from any public street.

(g) Erosion. No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.

(h) Water Pollution. Water pollution shall be subject to the requirements and regulations established by the Ohio Environmental Protection Agency.

(i) Trash. The storage of trash and waste materials, including but not limited to discarded household goods, discarded commercial products, industrial by-products, and other similar materials shall not be visible from the property line on which such materials are being stored or otherwise placed. All such materials shall be housed in an appropriate container or enclosure, excepting trash that is properly placed in an appropriate enclosed container at an assigned location for regularly scheduled trash pickup. In all cases, there shall be full compliance with applicable zoning district standards.

(j) Enforcement Provisions. The Planning and Zoning Administrator or Planning and Zoning Commission prior to the issuance of a Certificate of Zoning Compliance may require the submission of statements and plans indicating the manner in which dangerous and objectionable elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerances.

(k) Measurement Procedures. Methods and procedures for the determination of the existence of any dangerous and objectionable elements shall conform to applicable standard measurement procedures published by the American National Standards Institute, United States Bureau of Mines, and Ohio Environmental Protection Agency.

(l) Turf and Shrubs. Turf shall not be higher than eight (8) inches, and shrubs may not extend over a sidewalk or into a public right of way. If the owner, lessee, agent or tenant having charge

of the land mentioned fails to comply with a violation notice per Chapter 1135, the municipality may cause such turf or shrubs to be cut and may employ the necessary labor to perform such task. All expenses incurred shall be documented. The Clerk of Council shall make a written return to the County Auditor of action taken under this section, with a statement of the charges for its services, the amount paid for the performing of such labor, the fees of the officers who made the service of the notice and return, and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate, shall be a lien upon such lands from the date of the entry, and shall be collected as other taxes and returned to the municipality with the General Fund.

(m) Abatable Nuisance. Upon determination by the Planning and Zoning Commission or as sustained by appeal of such a decision to Council, subsections (a) to (l) hereof shall be considered abatable nuisances and a violation of the provisions of this Zoning Code.

## 1181.04 (reserved)

## 1181.05 PORTABLE STRUCTURES.

(a) Portable Residential Structures. No mobile home, trailer or similar portable residential structures in use shall be permitted in any district in the Municipality except for camping and traveling trailers specified in Section 1185.07.

(b) Portable Non Residential Structures. Portable non-residential structures shall not be permitted in the Municipality, except as provided in Section 1181.05(c) and Section 1135.09 of this Zoning Code. For the purposes of this Zoning Code, a portable non-residential structure shall be defined as any building or other structure designed for occupation or sale of goods which is not placed on a permanent foundation.

(c) Portable On Demand Storage (PODS). The use of PODS within the Municipality, or other similar units, shall be permitted in any zoning district only for the purpose of loading or unloading in association with moving in or out of a building. PODS shall be parked on property for a period not to exceed seven (7) consecutive days, shall not be parked on public right-of-way or private streets, and shall be located on an existing driveway or parking area composed of gravel, asphalt, concrete or other hard surface. The Planning and Zoning Administrator shall issue a Certificate of Zoning Compliance for the location of PODS in the Municipality abiding by the aforementioned conditions.

## 1181.06 – Reserved

## 1181.07 FENCES AND HEDGES.

(a) Electrically Charged Fences Prohibited. Electrically charged fences shall be forbidden in all districts except on sites of more than ten (10) acres used to confine livestock.

(b) Use of Barbed Wire. Barbed wire may be used only to top standard security fences in commercial and industrial districts at a height of six (6) feet or greater, the supports for such barbed wire shall be either vertical or lean inward above the property of the owner of the fence. Lands used for agricultural purposes, meeting the requirements of this Code, shall be exempt from this provision.

(c) Decorative Fences Required. Only decorative fences shall be constructed in front setbacks or side setbacks abutting streets. Decorative fences shall mean split rail, ornamental

iron, vinyl, or other decorative wooden fences as approved by the Planning and Zoning Administrator.

(d) Chain Link Prohibited. Chain link fences shall not be permitted within front setbacks or side setbacks abutting streets in any district, except by variance granted by the Planning and Zoning Commission.

(e) Guard Rails Prohibited. Guard rails shall not be used as fencing.

(f) Location in Front Setbacks. Fences and hedges in front setbacks and/or side setbacks abutting streets and alleys in any district shall not exceed four (4) feet in height and shall not obstruct the view of pedestrians or vehicular traffic or be detrimental to the public safety.

(g) Fencing Agricultural Uses. Lands used for agricultural purposes, meeting the requirements of this Code, shall not place any fence used for the confinement of said use closer than fifteen (15) feet from any public right-of-way or private street.

(h) Height Restriction in Rear and Side Yards. Fences in rear setbacks and side setbacks not abutting streets and alleys shall not exceed six (6) feet in height in residential districts or twelve (12) feet in height commercial or industrial districts.

(i) Permit Required. No fence shall hereafter be erected, constructed, altered, relocated or rebuilt until an application has been filed with and a permit issued by the Planning and Zoning Administrator.

(j) Exemptions for Temporary Fences. The following temporary fences shall be exempt from the provisions of this section:

(1) Temporary construction fences when such fence is indicated on an approved site plan.

(2) Temporary fences used for Special Events and shown on an approved plot plan for said event.

(3) Temporary snow fence installed by any Government agency.

(4) Temporary fences installed for the protection of the public from any obvious danger.

## 1181.08 OUTDOOR FURNACES.

(a) Definition. An outdoor furnace shall be defined as any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

(b) Permits. The property owner is required to obtain a Certificate of Zoning Compliance, required Building Permits and other applicable permits prior to the location, construction, installation, or operation of outdoor furnace in the Village of Commercial Point.

(c) Operation. All outdoor furnaces shall be constructed, established, installed, operated and maintained in conformance with the manufacturer's instructions, the requirements of this Zoning Code, and all Federal and State regulations, whichever is more restrictive.

(d) Permitted Fuel. Only firewood, untreated lumber, wood pellets, biomass pellets, or corn are permitted to be burned in any outdoor furnace, per the manufacturer's specifications. Burning of any and all other materials in an outdoor furnace is prohibited.

(e) Permitted Zones. Outdoor furnaces shall be permitted in the R-1 and R-3 zoning districts.

(f) Minimum Property Size. The minimum property size on which outdoor furnaces may be operated shall be two (2) acres.

(g) Setbacks. Outdoor furnaces shall be set back no less than seventy five (75) feet from the nearest lot line or public right of way.

(h) Number. No more than one (1) outdoor furnace shall be permitted on any one (1) lot of record.

(i) Size. Outdoor furnaces shall be no larger than forty (40) square feet in area and be no taller than eight (8) feet in height, not including the chimney or stack.

(j) Chimney or Stack Height. The chimney of an outdoor furnace shall extend at least two (2) feet above the peak of the residence for which it serves.

(k) Appearance. Outdoor furnaces must have a shed appearance enclosing the furnace unit and other associated equipment.

(l) Months of Operation. Outdoor furnaces shall be operated only between September 1 and May 31.

(m) If an existing outdoor furnace is determined to be creating a nuisance, as established in Section 1181.03 of this Zoning Code and the International Property Maintenance Code:

(1) The operation of the unit shall cease and desist until reasonable steps can be taken to ensure that the outdoor wood furnace will not be a nuisance.

(2) The property owner shall work with the Planning and Zoning Administrator to modify the outdoor furnace to eliminate the nuisance by such means as extending the chimney, relocating the outdoor wood furnace, or other appropriate measures.

(3) The outdoor furnace shall be removed from the property if modifying the outdoor furnace, relocating the outdoor furnace, or other appropriate measures do not eliminate the nuisance.

(n) Any person who constructs or operates an outdoor furnace in violation of this section shall be deemed in violation of this Zoning Code and punishable as prescribed in Chapter 1135.

## 1181.09 ELECTRIC VEHICLE CHARGING STATIONS.

(a) An electric vehicle charging station shall mean a public or private parking space located together with a battery charging station which permits the transfer of electric energy (by conductive or inductive means) to a battery or other storage device in an electric vehicle.

(b) Electric vehicle supply equipment, as defined in the National Electric Code, shall obtain any required Building Permits, Electrical Permits or other applicable permits prior to their location, construction, installation, or operation in the Village of Commercial Point.

(c) Electric Vehicle Charging Stations on Residential Properties. Electric vehicle charging stations shall be permitted in the R-1, R-3, MF-A, MF-C, PRD zoning districts, and areas designated for residential use in PUD, PCND, and TND zoning districts, subject to the following regulations:

(1) Electric vehicle charging stations on residential properties shall not be located within the front, side or rear setbacks of the applicable zoning district.

(2) Residential properties with more than five (5) electric vehicle charging stations in a single parking lot shall provide screening of such charging stations from adjacent properties with landscaping, fencing, or a combination thereof and achieve at least fifty (50) percent opacity at installation.

(3) Electric vehicle charging stations shall only be utilized by the residents of the property such charging stations are located upon.

(4) Only single phase Level 1 and Level 2 electric vehicle supply equipment shall be permitted on residential properties.

(5) A Certificate of Zoning Compliance shall be required for electric vehicle charging stations located on residential properties.

(d) Electric Vehicle Charging Stations on Non-Residential Properties. Electric vehicle charging stations shall be permitted in the GC, NC, SO, PCD, PID, and LM zoning districts, and areas designated for non-residential use in PUD, PCND, and TND zoning districts, subject to the following regulations:

(1) Non-residential properties with five (5) or less electric vehicle charging stations that do not have overhead canopies shall be permitted per to the following:

A. Minor Site Development Plan approval shall be required per Section 1141.02(d).

B. Electric vehicle charging stations shall not be located within the front yard setback of the applicable zoning district and shall be located no less than ten (10) feet from the side or rear property lines. Electric vehicle charging stations shall be located no less than thirty (30) feet from any residential zoning district as stated in Section 1181.08(b).

(2) Non-residential properties with more than five (5) electric vehicle charging stations, or charging stations that include overhead canopies, shall be permitted per the following:

A. Conditional Use approval shall be required per Chapter 1145 and Major Site Development Plan approval shall be required per Section 1141.02(c).

B. Electric vehicle charging stations shall not be located within the front, side, or rear setbacks of the applicable zoning district.

C. Electric vehicle charging stations shall be screened from adjacent residential uses with landscaping, fencing, or a combination thereof and achieve at least fifty (50) percent opacity at installation.

(3) Parking spaces designated for electric vehicular charging stations shall not apply to the required minimum number of parking spaces.

(4) Signage shall only be located on the electronic vehicle charging station and shall not exceed four (4) square feet in area per charging station.

**CHAPTER 1183**

**Height, Area and Yard Projections**

## 1183.01 HEIGHT MODIFICATIONS.

The height limitations stipulated elsewhere in this Zoning Code shall not apply to the following:

(a) Farm Buildings, Churches, Architectural Features and Similar Structures. Barns, silos, or other farm buildings or structures on farms; church spires, belfries, cupolas and domes; monuments; chimneys, flagpoles; parapet walls extending not more than four (4) feet above the limiting height of the building.

(b) Elevator Penthouses, Water Tanks, and Similar Structures. Elevator penthouses, water tanks, monitors and scenery lofts, provided the height of any such structure doesn't exceed fifty (50) percent of the corresponding street lot line frontage; monuments, grain elevators, conveyers, derricks, gas holders or other structures and mechanical appurtenances where the manufacturing process requires a greater height and provided no such structure is located in front of the building, and provided that such structure is setback a distance greater than its height from any lot line.

## 1183.02 YARD PROJECTIONS.

The yard space required for a use or structure shall, during its life, remain free of all uses or occupancies except as follows:

(a) Landscaping shall be permitted in any required yard, or along the edge of any yard, provided that no fence or wall, unless decorative, no higher than three (3) feet in height except as required in Chapter 1191, and not located so as to reduce visibility, shall be located between a public right-of-way and a front building line. Such fencing shall not include chain link fencing.
(b) Eaves, cornices, canopies, windowsills, belt courses and any similar architectural feature may project into any required yard a distance not to exceed twenty-four (24) inches.
(c) Bay windows, balconies, uncovered porches and chimneys may project beyond the front building line or into a required rear yard space a distance not to exceed five (5) feet.
(d) Driveways shall be permitted in required yards, but shall be three (3) feet or more from any property line, except where such driveways are developed jointly as a common drive to adjoining lots.
(e) Underfootings shall be permitted to extend to the building setback line.
(f) All above ground utility connections shall be located at the rear of the house.
(g) Unroofed porches, decks and steps may extend from the dwelling into the required front yard a maximum of ten (10) feet.
(h) Open structures such as roofed porches, canopies, balconies, and carports, shall be considered parts of the building to which attached and shall not project into any required yard.
(i) No structure may project into a required side yard except in the case of a single nonconforming lot of record which is of insufficient width to meet the side yard requirements of this Zoning Code.

## 1183.03 LOT AREA REQUIREMENTS; PRIVATE SANITARY FACILITIES.

Any other regulations of this Zoning Code notwithstanding or as otherwise determined by the applicable County Board of Health, in any district where public water and sanitary sewer facilities are not immediately accessible, the lot area per single-family dwelling and lot frontage requirements otherwise specified for residential uses shall be increased as follows:
(a) Sewerage and Water Not Available. Where both public sanitary sewerage and public water supply are not accessible:
(1) Minimum lot area - One (1) acre
(2) Minimum lot frontage - One hundred twenty-five (125) feet
(b) Sewerage Not Available. Where public water supply is accessible and private connections will be made, but where public sanitary sewerage is not accessible:
(1) Minimum lot area - One (1) acre
(2) Minimum lot frontage - One hundred twenty-five (125) feet

Residential structures containing two (2) or more dwelling units shall not be rezoned, shall not be issued a Certificate of Zoning Compliance, nor shall be issued a building permit without access to public sanitary sewer and water facilities.
(a) Determination of Assigned Yards. The assigned yard (typically diamond-shaped) shall be the area bounded by lines passing through points that are located by the following procedure:
(1) The outline of the structure shall be a quadrangle described by lines established by the projection of the outermost faces of the structure.
(2) If a wing, bay or other section of the structure is twenty-five (25) percent or less of the linear dimension of a projected face or is of ten (10) feet or more difference in height, then a quadrangle and/or height as determined above may be described separately. If a face of the structure is other than straight, then the projection of such a face shall be a line through the outermost point of the face, such line being parallel to the projection of the structure's front face.

(3) The points shall be established on a perpendicular bisector of each side of the quadrangle at a distance from such side equal to the sum of the length of the side and height of the structure divided by two (2).

(b) Relationship of Assigned Yards. The assigned yard of a structure shall not be occupied by any other structure, except accessory structures on the same lot.

(1) Structures adjacent to property of another ownership shall comply with the yard requirements prescribed in relation to the lot line except that if the adjacent property is developed or its proposed structure is determined and with written consent of the adjacent property owner, then assigned yards may be used to establish the arrangement between the structures.

(2) The assigned yard shall not extend into a street right-of-way, except that if a street is abutted by property of the same ownership or with agreement between owners for its full extent between intersections, then the assigned yard may be extended to the centerline of the right-of-way, except that the structure shall not be closer than ten (10) feet to the existing or proposed right-of-way, whichever is greater.

**CHAPTER 1185**

**Off-Street Parking and Loading**

## 1185.01 OFF-STREET PARKING GENERALLY.

(a) Surfaced off-street automobile parking shall be provided on any lot on which any of the following uses are hereafter established and are intended for use by the public, whether as customers, employees, or residents of a use or uses. Off-street loading and vehicle storage space shall be provided for the handling of materials and products of commercial and industrial uses. Such off-street parking, loading and vehicle storage spaces shall be provided with vehicular access to a publicly dedicated street or alley.

(b) Such required facilities, additional space provided, and access drives thereto, including required curb-cuts, shall be sloped and constructed to provide adequate drainage of the area, surfaced as required herein, and maintained in such a manner that no dust will be produced by continuous use. The design and construction of all such facilities shall be subject to approval by the Municipal Engineer.

## 1185.02 DIMENSIONS.

(a) Parking Spaces. Minimum area and dimensions exclusive of driveways and aisles as follows:

| TYPE OF PARKING SPACE | MINIMUM WIDTH (feet) | MINIMUM LENGTH (feet) | MINIMUM AREA (sqfeet) |
|---|---|---|---|
| 90-degree parking | 9 | 18 | 162 |
| Parallel parking | 9 | 23 | 207 |
| 60-degree parking | 9 | 18 | 162 |
| 45-degree parking | 9 | 18 | 162 |

(b) Parking Aisles. Minimum widths as follows:

| TYPE OF PARKING | MINIMUM AISLE WIDTH (feet) |
|---|---|
| 90-degree parking | 22 |
| Angle parking | 18 |
| Parallel parking on one-way drive | 14 |

| USE | REQUIRED PARKING SPACE |
|---|---|
| Automobile service station | 1 for each 2 pumps plus 2 for each service bay |
| Automobile repairs; car wash (office area) | 1 for each 200 sq. ft. of gross floor area |
| Assembly hall, club room, place of amusement or similar place of assembly without fixed seating | 1 for each 1,000 sq. ft. of gross floor area |
| Banks, savings and loans, and other financial businesses | 1 for each 200 sq. ft. of gross floor area |
| Bed and breakfast inns | 1 for each guest room |
| Bowling alleys, tennis courts or similar place of intensive public activity | 4 for each alley, court or similar activity area |
| Business, technical and trade school, college and university | 1 for each 2 students |
| Business and Professional Offices not elsewhere specified | 1 for each 200 square feet of office space |
| Dance halls and assembly halls without fixed seats, exhibition halls except church assembly rooms in conjunction with auditorium | 1 for each 100 sq. ft. of gross floor area used for assembly or dancing |
| Day care centers, children's nurseries and pre-schools | 2 for each classroom but not less than 6 per center |
| Drive-up window service or fast-food restaurants, with seating, | 1 for each 100 sq. ft. of gross floor space |
| Drive-up window service or fast-food restaurants, without seating | 1 for each 200 sq. ft. of gross floor area |
| Driving range | 1 for each 2 playing locations |
| Dwellings other than multi-family | 2 for each dwelling unit |
| Eating and drinking establishments with no drive-up window service | 1 for each 100 sq. ft. of gross floor space |

| | |
|---|---|
| Electronic products store - retail | 1 for each 500 sq. ft. |
| Elementary and middle schools | 1 for each teacher and staff member, plus 1 per student up to five (5) percent of the student body |
| Funeral homes, mortuaries | 1 for each 150 sq. ft. of gross floor area |
| Furniture and appliance stores, household equipment or furniture repair shop | 1 for each 400 sq. ft. of gross floor area |
| Golf course | 4 for each hole plus 1 space for each 2 employees on combined work shifts |
| Health care maintenance and emergency services | 1.5 for each treatment room plus one for every employee on the largest shift |
| High school | 1 for each 2 students |
| Hospitals | 1 for each bed |
| Indoor swimming pool or natatorium | 1 for each 5-person capacity (1 person/1,000 gallons of pool capacity) plus 1 for each 4 seats or 30 sq. ft. of seating floor area |
| Indoor sales exclusively of motor vehicles, aircraft, watercraft, lumber, plants and furniture | 1 for each 1,000 sq. ft. of sales area |
| Libraries, museums or art galleries | 1 for each 500 sq. ft. of gross floor area |
| Manufacturing, warehousing, wholesaling, or similar establishments | 1 per 1,000 sq. ft. of gross building area |
| Medical and dental offices and clinics | 1 for each 200 sq. ft. of gross floor area |
| Miniature golf course | 2 spaces for each hole plus 1 for each 2 employees on combined work shifts |
| Motels and hotels (not including restaurant facilities) | 1 for each living or sleeping unit plus space for supplementary uses |
| Multi-family residential | 2 for each dwelling unit |
| Outdoor display and sales | 1 for each 1,000 sq. ft. of display area |
| Outdoor swimming pool | 1 for each 5-person capacity (1 person/500 gallons) plus space for supplementary uses |
| Personal services such as barber shop or beauty shop | 1 space for every chair |
| Personal and Consumer Services not elsewhere specified | 1 for each employee plus one for each 400 square feet of office space |
| Recreational uses not elsewhere specified | 1 for each 3 patrons |

| | |
|---|---|
| Restaurants and bars | 1 for each 100 sq. ft. of gross floor area |
| Retail sales or services not elsewhere specified | 3 for first 1,000 sq. ft. plus 1 for each additional 500 sq. ft. of gross floor area |
| Sanitariums, convalescent homes, children's homes | 1 for each 2 beds |
| Service-related uses such as printing or plumbing shops | 1 for each 2 employees plus 1 for every 2 vehicles used for service or delivery |
| Shopping centers including supermarkets | 3 for each 1,000 sq. ft. of gross floor area |
| Sports arenas, auditoriums, theaters, assembly halls, churches, or similar place with fixed seating | 1 for each 4 seats |
| Video rental store | 1 for each 300 square feet of gross floor area |

(a) Where two (2) or more uses are provided on the same lot, including principal and supplementary uses, the total number of spaces required shall equal or exceed the sum of their individual requirements.
(b) The calculation of parking spaces shall be to the next highest whole number where a fractional space results.
(c) Whenever a building or use is constructed or enlarged in gross floor area, by number of employees, by number of dwelling units, by seating capacity or otherwise after the effective date of this Zoning Code such as to create a requirement under this chapter for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

## 1185.04 DEVELOPMENT STANDARDS.

Every parcel of land hereafter used as a public or private off-street parking area, including a commercial parking lot and automobile or trailer sales lot, shall be developed and maintained in accordance with the following requirements:
(a) Minimum Distance. No part of any parking area for more than five (5) vehicles shall be closer than twenty (20) feet to any dwelling unit, school, hospital or other institution for human care located on an abutting or adjoining lot, unless separated by a solid wood privacy fence or other approved constructed screen of between four (4) and six (6) feet in height.
(b) Location Relative to Use. Off-street parking facilities shall be located on the same lot as the structure or use served, except that a parking facility providing the sum of parking space required of several uses may be provided contiguous and in common to the several structures and uses served. Parking spaces may be located on a lot other than that containing the principal use provided it is within three hundred (300) feet of the principal use, with the approval of the Planning and Zoning Commission, and subject to meeting all applicable requirements of this Zoning Code.
(c) Parking Lot Layout. Whenever a parking lot extends to a property line or where the extension of a vehicle beyond the front line of the parking space would interfere with drive or aisle access, wheel blocks or other devices shall be used to restrict such extension.

(d) Surfacing. All off-street parking areas shall be graded for proper drainage and surfaced with concrete, asphalt concrete, premixed asphalt pavement, blacktop, or brick so as to provide a durable and dustless surface. Off-street parking area designs shall be reviewed and approved by the Municipal Engineer prior to issuance of a Certificate of Zoning Compliance.
(e) Illumination. Any parking lot intended to be used during non-daylight hours shall be illuminated. Illumination of parking lots shall be so arranged as to reflect light away from adjacent properties and shall provide not less than two and one-half (2½ ) foot candles at the paved surface.
(f) Vehicular Access. All parking areas shall be provided with direct vehicular access to a street or alley abutting the property upon which the parking area is provided or to an adjacent parking area.

## 1185.05 ACCESS DRIVES.

The frequency of access points along thoroughfares in Commercial Point is to be minimized to reduce vehicle and pedestrian conflict and improve traffic flow. Access drives (driveways) leading to and from a street shall be developed according to the following standards:
(a) Width. An access drive serving a single family residence shall be a minimum of ten (10) feet in width. Access drive entrances at a street shall be a minimum of eighteen (18) feet in width. All access drives shall not exceed twenty-five (25) feet in width, except at curb returns.
(b) Spacing. The following standards shall apply to determining the permitted spacing of access drives. Street classifications are based upon the Municipal Thoroughfare Plan, as amended, and interpretation by the Municipal Engineer relative to street classification.
(1) For all arterials and collectors, the following minimum spacing related to the posted speed limit shall be required between adjacent access drives:

| POSTED HIGHWAY SPEED(mph) | MINIMUM SPACING (feet) |
|---|---|
| 25 | 150 |
| 30 | 150 |
| 35 | 300 |
| 40 | 300 |
| 45 | 600 |
| 50 | 600 |

(2) For non-residential uses on local streets, the minimum distance between access drives shall be twenty-five (25) feet.
(3) For all arterials, access drives shall be located no closer than three hundred (300) feet to an intersection.
(c) Side Lot Lines. An access drive, exclusive of curb returns, shall be located no less than ten (10) feet from the side lot line, except that an access drive for a residential use may be within three (3) feet of a side lot line. Access drives for any uses utilizing a common drive may be adjacent to and coterminous with a side lot line.
(d) Quantity Permitted. The number of access drives shall be kept to a minimum to promote safe and reasonable access, improve the convenience and ease of movement of travelers, and permit reasonable speeds and economy of travel while maintaining roadway capacity. For lots

with less than two hundred (200) feet of frontage on public right(s)-of-way and with less than five (5) acres in total area, no more than two (2) access drives shall be permitted. For lots with more than two hundred (200) feet of road frontage on public right(s)-of-way and greater than five (5) acres in total area, additional access drives may by permitted by the Planning and Zoning Commission. The spacing standards of subsection (b) hereof shall take precedence.

(e) Surfacing. All access driveways shall be graded for proper drainage and surfaced with concrete, asphaltic concrete, premixed asphalt pavement, blacktop, or brick so as to provide a durable and dustless surface. All access driveway aprons shall be graded for proper drainage and surfaced with concrete. Access driveway and apron designs shall be reviewed and approved by the Municipal Engineer prior to construction.

(f) Location in Easements. An access drive shall not be located in an easement unless said easement is unavoidable in the access drive's connection with a public street.

## 1185.06 OFF-STREET LOADING.

(a) Classification. The loading space shall consist of a rectangular area of one (1) of the following classes:

(1) Class A: An area at least fourteen (14) feet by fifty-five (55) feet having a vertical clearance of fifteen (15) feet or more, plus adequate area for ingress and egress.

(2) Class B: An area at least twelve (12) feet by thirty (30) feet having a vertical distance of fifteen (15) feet or more, plus adequate area for ingress and egress.

(b) Schedule of Loading Spaces. Loading space shall be provided for retailing, wholesaling, warehousing, processing, hotel, hospital, goods display, and similar uses requiring the receipt or distribution by vehicles of material or merchandise in accordance with the following schedule:

| **BUILDING AREA (square feet, gross floor area)** | **REQUIRED CLASS** |
|---|---|
| Less than 5,000 | None unless otherwise required by the Planning and Zoning Commission |
| 5,000 to 9,999 | 1 Class A and 1 Class B or 3 Class B |
| 10,000 to 49,999 | 1 Class A and 1 Class B or 3 Class B, plus 1 Class A for each 10,000 sq. ft. over the first 10,000 sq. ft. of area |
| More than 50,000 | 1 Class A for each 10,000 sq. ft. over the first 10,000 sq. ft. of area, plus 1 Class A for each 25,000 sq. ft. over the first 50,000 sq. ft. |

Maximum 7 required Class A, unless otherwise specified by the Planning and Zoning Commission

(c) Surfacing. Areas designated for off-street loading shall be surfaced with asphalt concrete or concrete and shall be graded for proper drainage. Designs shall be reviewed and approved by the Municipal Engineer prior to construction.

## 1185.07 LIMITATIONS IN RESIDENTIAL DISTRICTS.

The provision of parking space, either open or enclosed, for the parking or storage of vehicles in a residential zoning district or planned district for residential uses shall be subject to the following:

(a) Commercial Vehicles. Not more than one (1) truck limited to being a two-axle, four-tired pickup, panel or light truck and which has operating characteristics similar to those of a passenger car shall be allowed per one (1) dwelling unit. Trucks having dual tires on one (1) or more axles, or having more than two (2) axles, designed for the transportation of cargo and including tractor-trucks, trailers, and semi-trailers, shall not be permitted on a lot or parked on a street or alley in a residential area.

(b) Parking of Semi-Trailers, Travel Trailers, or Other Trailer or Motor Home. The parking of recreational equipment, including but not limited to travel trailers, motor homes, pickup campers, folding tent trailers, boats or boat trailers, and other similar recreational equipment, semi-trailers, travel trailers, or other trailers or motor homes shall not be permitted on any street within Commercial Point, other than for the purpose of loading or unloading. When parked on property in a residential district for the purpose of loading or unloading, travel trailers, motor homes, boats or boat trailers, and other similar recreational vehicles shall not exceed a loading or unloading time of 72 consecutive hours. Such recreational equipment shall not be stored in any residential district unless located within an enclosed structure or, if stored outside, unless all of the following requirements are satisfied:

(1) Such recreational equipment shall be stored behind the building line and shall not be stored within a required side yard or within ten (10) feet of the rear property line.

(2) Not more than one (1) piece of recreational equipment shall be permitted to be stored outside on a parcel containing a single family or two-family dwelling. All recreational vehicles must be registered and licensed (if applicable) to the resident of the property on which the items are parked or stored. For the purposes of this chapter, a boat stored on a boat trailer shall be deemed one (1) piece of recreational equipment. For multi-family uses, an area to accommodate not more than one (1) piece of recreational equipment for each fifteen (15) dwelling units shall be provided and meet the screening requirements herein.

(3) All recreational equipment stored outside shall be screened from view from all contiguous dwellings and public right-of-ways by suitable screening. Screening shall consist of walls, fences, natural vegetation or any combination thereof acceptable to the Planning and Zoning Administrator and with an opacity of no less than seventy-five (75) percent. Screening shall meet the requirements of Section 1181.07. Landscaping provided in lieu of such wall or fence shall consist of dense evergreen bushes. All landscaping material shall be maintained in proper and healthful condition. Property owners shall maintain landscaped areas for a proper, neat, and orderly appearance and free from refuse and debris.

(4) Recreational equipment shall not be occupied or used for living, sleeping, housekeeping, storage, or business purposes.

(c) Inoperable Vehicles. Requirements regarding inoperable vehicles are found in the Codified Ordinances of Commercial Point, Part Six, General Offences Code Section 660.07.

(d) Garages Required. Garages shall be required in all residential districts subject to the following standards:

(1) For all single-family dwellings of eleven hundred (1,100) square feet or greater and for each unit of all duplexes at least one (1) of the required spaces shall be in a completely enclosed garage.
(2) For multi-family dwellings, at least one (1) space shall be provided in a completely enclosed garage for each dwelling unit provided.

## 1185.08 COMMERCIAL PARKING IN RESIDENTIAL AREAS.

(a) Employee/client parking to serve commercial, office or industrial enterprises may be permitted in residential districts with the approval of the Planning and Zoning Commission provided that:
(1) The area to be used for parking shall directly abut the land zoned for commercial, office or industrial uses; and
(2) The residentially zoned land used for such parking shall not contain any dwellings; and
(3) That such parking is for passenger vehicles only. This does not include busses, semi-trucks, or other commercial vehicles.
(b) In granting such approval the Planning and Zoning Commission shall require a site plan of the proposed parking area including required landscaping, buffering and screening, landscaping, or buffering as it deems necessary to minimize the impact on adjoining properties.
(c) The Commission shall review all such requests subject to Chapter 1145.

**CHAPTER 1187**
**Home Occupations**

## 1187.01 PURPOSE.

The purpose of these provisions is to allow where appropriate limited, non-residential activities in residential structures that are compatible with the neighborhoods in which such structures and related home occupation activities are located. The standards provided for herein are intended to ensure compatibility of home occupations with other permitted uses and with the residential character of the neighborhood. A Zoning Permit fee of $25 (twenty-five) dollars is required.

## 1187.02 PERMITTED USE.

A home occupation use shall be permitted within a dwelling unit provided the occupation does not occupy more than twenty (20) percent of the gross floor area or two hundred (200) square feet of the dwelling unit, whichever is larger, and provided the following criteria are met.
(a) Requirements. The following requirements shall apply to permitted home occupation uses:
(1) The home occupation shall only be conducted within a principal structure and shall not be conducted within an accessory use or structure.
(2) The external appearance of the principal structure or property shall not be altered and the home occupation within the residence shall not be conducted in a manner which would cause the premises to differ in any way.
(3) No more than one (1) non-resident employee shall be engaged in such home occupation.
(4) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the

lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or televisions receivers off the premises, or causes fluctuations in line voltage off the premises.
(5) There shall only be limited sales on the premises of goods produced on the premises.
(6) There shall be no external indication of such home occupation other than one (1) sign, controlled by the sign regulations in this Zoning Code under Chapter 1189.
(7) There shall be no outside storage of any kind related to such home occupation.
(8) Specialized tutoring or instruction shall be limited to one (1) individual in the principal structure during said tutoring or instruction.
(9) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as to use as specified under Chapter 1185, and shall not be located in front of the building line.

## 1187.03 CONDITIONAL USE.

It is recognized that there may exist certain home occupations that fail to meet the criteria of Section 1187.02, but which may be appropriate for a residential area provided the following additional criteria are met through the Conditional Use procedure of Chapter 1145 including the requirements therein.
(a) Requirements. Home occupation conditional uses shall be limited by the following criteria and/or any other conditions as determined by the Planning and Zoning Commission in order to protect the residential character of the subject area:
(1) There shall be no more than three (3) non-resident employees.
(2) The conduct of the home occupation may be approved within a structure accessory to the principal structure.
(3) Sales of commodities not produced on the premises may be permitted provided such commodities are specified and approved as a part of the application for a Conditional Use, provided the Planning and Zoning Commission determines that such sales will not become a detriment to the existing residential character of the lot or neighborhood through a resulting increase in traffic, noise, vibration, glare, fumes, odors or electrical interference or any other factor resulting in an adverse impact.
(4) Organized instruction may be permitted provided the class size does not exceed six (6) pupils during any one period of instruction, provided the Planning and Zoning Commission determines that such organized instruction will not become a detriment to the existing residential character of the lot or neighborhood through a resulting increase in traffic, on-street parking, or any other factor resulting in an adverse impact.
(5) No outside storage of any kind associated with a home occupation conditional use shall be permitted unless it is totally screened from the adjacent residential lots and the abutting street(s).
(6) The off-street parking requirements of Chapter 1185 apply and such off- street parking area shall not be located in front of the building line.
(b) Validity. For the purposes of this Zoning Code, a Home Occupation Conditional Use ceases to be valid once the premises used for the home occupation is no longer occupied by the holder of the Certificate of Zoning Compliance or upon the conduct of a home occupation in a manner not approved by the Planning and Zoning Commission.

**CHAPTER 1189**
**Signs**

## 1189.01 PERMIT REQUIRED.

(a) Except as provided in Section 1189.02, no display sign, whether permanent or temporary, shall hereafter be erected, constructed or maintained within the limits of Commercial Point by any person, firm or corporation until a permit for the same has been issued by the Planning and Zoning Administrator.

(b) The Planning and Zoning Administrator shall grant a sign permit that meets the requirements of Chapter 1189 upon written application, accompanied by a scale drawing of the proposed sign(s) showing its design, color and materials, and a site drawing showing its proposed location. A sign permit fee, as stipulated by ordinance, shall be paid by the property owner or applicant payable to the General Fund.

## 1189.02 SIGNS ALLOWED WITHOUT A PERMIT.

A permit shall not be required for the following signs:

(a) The flag, pennants or insignia of any nation, state, municipality, or other political unit or jurisdiction.

(b) Cornerstones, commemorative tablets and historical signs, not to exceed ten (10) square feet in area.

(c) Signs bearing only residential property address or names of occupants of residential premises, not to exceed one (1) square foot in area. Signs bearing only non-residential street number, not to exceed one (1) square foot in area.

(d) One wall sign on or over a show window or door of a store or business establishment, announcing only the name of proprietor and the nature of the business, not to exceed three (3) square feet in area.

(e) Real estate for sale, sold, rental or lease signs limited to no more than eight (8) square feet in area, no more than six (6) feet in height, and with one (1) sign per lot. Sold signs may be posted for a period not to exceed ten (10) calendar days. A maximum of three (3) off-premise directional signs shall be permitted in conjunction with an open house, not to exceed forty-eight (48) consecutive hours and eight total days per month. During the hours of the open house, one additional sign indicating that the house is open will be permitted on the property. For property with a lot size exceeding twenty (20) acres, real estate for sale, sold, rental or lease signs are permitted to be a maximum of thirty-two (32) square feet in area for any one display area with a total display area not to exceed sixty-four (64) square feet and no more than eight (8) feet in height.

(f) Signs for the civic promotion of schools, church, or community service activities which may be displayed for a maximum of thirty (30) calendar days.

(g) Flags, signs and sources of illumination clearly in the nature of decorations customarily associated with any national, state, local or religious holiday, and containing no advertisement.

(h) Traffic directional signs indicating points of entry or exit to off-street parking, provided such signs are not larger than four (4) square feet in area. Such signs shall not be located in a public right-of-way and shall not obstruct the view of motorists for the purposes of ingress and egress.

(i) Window signs not larger than twenty-five (25) percent of the aggregate window area. For uses that are located in the second or higher floors of a building, window signs shall meet the requirements of this section.

(j) One (1) sandwich board sign not to exceed four (4) feet in height as measured from the sidewalk and shall not exceed three (3) feet in width per side. Such signs shall be limited to three (3) colors, shall be displayed only during daylight hours and shall not be located on a sidewalk less than seven (7) feet in width. Damage to sandwich signs and any liability shall be the responsibility of the owner. Sandwich boards shall be placed on or at the sidewalk in front of the relevant business in such a way as to leave at least four (4) feet to allow for passage.

(k) Personal property "For Sale" signs limited to one (1) per residential dwelling, not to exceed four (4) square feet in area and four (4) feet in height, and posted not more than three (3) consecutive days. Off-premises directional signs shall be permitted for a single forty-eight (48) hour period.

(l) Home occupation uses may provide one (1) on-premises wall sign not to exceed one (1) square foot in area and not to exceed six (6) feet in height. As a part of a conditional use application, signage shall be considered by the Planning and Zoning Commission as a part of the approval process.

(m) A maximum of two (2) directional signs for any bona fide church, religious sect or congregation located within the corporate boundaries of Commercial Point shall be permitted provided that such signs do not exceed four (4) square feet in area, do not exceed six (6) square feet in height and are located outside a public right-of-way.

(n) A sign(s) located inside a building, whether or not the same are visible from the exterior.

(o) Signs of a duly constituted government body.

(p) Banners, ribbons, pennants and streamers may be installed as part of window signs provided such elements are displayed for a period of not longer than thirty (30) calendar days.

(q) Elevated signs posted to indicate special parking locations for the handicapped, imprinted with the international symbol of accessibility.

(r) Flags, pennants, or insignia of any educational institution.

(s) Signs pertaining to political parties, candidates, elections, or ballot issues.

## 1189.03 ALTERATIONS.

No display sign shall hereafter be altered, rebuilt, enlarged, extended or relocated except in conformity with the provisions of this chapter. The repainting of signs shall not be deemed to be an alteration within the meaning of this Zoning Code.

## 1189.04 EXISTING SIGNS; CONTINUANCE.

Except as otherwise specifically provided, nothing in this chapter shall require removal or discontinuance of an existing on-premises or existing off-premises sign. Such signs shall not be enlarged or extended and the same shall be deemed a nonconforming sign under the terms of this Zoning Code.

(a) Outdoor advertising signs shall be limited to signs pertaining to advertising exclusively for the use established or goods sold or services rendered on the premises.

(b) Colors. Not more than three (3) primary colors and two (2) accent colors may be used on the sign or signs for any one building. Different shades of a color shall be treated as one color for the purpose of this requirement.

(c) Illumination and Eye-Catching Devices. All signs and advertising structures may be illuminated internally or by reflected light provided the source of light is not directly visible and is so arranged as to reflect away from the adjoining properties and provided that such illumination shall not be so placed as to cause confusion or a hazard to traffic or conflict with traffic control signals or signs. Illuminated signs within a residential district shall have the light pattern confined to the premises. Display signs illuminated by electricity or equipped in anyway with electric devices or appliances shall conform with respect to wiring and appliances to the provisions of the ordinances relating to electric installations. Any external electric supply lines shall be brought to the sign by underground supply.

(d) Wall Signs. All wall signs shall be mounted on the building which houses the business establishment advertised by said signs, shall be located on or along a wall of such building which faces a street, parking lot or service drive, and shall not project above the roof line or the cap of parapets of such building, whichever is higher. No wall sign shall project above the wall to which it is attached.

(1) All wall signs in shopping centers shall be parallel to the wall on which they are installed, and shall be as nearly flush with such wall as is practical, it being hereby intended to limit signs projecting outward from the wall. Wall signs to be erected, other than in shopping centers, projecting outward from the wall at right angles or otherwise over public streets or sidewalks shall not exceed eight (8) square feet. Each zoning certificate issued for the erection or maintenance of a new or existing wall sign over a public street or sidewalk shall contain a condition that the certificate holder furnish a bond set by Council to hold the Municipality harmless from any liability for injury to third persons.

(2) No part of any wall sign shall be less than eight (8) feet above the sidewalk or ground level, if such wall sign projects forward off the wall on which it is mounted to such an extent as to constitute a hazard or inconvenience to pedestrian or vehicular traffic. No part of any wall sign shall be closer to either end of the building face (including any wall extension) on which it is erected than eighteen (18) inches. Where more than one (1) wall sign is erected on the same face of a building, there shall be a distance of at least three (3) feet between said signs.

(3) The aggregate sign area or display surface of all exterior wall signs of every nature shall not exceed one (1) square foot for every two (2) feet of linear building perimeter. The total wall sign area of any building may not exceed four hundred (400) square feet. The total wall sign area on any one (1) side of a building shall not exceed forty (40) percent of the allowable area for the entire building as computed in accordance with the foregoing rules.

(4) In the case any side of a non-residential property is adjacent to a residential district, a wall sign shall not be located on the side of the building to which the nearest said residential district is less than one hundred fifty (150) feet.

(e) Free Standing and Monument Signs. All free standing and monument signs shall meets the following requirements:

(1) The maximum height thereof does not exceed eight (8) feet above the average grade of the site when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each additional three (3) feet setback from the street right-of-way line, an additional one (1) foot in height will be permitted for a freestanding sign up to a maximum of twenty (20) feet high.

(2) The total display area of all surfaces does not exceed fifteen (15) square feet when the sign is located fifteen (15) feet from the primary frontage street right-of-way line. For each

additional one (1) foot setback from the street right-of-way line, an additional three (3) square feet of display area will be permitted for the sign up to a maximum of sixty-four (64) square feet.

(3) The display area of any one surface of the sign does not exceed thirty-two (32) square feet.

(4) No part of the sign may be located closer to any street right-of-way line than fifteen (15) feet, nor closer to any other property line than the applicable building setback line, if the adjoining property is in a residential district.

(5) The sign will be in harmony with the building on the site, and will not detract from the appearance of the general neighborhood in which it is located or adversely affect property values in such neighborhood.

(6) The sign will not constitute a traffic hazard or contribute to traffic problems through confusion with traffic control devices, interference with the field of vision of motorists using streets or driveways in the area, or by creating a visual distraction for such motorists. In making a determination, the Planning and Zoning Administrator shall take into consideration all pertinent factors relating to the compatibility of such sign with the surrounding neighborhood, including, but not limited to, its size, shape, color, brightness, design and its general appearance.

(7) Not more than one (1) free standing or monument sign may be authorized for any one (1) business establishment. Where more than one (1) business establishment is located on a single tract of land, having an entrance or entrances or parking area or areas used in common by the customers of such establishments, only one (1) free standing or monument sign may be authorized for the entire tract. The existence and boundaries of such tract shall be determined by community use, rather than by the ownership thereof, it being intended by this provision to limit each shopping center or similar joint operation to one (1) free standing or monument sign, except in the case of a shopping center which is contiguous to two (2) streets which do not intersect each other at a point adjacent to such shopping center, in which case, one (1) free standing or monument sign, fronting on each street, may be authorized. Such signs used for identification of joint activities shall comply with the provisions of Comprehensive Development Signage as indicated in this section.

(f) Comprehensive Development Signage. Comprehensive Development Signage requires the approval of the Planning and Zoning Commission before a sign permit may be issued by the Planning and Zoning Administrator, pending compliance with all applicable sections of this Zoning Code. For the purposes of these sign regulations, Comprehensive Development Signage shall be considered appropriate in the following categories:

(1) Comprehensive on-site sign system – A comprehensive on-site system may be authorized by the Planning and Zoning Commission, provided that a written set of graphic design criteria regulation provided by the applicant and applying to present and all future development are approved by the Commission, a copy of a standard contractual signage agreement is approved by the Commission, any changes to the approved system require approval by the Commission as a conditional use, and meeting the following requirements:

A. One (1) joint identification free standing sign as defined in subsection (b)(5) not to exceed eighty (80) square feet in area and twenty (20) feet in height, and meeting a minimum setback of fifteen (15) feet from all right(s)-of-way. Such sign may list individual uses and serve as a means of identification of the center of development.

B. One (1) wall sign shall be permitted for each individual use not to exceed one (1) square foot for every lineal foot of the building width of each individual use that fronts any

shopping center drive or parking area, not to exceed thirty (30) square feet in sign area (This shall not prohibit a sign as permitted in Section 1189.02(d).)

C. No free standing signs other than one (1) joint identification sign shall be permitted within the development.

(2) Single-family subdivision and multi-family development signs. Major permanent entrance features indicating the project entrance(s) to a single- family subdivision may be authorized by the Planning and Zoning Commission. Up to Two (2) entrance features are permitted at each subdivision entrance. Such feature should include a free standing sign mounted on a constructed base and supported from substantial construction. Each sign shall not exceed twenty (20) square feet and shall be a maximum five (5) feet in height. The constructed base, and the sign mounted within, shall be a maximum of six (6) total feet in height, shall not exceed forty (40) square feet, and shall not be located closer than fifteen (15) feet from the closest right-of-way and no closer to any property line than the applicable building setback requirement if the adjoining property is in a residential zoning district.

(g) Directional signs. Traffic directional signs indicating points of entry or exit to off-street parking, provided such signs are not larger than five (5) square feet in area per display surface. Such signs may not have more than two (2) display surfaces. Such signs may not be greater than three and one-half (3 ½) feet in height. Such signs shall not be located in a public right-of-way and shall not obstruct the view of motorists for the purposes of ingress and egress.

## 1189.06 PROHIBITED SIGNS.

The following signs and types of signs shall be prohibited in Commercial Point:

(a) No display signs except those exempted in Section 1189.02, church sign, comprehensive subdivision type signage, and temporary signs shall be permitted in any residential district, excluding parcels occupied by commercial uses in PRD.

(b) Signs shall not be placed within any public right-of-way.

(c) Flashing, moving, rotating, intermittently lighted signs or other mechanical devices.

(d) Roof signs.

(e) Electronic variable message signs and portions of signs, and reader boards (not including “time and temperature” signs). Electronic variable message signs may be approved as a Conditional Use for institutional uses where the building, structure or land is used for public purpose.

(f) Billboards and all off-premises signs except for church and institutional directional signs provided for in Section 1189.07, personal property "For Sale" signs, and special event signs provided for in Section 1189.08 (c).

(g) Any sign not included under the types of signs permitted in any district regulations or in this chapter.

(h) Any sign in a non-residential district within 150 ft. of an abutting residential district in which the sign faces.

## 1189.07 CHURCH AND INSTITUTIONAL DIRECTIONAL SIGNS.

Any bona fide church, religious sect or congregation, or other public institution such as a school or hospital and which is located in Commercial Point may erect signage subject to the following requirements:

(a) Directional Signs. Not more than three (3) directional signs may be erected in Commercial Point provided the following requirements are met:
(1) Signs are not located within the public right-of-way.
(2) All church signs shall be of uniform design, size and construction as specified by the Planning and Zoning Commission.
(3) The church or institution shall secure in writing permission from the owner of the property on which such signs shall be located. Such permission shall be filed with the Planning and Zoning Administrator who will issue the required sign permit upon authorization by the Planning and Zoning Commission.
(4) No sign shall exceed four (4) square feet in area not shall it exceed six (6) feet in height.
(a) Church and Institutional Bulletin Board. Any bona fide church, religious sect or congregation, community center or public or semi-public similar institutional use may erect and maintain for their own use a bulletin board or announcement sign not over twelve (12) square feet in area located on the same premises upon which such use is located. If not attached flat against a building, such sign shall be at least twelve (12) feet from all street right-of-way lines.

## 1189.08 TEMPORARY SIGNS.

A sign permit shall be issued by the Planning and Zoning Administrator prior to the erection or construction of any temporary sign. No sign shall contain more than two (2) faces. The maximum square footage allowed for a temporary sign shall apply to each face.
(a) Subdivision Signs. Signs advertising the sale of platted lots in a subdivision may be erected and displayed in such subdivision provided that not more than one (1) such sign facing on any one (1) street shall be permitted in any subdivision. Such signs may also be used to advertise the sale or lease of multi-family units or store or office space in a commercial development, however, such signs shall not be utilized to advertise the sale, lease or development of land. Such signs shall be limited to twenty-four (24) square feet in area, be not more than eight (8) feet in height and be located not closer than fifteen (15) feet from any public right-of-way. Such signs shall be permitted for a one (1) year period if ownership of a minimum of sixty (60) percent of the platted lots are transferred.
(b) Banner Signs. Banner signs may be installed subject to the following requirements:
(1) That the size of the banner shall not exceed forty (40) sq. ft.
(2) That a banner sign may only be displayed for a period not to exceed thirty (30) calendar days in any calendar quarter, and no more than four (4) times per calendar year.
(3) That a banner sign shall not be displayed above the roof line of any structure.
(4) That a banner sign shall not have more than three (3) colors. For the purpose of this section, black and white shall be considered colors.
(5) For the purpose of this section, representations of any flag or national, state or local emblem shall be considered as part of the banner sign and not exempt as permitted under Section 1189.02 (a) or (g).
(6) Each property or establishment shall be permitted one (1) banner sign permit per year.
(7) Each property or business establishment shall display only one (1) banner sign at a time.
(8) All banner signs shall be safely secured to the primary structure on the property.
(c) Special Event Signs. Special event signs shall be defined as signs which are used to present knowledge regarding some special event of community importance such as a community

festival. Such signs shall be considered as temporary signs, must be authorized by the Planning and Zoning Administrator before erection and are subject to the following requirements:

(1) Not more than two (2) such signs regarding the same topic shall be erected at any given time and located no closer than one thousand (1,000) feet from each other.

(2) Not more than four (4) special event signs shall be permitted at any given time regardless of topic.

(3) No more than three (3) colors shall be included on such sign(s). For the purposes of this section, black and white shall be considered colors.

(4) Where such signs are proposed to be located in or above a public right-of-way, no solid portion of the sign shall be located within fifteen (15) feet horizontally of any vehicular pavement not less than eighteen (18) feet above such pavement, or not within ten (10) feet horizontally of any sidewalk nor less than twelve (12) feet above such sidewalk. No fastening or tying device shall be located within ten (10) feet horizontally of any vehicular pavement nor less than fifteen (15) feet above such pavement, or not within five (5) feet horizontally of any sidewalk nor less than ten (10) feet above such sidewalk.

(5) Such signs shall not be illuminated.

(6) Such signs shall not be displayed for a period more than thirty (30) calendar days before the event and shall be removed within forty-eight (48) hours after the event if located in any public right-of-way or within five (5) calendar days if located elsewhere.

(7) Flexible type signs such as banners shall be provided with internal air vents to adequately relieve wind pressure.

Each temporary sign permit issued for the erection or maintenance of any sign located over a public street or sidewalk shall contain a condition that the permit holder furnishes a bond set by Council to hold the Municipality harmless from liability for injury to third persons.

(d) Portable Signs. Portable signs shall be limited to unlighted signs and shall be permitted for not more than two (2) weeks per year for each business. Such signs shall be not more than four (4) feet high and not more than eight (8) feet wide and mounted such that the overall height is not greater than seven (7) feet above the ground. Portable signs shall not be located in any right-of-way and shall be located such that they do not obstruct the view of motorists for the purposes of ingress and egress.

(e) A sign announcing the names of contractors, material men, developers and financial institutions participating in the construction of a building or announcing the name and nature of the business or development shall be permitted only during the actual time of construction. Only one (1) sign per building is permitted, the sign shall not exceed twenty (20) square feet in area for a residential project and thirty-two (32) square feet for a non-residential project, shall not exceed four (4) feet in height for a residential project and ten (10) feet in height for a non-residential project, and shall be located no closer than fifteen (15) feet from any public right-of-way. Such signs shall be removed within thirty (30) calendar days after the Certificate of Occupancy is issued.

(f) Air Actuated Attraction Devices. Devices used to attract the attention of the public which are either air filled or air floating shall be regulated as temporary signs. Such devices shall be permitted for not more than two (2) weeks per year for each business. Such devices shall be not more than thirty (30) feet in height above the ground and located such that the device is at least the divided height from any public right-of-way, lot lines, or overhead utility lines and fastened in such a manner that the device shall not shift more than three (3) feet horizontally under any wind condition.

## 1189.09 MISCELLANEOUS PROVISIONS.

(a) Applicability of this Chapter. The provisions of this chapter shall apply to all advertising or display signs of every nature, whether portable or attached to the realty, except as otherwise provided herein, either specifically or by necessary implication.

(b) Attachment of Signs to Other Structures. No display or advertising sign shall be attached to the standards of a free standing sign, other than the display surface originally constructed as a part of such sign. The standard of the free standing sign shall be finished in only one (1) color. No display or advertising sign shall be attached to or painted or otherwise displayed on a light standard, gasoline pump, fence, wall, post or other structure, or to any portable supporting device, except as specifically authorized by this chapter.

(c) Bed and Breakfast Inns. One (1) on-premises sign shall be permitted for each bed and breakfast inn. Such sign shall not exceed six (6) square feet in display area per side and shall not exceed four (4) feet in height. A wall sign shall not exceed six (6) square feet in area and shall not exceed eight (8) feet in height. Wall signs shall not be roof mounted and shall not extend above the eave. Such signs shall not be internally illuminated.

(d) State Routes 104 and 762 Corridor Sign District. For commercial, suburban office and institutional and limited manufacturing zoned properties abutting State Routes, the following standards for freestanding signs located in that yard area between State Routes and the principal structure apply:

Corridor defined: The State Routes corridors shall be defined as those properties directly abutting the State Routes right-of-way, and shall not include approaches or ramps. This corridor is intended to serve those abutting properties with sign visibility on State Routes and is not intended to serve any other right-of-way.

(1) The minimum height thereof does not exceed five (5) feet above the average grade of the site when the sign is located fifteen (15) feet from State Route right-of-way lines.

(2) The distance the sign is located from any other right-of-way must equal or exceed the distance the sign is located from the State Route.

(3) A limit of two (2) display surfaces.

(4) The total display area of all surfaces does not exceed twenty (20) square feet when the sign is located fifteen (15) feet from the right-of-way line. For each additional one (1) foot setback from State Route 104 or 762 right-of-way line, an additional three (3) square feet of display area will be permitted up to a maximum of one hundred and twenty-eight (128) square feet.

(5) The display area of any one surface does not exceed thirty-two (32) square feet.

(6) Not more than three (3) colors are used. For the purpose of this section, black and white shall be considered colors.

(7) No part of such sign shall be located closer to any street or right-of-way line than fifteen (15) feet, nor closer to any other property line than the applicable building setback line.

(8) Such sign will be in harmony with the building on the site, and will not detract from the appearance of the general neighborhood in which it is located or adversely affect property values in such neighborhood.

(9) Such sign will not constitute a traffic hazard or contribute to traffic problem through confusion with traffic control devices, interference with the field of vision of motorists using streets of driveways in the area, or by creating a visual distraction for such motorists.

(10) Certain temporary signs meeting the location definition provided above shall be subject to the following:

A. Shall meet all size, setback and other criteria as set forth in Subsections (d) (1) through (9) above.
B. The location of any sign on a site not containing a structure shall clearly be oriented toward the State Route.
C. A temporary sign permit may be issued for a period not to exceed two (2) years and shall conform to the following table:

| **TYPE OF SIGN** | **TIME LIMIT** (calendar days) |
|---|---|
| Construction | Thirty (30) days from issuance of Certificate of Occupancy |
| Real Estate | Ten (10) days from date of sale |
| Subdivision Identification | One (1) year or after 60% of lots are sold, whichever occurs first |

(11) All other requirements of this Zoning Code shall apply to this district.

## 1189.10 MAINTENANCE.

(a) Duty to Keep in Good Repair. The owner of a sign and the owner of the realty upon which the sign is located shall each have the duty to keep such a sign in a state of good repair and to see that the sign is not permitted to deteriorate or fall into disrepair to such an extent that it becomes dangerous or unsightly. Visible rot or rust, falling parts, or broken parts shall be prima facia evidence that a sign is not in a state of good repair.

(b) Notice to Repair. When the Planning and Zoning Administrator determines that such a sign exists in a state of disrepair, the Planning and Zoning Administrator shall issue to the owner of the sign and the owner of the real estate a notice of such disrepair and the need for corrective action.

## 1189.11 ABANDONED.

(a) Abandonment Defined. If any sign shall become abandoned, in a manner defined herein, such sign is declared a public nuisance by reason that continued lack of use results in lack of reasonable and adequate maintenance, thereby causing deterioration and creating a blighting influence on nearby properties. An abandoned sign shall be any sign that meets any of the following conditions:
(1) Any sign associated with the abandoned nonconforming use.
(2) Any sign that remains after the termination of a business. A business shall be considered terminated if it has ceased operations for at least one hundred eighty (180) consecutive days. Seasonal businesses are exempted from this determination.
(3) Any sign that is not maintained in accordance with Section 1189.10.

(b) Determination of Abandonment. When the Planning and Zoning Administrator finds, upon investigation, that a sign has been abandoned, the Planning and Zoning Administrator shall notify the owner of said sign and the owner of the property upon which such sign is located, of any findings, in accordance with Section 1137.07. Such notice shall advise the owner of the sign that said sign has been declared abandoned and must be removed within thirty (30) calendar days from the date of mailing of said notice. The owner of the sign or the owner of the property may appeal such decision to the Planning and Zoning Commission as provided in

Section 1139.06. The Planning and Zoning Administrator shall maintain a photograph of said sign along with a written report of any finding in a permanent file.

(c) Right to Remove. If the sign is not removed as ordered, the same may be removed by the Municipality at the expense of the lessee or owner. If the Municipality is not reimbursed for the cost of removal within thirty (30) calendar days of such removal, the amount thereof shall be certified to the County Auditor for collection as a special assessment against the property upon which such sign is located.

## 1189.12 VIOLATIONS, PENALTIES AND REMEDIES.

Any person, firm or corporation violating any requirement or prohibition of this chapter shall be considered in violation of this Zoning Code. Failure to comply within thirty (30) calendar days of receipt of notification of violation, unless extended by the Planning and Zoning Administrator, shall render such person, firm or corporation subject to the penalties provided in Section 1135.12.

**CHAPTER 1191**
**Landscaping and Screening**

## 1191.01 PURPOSE.

The purpose and intent of this chapter is the preservation and promotion of landscaping as a suitable and necessary aspect of land development, as a component of Municipal development character, as an important beneficial element of the microclimate through the provision of shade and as buffers, and to promote the public health, safety and general welfare. It is further the purpose of this chapter to promote the preservation and, when necessary, replacement of major trees removed in the course of land development, to promote the proper utilization of landscaping as a buffer between certain land uses to minimize conflicts, and to protect, preserve and promote the character of the Municipality.

## 1191.02 DEVELOPMENT STANDARDS.

(a) Non-Residential Uses. All trees with a dbh of four (4) inches or more shall be maintained and preserved as part of all non-residential development. The location of all driveways, off-street parking and loading areas, and all other improvements, including grading, shall be designed to avoid the destruction of any such existing tree defined herein. As part of an approved landscaping plan, any such tree may be replaced by a tree of like species on a one (1) inch for one (1) inch replacement basis only under the following conditions:

(1) An existing tree will be located within a public right-of-way or easement.

(2) An existing tree is located within the area to be covered by a proposed structure or within twelve (12) feet from the perimeter of such structure(s) and such structure(s) cannot be located in a manner to avoid removal of an existing tree at the same time permitting desirable, logical and appropriate development of the lot.

(3) An existing tree will be located within a proposed driveway, off-street parking area or other improvement and relocation of such improvement would not permit desirable, logical, and appropriate development of the lot.
(4) An existing tree is damaged or diseased.

In addition to the requirements for off-street parking areas, all non-residential uses shall provide thirty (30) square feet of landscaped area for every one thousand (1,000) square feet of building ground coverage area, or fraction thereof, and a tree with a dbh not less than two (2) inches for every one thousand (1,000) square feet of building ground coverage. All areas of a lot not covered by buildings, structures, paving, or the landscaping required herein shall be covered by natural turf at a minimum. Tree planting requirements may be waived by the Planning and Zoning Commission per the recommendation of the Urban Forester if the quantity of existing trees and their aggregate trunk sizes meet or exceed these requirements and are evenly distributed throughout the subject site.

(b) (1) Screening Between Multi-Family Developments and Non-Residential Zoned Property. Screening shall consist of walls, fences, or natural vegetation in combination with a minimum four (4) foot mounding, Said screening shall have an opacity of no less than fifty (50) percent, except where superseded under Section 1191.02 (f). Screening between multi-family residential and non-residential developments shall be reviewed for approval by the Planning and Zoning Commission. Only masonry and brick walls or solid wood privacy fencing is permitted for built screening, shall be maintained in good condition, and comply with Section 1181.07. Landscaping provided in lieu of such wall or fence shall consist of dense evergreen bushes planted no less than two (2) feet in height or evergreen trees at no more than thirty (30) feet spacing at five (5) feet in height at the time of planting. A minimum of one evergreen tree and four evergreen or deciduous shrubs per 1,000 sq. ft. of landscaped area for areas in all combinations of screening materials will be planted.

(2) The opacity of fifty (50) percent will take into consideration existing vegetation to be preserved and shall contain at least the minimum evergreen trees and shrubs. The minimum tree shall be five (5) feet in height with a minimum dbh of 1 ¾ inches at the time of planting. The minimum shrub shall be two (2) feet in height at the time of planting.

(c) Off-Street Parking Areas. Off-street parking areas for more than five (5) vehicles shall be effectively screened on each side which abuts a residential zoning district or public right- of-way by a masonry wall or solid wood fence. Such wall or fence shall be no higher than four (4) feet and shall be maintained in good condition. Landscaping provided in lieu of such wall or fence shall consist of a strip of land not less than fifteen (15) feet in width planted with an evergreen hedge or dense planting of evergreen shrubs not less than four (4) feet in height. This subsection shall apply to bed and breakfast inns regardless of the size of off-street parking area.
(1) All off-street parking areas shall provide one (1) tree of no less than two (2) inches dbh, for every six (6) parking spaces. All trees shall be balled and burlapped or containerized/potted when planted. The top eighteen (18) inches of the burlap bag and cage shall be removed when planting. Planting beds for parking lot trees shall be constructed so as to minimize damage to trunks and roots of the trees from vehicles, pedestrians and parking lot maintenance through the use of adequate soil planting area and curbing or parking blocks. Planting soil area per tree shall be a minimum of sixteen (16) square feet. The minimum dimension for the planting areas shall be four (4) feet on one side. All trees shall be maintained in a healthy condition.
(2) All off-street parking areas shall provide one (1) tree of no less than two (2) inches dbh, for every six (6) parking spaces. These trees shall be planted in a parking island and located

uniformly within the interior of the parking area. All trees shall be balled and burlapped or containerized/potted when planted. The top eighteen (18) inches of the burlap bag and cage shall be removed when planting. Planting beds for parking lot trees shall be constructed so as to minimize damage to trunks and roots of the trees from vehicles, pedestrians and parking lot maintenance through the use of adequate soil planting area and curbing or parking blocks. Planting soil area per tree shall be a minimum of sixteen (16) square feet. The minimum dimension for the planting areas shall be four (4) feet on one side. All trees shall be maintained in a healthy condition.

(d) Signage. In addition to requirements of subsections (a), (b), and (c) herein, a landscaped area totaling a minimum of fifty (50) square feet shall be provided centered on the base of all freestanding signs and should be comprised of a variety of natural materials, such as turf, ground cover, shrubs, and hedges. Within the Limited Commercial Overlay District and Limited Residential Overlay District the total amount of landscaped area shall not exceed fifteen square feet once the off-street parking requirements have been met. No more than fifty (50) percent of natural landscaping material shall consist of turf. Low maintenance plant materials should be utilized. A sketch plan drawn to scale and indicating plant material by type (Latin/Botanical names) and quantity shall be provided with the application for a Sign Permit.

(e) Screening of Service Courts and Loading Dock Areas. All areas used for service, loading and unloading activities shall be screened along the entire lot line if adjacent to or abutting a residential zoning district or public right-of-way. The requirements of Section 1191.03(f) shall apply.

(f) Screening of Trash Container Receptacles. For all non-single family residential uses requiring trash container receptacles, such as dumpsters, all such containers or receptacles shall be enclosed on all sides by walls or fences with an opacity of one hundred (100) percent and a minimum height of six (6) feet. Such containers or receptacles when located adjacent to or abutting a residential zoning district shall in addition be landscaped on all sides visible from such districts by shrubs and hedges with an opacity of seventy-five (75) percent. Trash containers and receptacles shall be located behind the building line and shall be located to the rear of non-residential uses. Trash containers and receptacles shall conform to side and rear yard setback requirements and for non-residential uses adjacent to a residential zoning district, such containers and receptacles shall be located no closer than twenty-five (25) feet to any property line.

(g) Significant Trees. All significant trees shall be protected and preserved to ensure that the value provided to Commercial Point and its citizens by the cultural, historical, biological, or horticultural significance of any tree is continued into the future.

## 1191.03 LANDSCAPE STANDARDS.

Proposed landscape materials should complement existing vegetation, all architectural features and general layout, and should be comprised of viable plant material. Landscaping design and materials shall consist of the following:

(a) Plants. All plant materials shall be living plants that conform to the standards of the American Association of Nurserymen and shall have passed any inspections required under State regulations. Artificial plants are prohibited in all landscaped areas in the Municipality required as per this chapter.

(b) Deciduous Trees. Deciduous trees shall be species having an average mature crown spread of greater than fifteen (15) feet in Central Ohio and having trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at

vehicular use area intersections where eight (8) foot clear wood requirements will control. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen (15) foot crown spread. Deciduous trees shall be a minimum of five (5) feet in height with a minimum dbh of one and three-fourth (1¾) inches at planting. Deciduous trees are recommended as appropriate for Municipal environment and encouraged for use in meeting the requirements of this chapter.

(c) Evergreen Trees. Evergreen trees shall be a minimum of five (5) feet in height with a minimum dbh of one and one-half (1½ ) inches at planting.

(d) Shrubs and Hedges. Shrubs and hedges shall be at least two (2) feet in average height when planted.

(e) Earth Mounds. Earth mounds shall be physical barriers, which when planted block or screen the view just as a hedge or low wall would. Mounds shall be constructed of clean fill, top soil and similar materials, and shall be designed with proper plant material to prevent erosion and facilitate drainage. Earth mounds shall not exceed four (4) feet in height and shall be planted completely by plant material, which may include mulching limited to the immediate base of plantings, of which no greater than fifty (50) percent shall be turf.

(f) Screening Materials. Screening may consist of walls, fences, natural vegetation or a combination thereof acceptable to the Planning and Zoning Commission and with an opacity of no less than seventy-five (75) percent, except where superseded under Section 1191.02(f). Only masonry and brick walls or solid wood privacy fencing is permitted for built screening. Such screening shall be between four (4) and six (6) feet in height and shall be maintained in good condition. Landscaping provided in lieu of such wall or fence shall consist of dense evergreen bushes planted no less than four (4) feet in height.

## 1191.04 SUBMITTAL REQUIREMENTS.

(a) Procedure. Landscaping plans shall be submitted to the Planning and Zoning Administrator whenever an application is filed for a non-single family residential use as a part of a request for a Certificate of Zoning Compliance, zoning map amendment, conditional use permit, and in conjunction with the submittal requirements for Planned Districts.

(b) Plan Contents. The landscaping plan shall be prepared by a licensed design professional or landscape architect and shall include the following information:

(1) Plot plan drawn to scale indicating property lines, easements, proposed improvements, natural features, drainage, adjacent uses and structures, and proposed landscaping which shall include botanical and common names, dbh of deciduous trees, installation size, on-center planting dimensions where applicable, and a summary of all landscaping materials used on-site, new and existing, by type, common name, and quantity.

(2) In the case where trees are to be removed as part of any site development, the plot plan shall, in addition to items included in (1) above, also specifically indicate any trees to be removed and include botanical and common names and location of any large trees and any significant trees.

(3) Title block with the pertinent names and addresses of property owner, applicant, design professional or landscape architect including the architect's seal, scale, date, north arrow, address of the subject property, and name of the subdivision (if applicable).

(c) Criteria For Review. The submitted landscaping plan shall be reviewed to determine if proposed improvements comply with the requirements and standards of this Chapter and commonly accepted landscaping and design standards. The Planning and Zoning Commission

and/or Planning and Zoning Administrator may call upon professional services from either the public or private sectors to provide an evaluation relative to any submitted landscaping plan.

## 1191.05 INSTALLATION AND MAINTENANCE.

(a) Installation. Landscaping plans and the improvements identified therein meeting the requirements of this Chapter shall be completely installed no later than six (6) months subsequent to the date of issuance of a Temporary Certificate of Use and Occupancy. A single three (3) month extension may be granted by the Planning and Zoning Administrator upon request of the Applicant upon demonstration that such extension is warranted because of adverse weather conditions or unavailability of approved landscaping material. All landscaping material shall be installed in a sound, professional manner and according to accepted landscaping and planting procedures.

(b) Maintenance. All landscaping material shall be maintained in proper and healthful condition. Property owners shall maintain landscaped areas in a proper, neat and orderly appearance, and free from refuse and debris. Upon issuance of a citation, corrective action shall be completed within sixty (60) calendar days unless the Planning and Zoning Administrator determines that weather constraints require one additional sixty (60) calendar day period. Failure to meet the requirements of this section shall constitute violation of this Zoning Code and enforcement and penalty requirements of Chapter 1135 shall apply.

(c) Dead or Diseased Trees. It shall be unlawful for any property owner to maintain or permit to stand on his or her property, dead, diseased, or damaged trees, shrubs, evergreens or other plants which are deemed by the Municipality to be a menace to the public peace, health, and safety.

## 1191.06 WOODLANDS

(a) Findings. Rapid growth, the spread of development, and increasing demands upon natural resources have had the effect of encroaching upon, despoiling, or eliminating many of the trees and other forms of vegetation and natural resources and associated processes which, if preserved and maintained in an undisturbed and natural condition, constitute important physical, aesthetic, recreational and economic assets to existing and future residents of Commercial Point. In addition to the foregoing, Commercial Point finds and determines that woodlands and trees:

(1) Protect public health by absorbing air pollutants and contamination, by providing buffering to reduce excessive noise, wind and storm impacts, and by maintaining visual screening with its accompanying cooling effect during the summer months;

(2) Provide for public safety through the prevention of erosion, siltation, and flooding; and,

(3) Contribute significantly to the general welfare of Commercial Point by providing natural beauty and recreational opportunities for existing and future residents.

(b) Purpose.

(1) Provide for the protection, preservation, replacement, proper maintenance and use of trees and woodlands located within Commercial Point in order to minimize disturbance to them and to prevent damage from erosion and siltation, and loss of wildlife habitat and vegetation. In this regard, it is the intent of this regulation to protect the integrity of woodland areas as a whole, in recognition that woodland areas serve as part of an ecosystem, and to place priority on the preservation of woodlands and trees, to the greatest extent reasonably possible.

(2) Protect the woodlands and trees of Commercial Point in order to support local property values and to promote the natural beauty of Commercial Point.
(3) Prevent owners or developers of property from removing trees from land prior to or in anticipation of development.
(4) Provide for the replacement of trees removed where no feasible alternative site development is available.
(5) Respond to the public concern for the preservation of these natural resources in the interest of the health, safety and general welfare of the residents of Commercial Point.

(c) Application of Regulation. These regulations shall apply to any parcel of property within Commercial Point which is undeveloped on the effective date of this regulation, unless the development has received (1) A preliminary site plan approval within one (1) year of the effective date of these regulations, or (2) A final site plan approval which has not yet expired. If the developer allows such approval to expire without proceeding with the development, and the development is thereafter resumed, the development must then be reviewed again to determine compliance with the requirements of these regulations.

(d) Tree Removal Permits.
(1) Except as provided in Section 1191.06(c), no person shall do any of the following without first having obtained a tree removal permit in accordance with the provisions of these regulations:
A. Remove, damage, or destroy any tree or similar woody vegetation of any dbh in a woodland;
B. Remove, damage, or destroy any tree or similar woody vegetation of four inch (4") dbh or greater which is not located in a woodland;
C. Conduct any tree clearing activities.
D. When necessary for the location of a structure of site improvements and when no reasonable alternative location for the structure or improvements can be had without causing undue hardship, considering all development options which are available to the applicant under the Zoning Code;
E. Where necessary to provide reasonable drainage upon the site and when no reasonable alternative drainage is available without the removal of the trees;
F. Where the prospective owner of the residential dwelling unit has requested the builder in writing to remove the trees in order to facilitate the homeowner making certain specified improvements.
(2) Exceptions.
A. The removal or trimming of any trees by or on behalf of a resident owner of a one-family dwelling unit, one-family cluster-housing unit, site condominium unit, or residential condominium unit from an area under the owner's exclusive control. This exception shall not apply to removal of trees from common areas.
B. Upon prior approval by the Urban Forester, the removal of or trimming of trees necessitated by the installation, repair or maintenance work performed in a public utility easement or approved private easement for public utilities.
C. The removal or trimming of trees if performed by or on behalf of Commercial Point, Franklin or Pickaway County, Ohio Department of Transportation, Franklin or Pickaway County Public Works Office or other public agencies, or a public utility company in a public right-of-way, upon public property, or upon a private easement for public utilities in connection with a publicly awarded construction project, the installation of public streets or public sidewalks, or installation of public utilities within a private or public easement established for such purpose.

D. The trimming and pruning of trees as part of normal maintenance of landscaping or orchards, if performed in accordance with accepted forestry or agricultural standards and techniques.
E. The removal or trimming of dead, diseased or damaged trees if performed by or on behalf of Commercial Point, Franklin or Pickaway County, Ohio Department of Transportation, Franklin or Pickaway County Public Works Office or other public agencies in a public right-of-way or upon public property if done to prevent injury or damage to persons or property.
F. The removal or trimming of dead, diseased or damaged trees provided that the damage resulted from an accident or non-human cause, and provided further that the removal or trimming is accomplished through the use of standard forestry practices and techniques.
G. The removal or transplanting of trees during the operation of a commercial nursery, tree farm or practicing sustained-yield forestry (land stays a productive forest).
H. Actions made necessary by an emergency, such as a tornado, windstorm, flood, freeze, dangerous and infectious insect infestation or disease or other disaster, in order to prevent injury or damage to persons or property or restore order.
(3) Development on parcels of one (1) acre or greater. The following requirements shall apply to all property containing one (1) or more acres upon which any activity as defined herein is undertaken after the effective date of these regulations:
A. The developer of any development shall, as part of the permit approval under these regulations, identify the location of all proposed streets, loading and unloading areas, off-street parking areas, and maneuvering lanes providing general circulation within the development. In addition, the developer shall designate building envelopes and driveway envelopes for construction of buildings, known accessory structures, and other on-site improvements to be made. Once a tree removal permit has been obtained by the developer for these areas, no additional tree removal permit shall be required for the erection of a structure within the building envelope or the installation of approved improvements in the approved locations. Activities which extend beyond the confines of the designated building or driveway envelopes or areas approved for the installation of specific site improvements shall require an additional tree removal permit.
B. Except as otherwise provided in these regulations, the developer of any parcel containing one (1) or more acres shall preserve and leave standing a minimum of 45 percent (45%) of the total number of trees of four inch (4") dbh or greater within the development.
(4) Tree removal permits in conjunction with construction by builders on building sites. A builder who wishes to either clear any property or construct any building upon a site, or perform any operation within a woodland, must first obtain a tree removal permit in order to remove, damage, or destroy any tree of four inches (4") dbh or greater from the property or work within a woodland as designated on the official woodlands map.
(5) Content of Application.
A. Required information. An applicant for a tree removal permit for a parcel of one (1) acre or more, if required by Section 1191.06, shall submit the following materials to the Municipality:
1. A completed tree removal permit application on a form prescribed by Planning and Zoning Administrator, which such application shall include the following information:
a. The name, address and telephone number of the applicant and / or the applicant's agent.
b. The name, address and telephone number of the owner of the property.
c. The project location, including as applicable, the address, the street, road, or highway, section number, lot or unit number, and the name of the subdivision or development.

d. A detailed description and statement of the activity to be undertaken.
2. (reserved)
3. If the applicant is not the owner of the property, a written authorization from the owner allowing the proposed activity.
4. Five (5) copies of a plan for proposed tree removal containing all of the following information:
a. The shape and dimensions of the property, and the location of any existing and proposed structure or improvement.
b. The location of all existing trees of four inch (4") or greater dbh, identified by common and/or botanical name. Trees proposed to remain, to be transplanted, or to be removed shall be designated. A cluster of trees may be designated as a "stand" of trees, and predominant species, estimated number, and average size shall be indicated. Clusters of trees located within an approved open space which is to be preserved may be designated as an "open space stand" and identified in the same manner as a "stand" without individual identification and location.
c. The location and dimension of all setbacks required by existing zoning requirements.
d. A statement that all retained trees will be identified by a method, such as painting or flagging. If protective barriers are deemed necessary by Commercial Point, the statement shall include a description of how the retained trees are to be protected, with an acknowledgment that the barriers must be in place before operations commence.
e. A general grading plan prepared by a registered engineer or land surveyor showing the anticipated drainage patterns, including the location of any areas where cut and fill operations are likely to occur, to enable Commercial Point to determine the impact of the proposal on the viability of the existing trees.
B. Alternate Site Plan Information – All Sites. Where the request for a tree removal permit relates to any site which contains no trees of four inches (4") or greater dbh, the applicant shall so indicate in their application and submit a "no tree" affidavit. In such case, Commercial Point shall conduct an inspection of the site. If the inspection substantiates the applicant's claim, the applicant shall be relieved from the requirement of obtaining a tree removal permit.
(6) Application Review Procedures.
A. Procedure. Commercial Point shall review the submitted application for a tree removal permit required by Section 1191.06 to determine that all required information has been provided. At the request of the applicant or the Municipality, an administrative review meeting may be held to review the request in light of the purpose and the review standards of Section 1191.06. A field inspection of the site may be conducted by the Urban Forester and/or his or her designee. Where the site proposed for development requires review or approval by the Planning and Zoning Commission of the subdivision layout, qualification for one-family cluster, or special land use approval, the Planning and Zoning Commission shall be responsible for approval or denial of the request for a tree removal permit (subject to affirmance, reversal or modification by the Council of Commercial Point with respect to tentative preliminary plat approval, or any other approval for which Council has final authority). In all other instances, the review of tree removal permit requests shall be the responsibility of the Urban Forester or his or her designee. All decisions shall be made in accordance with the review standards of Section 1191.06.
B. Denial. If an application for a tree removal permit is denied, the permit applicant shall be notified in writing of the reasons for denial by the Urban Forester.

C. Approval; Conditions; Performance Requirements. If an application for a tree removal permit is granted, the reviewing authority may do any or all of the following:
1. Attach to the granting of the permit reasonable conditions considered necessary by the reviewing authority to ensure the intent of Section 1191.06 is fulfilled and to minimize damage to, encroachment in, or interference with natural resources and processes within wooded areas.
2. Set a reasonable time frame within which to complete tree removal operations.
3. Require a permit holder to deposit a performance bond, or other acceptable security, equal to 100% of the cost of the improvements to ensure compliance with the terms of Section 1191.06, including the planting of any required replacement trees. Once the trees designated to be removed have been removed and any required replacement trees have been planted and inspected, the Municipality shall release the bond or security. If the permit holder has provided a bond or other performance guarantee to the Municipality under any other ordinance or regulation, and such bond or guarantee is deemed adequate by the Municipality to ensure compliance with Section 1191.06, no additional performance guarantee shall be required under this Section.
(7) Application Review Standards. The following standards shall govern the approval or denial of an application for a tree removal permit if required by Section 1191.06.
A. The protection and conservation of natural resources from pollution, impairment, or destruction is of paramount concern. Therefore, all woodlands, trees and related natural resources shall be preserved to the greatest extent reasonably possible, as determined by the Urban Forester. The applicant shall consider and pursue all development options available under the Zoning Code in order to preserve the woodlands and trees.
B. The integrity of woodland areas shall be maintained to the greatest extent reasonably possible irrespective of whether such woodlands cross property lines.
C. Where the proposed activity consists of land clearing, it shall be limited to designated street rights-of-way, drainage and utility easements, building and driveway envelopes and other areas (such as off-street parking and loading and unloading areas) necessary for site improvements considering the development options which are available to the applicant under the Zoning Code.
D. The reviewing authority shall evaluate the quality of the woodland area or the trees to be removed, including consideration of:
1. Tree species (including diversity of tree species);
2. Tree size and density;
3. Health and vigor of the trees;
4. Soil conditions and drainage characteristics of the site.
5. Other factors such as the value of the woodland area as a scenic asset, wind block, noise buffer, or other environmental benefit (e.g. cooling effect).
E. The burden of satisfying the criteria of this Section shall be upon the applicant.
(e) Replacement or Relocation of Trees; Maintenance.
(1) Replacement or relocation. Whenever a tree removal permit has been issued authorizing removal of a tree of four inches or greater dbh, the permit holder shall replace it with a new tree. The minimum tree replacement size shall be two (2) inches dbh.
(2) Replacement Cost. The permit holder shall pay for the replacement of trees.
(3) Location. The location of any replacement tree shall be on the same parcel as the removed tree wherever feasible.
(4) Maintenance. Replacement trees shall be staked (as needed), fertilized, watered and mulched to ensure their survival in a healthy, growing condition.

(f) Term of Permit.

(1) Any and all tree removal permits issued by the Municipality to a developer shall expire (unless extended) at the same time as the contemporaneous approval granted by the Municipality for the development, if any (e.g. preliminary plat, preliminary site plan, special land use, site plan approval, etc.).

(2) Any and all tree removal permits issued by the Municipality to any person for an activity regulated under Section 1191.06 for which a contemporaneous approval of the development is not required (e.g. removal of trees by a builder in connection with construction of a residence upon a lot or parcel) shall expire one year from the date of issuance.

(3) Any activity regulated under Section 1191.06 which is to be commenced after expiration of a tree removal permit shall require a new application, additional fees, and new review and approval.

(g) Protection of Trees and Woodlands during Construction; Display of Permit.

(1) No individual shall conduct any activity within ten (10) feet of the drip line of any tree designated to remain, including but not limited to placing solvents, building material, construction equipment, or soil deposits within the drip line.

(2) During construction, no individual shall attach a device or wire to any remaining tree, except to cordon off protected areas.

(3) Before development, land clearing, filling, or any property alteration for which a tree removal permit is required, the developer or builder shall erect and maintain suitable barriers such as snow fencing, cyclone fencing, etc., to protect remaining trees. Wood, metal, or other substantial material shall be utilized in the construction of barriers. Protective barriers shall remain in place until the Urban Forester, or his or her designee, authorizes their removal. Barriers are required for all trees designated to remain.

(i) Penalties and Remedies

(1) In addition to the penalties as set forth in Section 1135.12, any person who violates any provision of Section 1191.06 shall forfeit and pay a civil penalty equal to the total value of those trees illegally removed or damaged, as computed from the International Society of Arboriculture shade tree value formula. Such sum shall accrue to the Municipality and may be recovered in a civil action brought by the Municipality.

(2) Any person authorized or designated by the Planning and Zoning Administrator to enforce or administer Section 1191.06 may issue a stop work order to any person conducting any operation in violation of Section 1191.06 A person shall not continue, or cause or allow to be continued, any operation in violation of such an order, except as authorized by the enforcing agency to abate a dangerous condition or remove the violation.

(3) If a stop work order is not obeyed, the enforcing agency or person may apply to a court of competent jurisdiction for any order enjoining the violation of the order. This remedy is in addition to, and not in limitation of, any other remedy provided by law or ordinance, and does not prevent criminal prosecution for failure to obey the order.

(4) Any use or activity in violation of the terms of Section 1191.06 is hereby declared to be a nuisance per se, and may be abated by order of any court of competent jurisdiction. All costs, fees and expenses in connection with such action, including attorney fees incurred by the Municipality, shall be assessed against the violator.

**1191.07 PUBLIC SPACES.**

Within the public right-of-way and on public properties, no person or entity other than the Municipality shall plant a tree, shrub, evergreen, woody shrub or other obstruction on public property. The enforcement and penalty provisions of Chapter 1135 shall apply to this section.

(a) Tree Topping. No person shall, as a normal practice, top any tree within the public right-of-way. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy or disfigure the tree. With an immature tree, removing more than twenty-five percent (25%) of the canopy will be considered topping.

(b) Height of Limbs Over Sidewalks and Streets. Tree limbs extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than ten (10) feet above the sidewalks. Tree limbs extending over streets shall be trimmed to such an extent that no portion of the same shall interfere with the normal flow of traffic.

(c) Municipal Rights. The Municipality shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the rights-of-way of all streets, alleys, avenues, lanes and other public grounds as may be necessary to ensure public safety or to preserve or enhance the environmental quality and beauty of such public grounds. The Planning and Zoning Administrator may cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature poses a threat to the interruption of service to sewers, electric power lines, gas lines, water lines or other public improvements.

(d) Reducing Treelawn. No person shall by any type of construction reduce the size of a tree lawn without first securing permission from the Planning and Zoning Administrator.

(e) Utility Companies. Utility companies shall provide written evidence to the Planning and Zoning Administrator, of adherence to established guidelines (as recommended by the National Arborists Association) for line clearance work. These guidelines shall cover the following areas:

(1) Tree trimming/pruning.
(2) Tree removal.
(3) Brushing.
(4) Right-of-way clearance for new transmission conductors on private rights-of-way.
(5) Chemical brush control and appropriate precautions.

(f) Removal, Replanting and Replacement in Public Places.

(1) Wherever it is necessary to remove a tree(s) or shrub(s) from any Municipally owned property, in connection with the paving of a sidewalk, or the paving or widening of a portion of a street, alley, or highway used for vehicular traffic, or any other reason, the Urban Forester must be contacted. At that time, the Urban Forester will determine if replacement of the trees and/or shrubs is feasible.

(g) Removal of Stumps. All stumps of street trees shall be removed twelve (12) inches below the surface of the ground. Stumps shall be removed or shall be ground at the site. All residual material shall be removed from the site at the time the tree is removed and the site shall be restored as approved by the Urban Forester.

(h) Arborist License and Bond. It shall be unlawful for any person or contractor working on behalf of the municipality, to act as an arborist in the business or occupation of planting, pruning, treating, or removing street trees within the Municipality without providing documentation as a certified arborist or as the authorized representative of a certified arborist. Each applicant shall

file evidence of possession of liability insurance in the minimum amount of $1,000,000 indemnifying the Municipality or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

(i) Appeal Procedures. Any person aggrieved by a decision of the Planning and Zoning Administrator may appeal the decision to the Planning and Zoning Commission as prescribed in Section 1137.06 (c).

## 1191.08 PRIVATE STREETS.

No trees may be planted along private streets without first obtaining a permit from the Planning and Zoning Administrator. The permit application must contain a map illustrating the location and botanical and common name of all trees to be planted along with the street.

**CHAPTER 1193**

**Wireless Communication Facilities**

## 1193.01 INTENT AND PURPOSE.

The intent of this Chapter is to balance the diverse interests in wireless communication; to improve citizen access and use of new and existing technologies; to assure the right of business the exercise of free trade; and to protect the community from uncontrolled proliferation of antennas and antenna support structures. More specifically, the purpose is to provide for the proper location of private as well as public and commercial wireless facilities, including antennas, dish antennas, antenna support structures, and accessory equipment structures; to encourage multiple use of antenna support structures; to ensure compatibility with nearby uses; in particular to minimize negative impacts on residential areas; and otherwise to assure the public health, safety and general welfare of the community. It is also the purpose of this Chapter to conform with the federal preemption pertaining to amateur radio operations per 101 FCC 2d 952 (1985) and with exemptions for antennas utilized by amateur radio operators who are duly licensed by the FCC under Part 97 Rules Section 153(q) of Title 47 USC.

## 1193.02 PRIVATE NON-COMMERCIAL ANTENNAS, SATELLITE DISH ANTENNAS, AND ANTENNA SUPPORT STRUCTURES.

Private non-commercial antennas, satellite dish antennas, and antenna support structures are permitted accessory uses in any zone district under the following conditions:

(a) Exclusion: This section does not apply to satellite dish antennas 3.3 feet or less in diameter in residence zones or 6.6 feet or less in commercial and industrial zones.

(b) Dish antennas greater than five (5) feet in diameter may not be placed on the roof of a principal or accessory building in any residential zone because of objectionable aesthetic impact on surrounding dwellings and views therefrom.

(c) Structures controlled under provisions of this Section, including guys, are prohibited in any front or side yard of a lot or parcel in any residential or commercial zone and shall not encroach upon any side yard setback line, nor be placed within ten (10) feet of the rear property line, provided that guy wire anchors may be located within one (1) foot of property lines that define the rear yard. In addition, an antenna support structure in residential and commercial zones shall be set back from the nearest property line a distance equal to structural height.

(d) Height of any antenna support structure covered under this Section shall be controlled by the height regulation of the zone in which it is located, provided that an antenna on such support structure shall be permitted up to twenty-five (25) feet of additional height in excess of the zone limit.
(e) Structures covered under this Section, for which an in-ground foundation or substructure must be constructed or which are roof mounted and extend more than fifteen (15) feet above the ridge line of the roof, shall require a building permit prior to erection, enlargement, increase in height or relocation. The application for a permit shall include address of lot or parcel, type of structure and height, and placement on lot or parcel shown on an illustration drawn to scale. Also required is information on method of installation including, as appropriate, details on structural support, footings, foundations, guys, braces, anchors, and grounding. As part of the permitting process the applicant will affirm receipt of a Safety Advisory Bulletin concerning safety issues, grounding, anti-climb devices, guying and wire sizes, and maintenance and inspections.
(f) Climbable antenna support structures shall be completely enclosed by a fence six (6) feet in height or shall have an effective anti-climb device attached as described in the Safety Advisory Bulletin. If fenced, the fence shall restrict the passage of a two (2) inch diameter sphere.
(g) Lots or parcels in residential zones shall be limited to not more than one (1) antenna support structure per building containing one (1) or more dwelling units.
(h) An antenna support structure shall be inspected annually and maintained in a safe condition by the owner or operator. Such owner or operator shall notify the Planning and Zoning Administrator if requisite safety standards are no longer being met and what steps are being taken to remedy the situation. The owner or operator of such structure shall maintain a record of inspections on file and a log of routine maintenance as well as work undertaken in response to inspections.
(i) Upon cessation of ownership or leasehold rights in an antenna support structure, the operator or property owner shall remove such structure within ninety (90) calendar days, or within thirty (30) calendar days of receipt of final written notice from the Municipality to do so, provided that the new owner or leaseholder may retain said structure, after its inspection and written notice to the Planning and Zoning Administrator of the intention to retain such structure and to assume responsibility for same under this section.

## 1193.03 AMATEUR RADIO ANTENNAS AND ANTENNA SUPPORT STRUCTURES.

Amateur radio antennas and antenna support structures are permitted accessory uses in any zone district under the following conditions:
(a) Exclusion: This section does not apply to satellite dish antennas 3.3 feet or less in diameter in residence zones or 6.6 feet or less in commercial and industrial zones, and wire antennas erected unobtrusively for the purpose of amateur radio communications.
(b) Dish antennas greater than five (5) feet in diameter may not be placed on the roof of a principal or accessory building in any residential zone because of objectionable aesthetic impact on surrounding dwellings and views therefrom.
(c) Structures controlled under provisions of this Section are prohibited in any front or side yard of a lot or parcel in any residential or commercial zone, provided that guy wire anchors may encroach into the side yard. Guy wire anchors and structural foundations may be located not closer than one (1) foot of property lines that define the rear yard, and in the case of guy wire anchors, in the side yard, provided that antennas may encroach within the one (1) foot setback,

and may even protrude over the lot line, where written permission to do so is provided by the current affected property owner and is on file with the Planning and Zoning Administrator.
(d) The overall antenna height shall be limited to one hundred (100) feet above grade whether freestanding or mounted on a structure. If the Planning Commission determines it necessary to consult with an expert in considering an increase in overall antenna height, all reasonable costs and expenses associated with such consultation shall be borne by the person seeking to exceed such height limit.
(e) Structures covered under this Section, for which an in-ground foundation or substructure must be constructed, and/or which exceed thirty-five (35) feet in height above grade, or which are roof-mounted and extend more than fifteen (15) feet above the ridge line of the roof, shall require a building permit prior to erection, enlargement, increase in height or relocation. The application for a permit shall include address of lot or parcel, type of structure and height, and placement on lot or parcel shown on an illustration drawn to scale. Also required is information on method of installation including, as appropriate, details on structural support, footings, foundations, guys, braces, anchors, and grounding. As part of the permitting process the applicant will affirm receipt of a Safety Advisory Bulletin concerning safety issues, grounding, anti-climb devices, guying and wire sizes, and maintenance and inspections.
(f) Climbable antenna support structures shall be completely enclosed by a fence six (6) feet in height or shall have an effective anti-climb device attached as described in the Safety Advisory Bulletin. If fenced, the fence shall restrict the passage of a two (2) inch diameter sphere.
(g) Lots or parcels in residential zones shall be limited to not more than one antenna support structure in excess of thirty-five (35) feet in height above grade per building containing one or more dwelling units. A second support structure, which is thirty-five (35) feet or less in height, shall be permitted, and may be accompanied by antenna(s) of up to twenty-five (25) feet of additional height.
(h) An antenna support structure shall be inspected annually and maintained in a safe condition by the owner or operator. Such owner or operator shall notify the Planning and Zoning Administrator if requisite safety standards are no longer being met and what steps are being taken to remedy the situation. The owner or operator of such structure shall maintain a record of inspections on file and a log of routine maintenance as well as work undertaken in response to inspections.
(i) Upon cessation of ownership or leasehold rights in an antenna support structure, the operator or property owner shall remove such structure within ninety (90) calendar days, or within thirty (30) calendar days of receipt of final written notice from the Municipality to do so. Where the new owner or leaseholder is a licensed amateur radio operator, such person may retain said structure after its inspection and written notice to the Planning and Zoning Administrator of intention to do so and to assume responsibility for same under this section.

## 1193.04 COMMERCIAL, PUBLIC, AND SEMI-PUBLIC ANTENNAS, SUPPORT AND EQUIPMENT STRUCTURES.

Commercial, public, and semi-public antennas, radio and television antennas, microwave and other wireless communication antennas, dish antennas, antenna support structures, and equipment structures, are permitted as primary or accessory uses, subject to Site Plan Review of Chapter 1141 under the following conditions:
(a) Antenna support structures with antenna may be located as follows:

(1) On property or existing buildings in any commercial or industrial zone where located not closer than five hundred (500) feet from any residential unit in any residential zone, subject to review by the Planning and Zoning Commission. Support structures shall be excluded from Municipality park, cemetery, and museum property, provided that public communication structures qualifying as essential services as defined in this chapter shall not be so excluded.
(2) On property or existing buildings in any residential zone where located not less than five hundred (500) feet from any residential unit in any residential zone, subject to review by the Planning and Zoning Commission. Support structures shall be excluded from Municipality park, cemetery, and museum property, provided that public communication structures qualifying as essential services as defined in this chapter shall not be so excluded.
(b) Antennas and antenna arrays, independent of antenna support structures normally accompanying their use, may be located as follows:
(1) On existing buildings or structures in commercial and industrial zones.
(2) In any zone on existing tall structures, excluding those provided for in Section 1193.02 and 1193.03, such as communication towers, power transmission towers and poles, stadium and athletic field lighting standards, water storage tanks, street light standards along expressways and major and regional streets as defined by the Municipality's thoroughfare plan, and on or within other similar tall structures as determined by the Planning and Zoning Administrator.
(c) Structures for housing of equipment required to operate an antenna, not higher than twelve (12) feet above grade nor greater than three hundred (300) square feet in area, may be constructed in proximity to an antenna support structure or existing tall structure as accessory to each antenna array or user of an antenna support structure. A single, larger structure may be built for multiple users, provided that total floor area does not exceed six hundred (600) square feet. An equipment structure may also be treated as a mechanical appurtenance or penthouse on the roof of an existing building on which the antenna, antenna array, or antenna support structure is erected. Where the equipment structure is erected at grade, color and character of the exterior surface shall be aesthetically and architecturally compatible with buildings in the surrounding area.
(d) Except in LM and PID Zones, antenna support structures shall maintain a setback from the nearest property line a distance at least equal to the height of the structure, provided that a structure mounted on the roof of a building shall not be so restricted.
(e) Overall antenna height covered under this Section shall be limited to not more than one hundred fifty (150) feet above grade.
(f) Required submittals accompanying applications:
(1) Applicant must provide a written statement that the proposed antenna and antenna support is compliant with: antenna and antenna support structure site federal registration; maximum exposure to non-ionizing radiation and ionizing radiation standards, singly or as co-located, recertified biannually.
(2) Applicant must provide an analysis of the visual impact of the antenna support structure on the surrounding area. Such analysis shall include points-of-view renderings of the structure to scale in its proposed setting, with special attention to adjoining residential areas, including proposed landscaping to screen the structure base and accessory building.
(g) No placement of new antenna support structures shall be permitted unless the Planning and Zoning Commission finds credible evidence establishing to a reasonable certainty one or more of the following:

(1) No existing antenna support structure, tall structure or building is located in the area in which the applicant's equipment must be located, or
(2) No existing antenna support structure, tall structure or building in the area is of sufficient height to meet the applicant's requirements and the deficiency cannot be remedied at reasonable cost, or
(3) No existing antenna support structure, tall structure or building within the area has sufficient structural strength to support the applicant's equipment and the deficiency cannot be remedied at reasonable cost, or
(4) Electromagnetic interference would occur between the applicant's and existing equipment and such interference cannot be eliminated at reasonable cost, or
(5) The fees, costs or contractual provisions required by the owner to co-locate on existing antenna support structure, tall structure or building are unreasonable relative to industry norms, or
(6) The applicant demonstrates that there are other factors that render existing antenna support structures, tall structures or buildings unsuitable or unavailable for co-location. The cost of eliminating impediments to co- location shall be deemed reasonable if it does not exceed by twenty-five (25) percent of the cost of constructing a new antenna support structure on which to mount the applicant's equipment.
(h) If the Planning and Zoning Commission determines it necessary to consult with an expert in considering the factors listed in subsection (g) above, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or provide information requested by the Planning & Zoning Commission shall be grounds for denial or the withholding of the issuance of a building permit until such costs have been paid.
(i) Unless shown to be unreasonable, a condition of approval shall be to construct an antenna support structure so as to accommodate the co-location of at least three additional antenna arrays similar in size and function to that placed by the applicant. The additional co-location-sites shall be made available at prevailing rates in the industry and under standard contractual provisions. Failure to do so shall be considered grounds for denying approval or voiding of approvals given.
(j) Any modification which significantly alters the appearance, height, or structural integrity of an antenna support structure or which involves the installation of antenna equipment differing in size or function from that previously installed shall require the approval of the Planning and Zoning Commission.
(k) Additional approval by the Planning and Zoning Commission shall not be required for co-location on an existing antenna support structure, provided the co-located antenna array and equipment is similar in size and function to that installed by the applicant of the approved antenna support structure. Such co-location shall be subject to review and approval of the Planning and Zoning Administrator.
(l) No advertising or business signs shall be allowed on structures covered under this section.
(m) No signals, lights or illumination not required by the FCC, FAA, or Municipality may be placed on structures covered by this Section. Any such required signal or light shall be shielded to prevent downward transmission of light.
(n) Antenna support structures shall have an exterior finish that preserves their structural integrity and visual appearance.
(o) Structures covered under this Section shall require a building permit prior to erection, enlargement, increase in height or relocation. The application for a permit shall include

construction drawings showing the proposed method of installation, including details of structural support, footing, foundation, guys, braces, anchors, and such other information as required by the Planning and Zoning Administrator to assure proper engineering practice. A site plan and other illustration drawn to scale shall be provided showing the lot or parcel on which the structure is to be erected, all structures on site, all structures within two hundred (200) feet of the site, all structural elements, and all other relevant information.

(p) Antenna support structures shall be inspected annually and maintained in a safe condition by the owner or operator. Such owner or operator shall notify the Planning and Zoning Administrator if requisite safety requirements are no longer being met and the steps being taken to remedy the situation. The owner or operator shall maintain inspection reports on file and a log of routine maintenance as well as work undertaken in response to inspection reports.

(q) The owner or operator of an antenna or antenna support structure shall give notice to the Planning and Zoning Administrator when such equipment is no longer in use. Any such equipment no longer used for a continuous period of six (6) months or which no longer meets safety standards in the view of the Planning and Zoning Administrator shall be removed; it shall be removed within sixty (60) calendar days of written notice by the Municipality to do so. If not removed within such sixty (60) calendar day period, the Municipality may remove it at the owner's expense.

**CHAPTER 1195**

**Accessory Uses and Structures**

## 1195.01 ACCESSORY USES AND STRUCTURES PERMITTED.

Unless otherwise specified, accessory uses and structures shall be permitted on a lot in a residential zoning district in association with a principal use or structure provided the accessory use or structure meets the requirements of this chapter, the development standards of the applicable residential zoning district, and the 2015 International Property Maintenance Code.

## 1195.02 - Reserved

## 1195.03 PERMIT REQUIRED.

A permit or certificate of zoning compliance shall be issued prior to the erection, addition or alteration of an accessory structure located on any lot in conjunction with a permitted principal use.

## 1195.04 RESIDENTIAL LOCATION, EXTERIOR, SIZE AND MAINTENANCE.

(a) Location. All accessory uses and accessory structures, excluding fences, sidewalks, driveways, garages, porches, poles, signs, decks, patios and towers shall be located in the rear yard of a residential lot. No accessory uses and accessory structures, excluding fences, sidewalks, driveways, garages, porches, poles and signs, shall be allowed in the front yard of a residential lot. Accessory uses and accessory structures shall meet the front, rear and side yard setback requirements of the applicable residential zoning district. Accessory uses and accessory structures shall not be located within a recorded easement.

(b) Exterior. In order to protect property values and encourage neighborhood stability, an accessory structure shall have an exterior which is compatible in appearance to the principal structure on the lot.

(c) Size of Structure. The maximum permitted size of an accessory structure placed on a lot in a residential zoning district shall be no larger than ten percent (10%) of the total lot area.

(1) Lot Size Two (2) Acres or Less. An accessory structure shall contain no more than one (1) story nor shall it exceed a total height of fifteen (15) feet as measured from the floor to the top of the roof. No door serving the accessory structure shall exceed nine (9) feet in height.

(2) Lot Size Over Two (2) Acres: An accessory structure shall not exceed a total height of twenty-five (25) feet as measured from the floor to the top of the roof.

(d) Maintenance. All structures shall be maintained in compliance with the International Property Maintenance Code.

(e) Density. All accessory structures, when combined with the principal structure, shall not exceed sixty percent (60%) lot coverage.

## 1195.05 COMMERCIAL/INDUSTRIAL LOCATION, EXTERIOR, AND MAINTENANCE.

(a) Location. Accessory uses and structures shall be located completely to the rear of the principal structure and shall be no closer than ten (10) feet from any part of the principal structure. Accessory uses and structures shall meet the rear and side yard setback requirements of the applicable zoning district. Accessory uses and structures shall not be located within a recorded easement.

(b) Exterior. In order to protect property values and encourage neighborhood stability an accessory structure shall have an exterior that meets this standard and is compatible in appearance to the principal building on the parcel or lot.

(c) Maintenance. Accessory uses and structures shall be maintained in conformance with the requirements of this Code.

(d) Site Plan Required. Accessory uses and structures shall be indicated on an approved site plan in conformance with the requirements of Chapter 1141.

**CHAPTER 1197**
**Right-of-Way Use**

## 1197.01 PURPOSE AND SCOPE.

(a) The purpose of this chapter is to provide requirements for the use or occupation of any and all rights of way and public property in the Municipality, the issuance of permits to persons for such use or occupancy and to set forth the policies of the Municipality related thereto.

(b) This chapter does not take the place of any franchise, license, or permit which may be additionally required by law. Each permittee shall obtain any and all such additional franchises, licenses or permits necessary to the operations and conduct of its business.

(c) No person shall use, occupy, own or operate facilities in, under or over any rights of way within the Municipality unless such person first obtains a franchise and/or permits conforming to the requirements set forth therein and in this chapter.

(d) The policy of Commercial Point with regards to rights of way is hereby declared to be:

(1) To promote public safety and protect public property;

(2) To promote the utilization of rights of way for the public health, safety, and welfare and to promote economic development in the Municipality;
(3) To promote the availability of a wide range of utility, communication, and other services, including the rapid development of new technologies and innovative services, to the Municipality's citizens and taxpayers at reasonable rates;
(4) To promote cooperation among the Municipality and franchisees and permittees in the occupation of rights of way, and work therein, in order to minimize public inconvenience during work in the rights of way and avoid uneconomic, unneeded and unsightly duplication of facilities;
(5) To ensure adequate public compensation for the regulation of the private use of the rights of way and the regulation thereof; and
(6) To promote and require reasonable accommodation of all uses of rights of way and to establish the following priority of use of rights of way, when all requested usage of rights of way by permittees cannot be accommodated:
A. Use by the Municipality.
B. Use by another governmental entity with the Municipality's concurrence or other uses required by law.
C. Telecommunications and utility and general permittees and franchisees shall have third priority.
D. Special permittees shall have fourth priority.
E. Residential permittees shall have the fifth priority; provided, however, that the Construction Services Administrator may reasonably require right-of-way permittees and franchisees to cooperate to accommodate use by other permittees and franchisees and provided further that the Construction Services Administrator may alter this priority when the Construction Services Administrator reasonably determines a deviation here from to be in the public interest.

(e) Nothing in this chapter should be construed to apply the provisions of this chapter to facilities owned or operated by the Municipality or any of its operations.

(f) Unless otherwise specifically stated in a permit, all permits or franchises granted hereunder shall be non-exclusive.

(g) Definitions.

(1) "Applicant" means any person applying for a permit hereunder.

(2) "Best efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, safety, expedition, available technology and human resource and cost.

(3) "Emergency" means a reasonable unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property that calls for immediate action.

(4) "Permittee" means any person issued a permit or franchise pursuant to this chapter to use or occupy all or any portion of the rights-of-way in accordance with the provisions of this chapter.

(5) "Right-of-way" or "Rights-of-way" means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, leisure trail, bicycle path, or any public easement or right-of-way now or hereafter held by the Municipality which shall, within its proper use, entitle a permittee, in accordance with the terms hereof and of any permit, to the use thereof for the purpose of installing or operating any facilities as may be ordinarily necessary and pertinent to the provisions of the utility, cable

television, communications or other services as set forth in any permit. Right-of-way shall also include publicly owned property, but only to the extent the use or occupation thereof is specifically granted in a permit or by regulation.

(6) "Right-of-way work permit" means a permit authorizing actual physical work by the permittee in the right-of-way.

(7) "Soft surface" means areas of sod, soil, mulch or other landscape materials and contains no hard surfaces.

(8) "Hard surface" means any pavement, sidewalk, path, or travel way composed of asphalt, concrete, gravel or other surface treatment.

## 1197.02 TYPES OF PERMITS OR FRANCHISES; GRANTS OF AUTHORITY

(a) The following type of permits and franchises are available:

(1) Cable television franchise agreement. Granted to providers of Cable Television Service;

(2) Telecommunication and utility permit. Permit granted to persons who desire and are granted authority to utilize rights of way to provide a public utility and/or telecommunications service, other than Cable Television Service.

(3) Special Permit. Permit granted to persons for a specific, limited use of the rights of way or a specific portion thereof; and

(b) All permits shall specify the use or uses for which such permits or franchises are granted and contain such other non-discriminatory terms and conditions as are appropriate and as are set forth in this chapter or conditions negotiated and agreed to by the Municipality and the permittee to provide for the public safety or welfare.

(c) Permits and the rights of permittees thereunder are not transferable without the express written approval of the Municipality.

## 1197.03 PROCEDURE FOR PERMITS; TERMS

(a) Applicants for cable television franchises shall be granted a cable television franchise pursuant to the Municipality's franchise agreement; provided, however, that a cable franchise shall only entitle the franchise to utilize the rights of way, in accordance with the Municipality's policies and regulations, for purposes directly related to the provision of the cable television service. Any other right-of-way use by such franchisee shall require a separate permit.

(b) Applicants for telecommunication and utility permits, or renewals thereof shall file an application therefore in such form as the Planning and Zoning Administrator may require along with an application fee of two thousand dollars ($2,000). The Planning and Zoning Administrator shall determine if the applications are in order and, if so, forward the application to Council to determine whether or not, in accordance with Section 1197.04, the applicant should be granted a permit hereunder. Council shall make a final determination as to whether or not such permit should be granted and if so, upon what terms and conditions.

(c) Applicants for special permits or renewals thereof, shall file an application therefore, in such form as the Planning and Zoning Administrator requires along with an application fee of five hundred dollars ($500.00). The Planning and Zoning Administrator shall determine if the application is in order and is in accordance with the criteria set forth in Section 1197.04and grant or renew such permit. The terms of such permits shall be determined by the Planning and Zoning Administrator but shall in no event exceed ten (10) years.

(d) Any applicant may appeal the failure of the Planning and Zoning Administrator to grant a permit or to recommend it to be granted upon terms and conditions acceptable to the applicant. In order to perfect such appeal, the applicant shall file, within ten (10) calendar days of the Planning and Zoning Administrator's determination or recommendation, or within ninety (90) calendar days of the filing of the application if the Planning and Zoning Administrator has taken no action, and appeal to Council. Council shall then review the matter and render a final determination after affording the applicant an opportunity to be heard either in person or in writing. Except to the extent otherwise appealable by law, Council's decision shall be final.

## 1197.04 CRITERIA FOR GRANTING PERMITS OR FRANCHISES.

(a) Cable television's franchises shall be granted pursuant to the Municipality's policies and regulations.

(b) Telecommunications and utility and special permits shall be granted to persons based upon a determination that the following criteria are met.

(1) The granting of the permit will contribute to the public health, safety, or welfare in the Municipality.

(2) The granting of the permit will be consistent with the policy of the Municipality as set forth in Section 1197.01 and 1197.05.

(3) That the permittee has and will continue to have liability insurance which names the Municipality as an additional insured, in effect in such amounts and for such liability as the Municipality may require or be self-insured pursuant to the terms of this chapter.

(4) That the applicant is a proper person to hold a permit and will fulfill all its obligations hereunder.

## 1197.05 OBLIGATION OF PERMITTEES AND FRANCHISEES; CONDITIONS OF PERMITS AND FRANCHISES.

(a) In addition to the other requirements set forth herein each telecommunication and utility and special permittee shall:

(1) Use its best efforts to cooperate with other franchisees and permittees and the Municipality for the best, most efficient, most aesthetic and least obtrusive use of right-of-way, consistent with safety, and to minimize traffic and other disruptions including street cuts;

(2) Participate in joint planning and advance notification of right-of-way work, excepting such work performed in emergencies or other exigent circumstances;

(3) Cooperate with other permittees and franchisees in utilization of, construction in and occupancy of private rights of way, but only to the extend the same is not inconsistent with the agent thereof or state or federal law;

(4) Upon written notice of, and at the direction of, Construction Services Administrator and at the permittees' sole cost, promptly remove or rearrange facilities as necessary, e.g. during any construction, repair or modification of any street, sidewalk, Municipal utility or other governmental uses, or if additional or subsequent Municipal or other public uses of rights-of-way are inconsistent with then current uses of franchisees and permittees or for any other reasonable cause as determined by the Construction Services Administrator.

(5) All persons granted a permit on or after the effective date of this section shall provide maps or other information in such form and at such times as the Municipality may reasonably

require. Said maps and information shall locate, describe and identify all structures and facilities of such permittee, of and in the rights of way;

(6) Perform all work, construction, maintenance or removal of structures and facilities within the right-of-way in accordance with good engineering and construction practice, including any appropriate safety codes and in accordance with the best efforts to repair and replace any street, curb or other portion of the right-of-way, or facilities or structure located therein, to a condition materially equivalent to this condition prior to such work, and to do so in a manner which minimizes inconvenience to the public, the Municipality and other franchisees and permittees, all in accordance with all applicable regulations;

(7) Register with all appropriate underground reporting services; and

(8) Unless otherwise set forth in a permit, not enter into leases or other agreements for physical space in or on permittee's facilities located within the rights of way without prior notification of the Municipality. Such notice shall include a general description of the uses to be made of the facilities.

(b) Construction and Technical Standards.

(1) Upon grant of the permit and in order to construct, operate and maintain a telecommunications system or utility in the Municipality, the permittee may enter into contracts with any public utility companies or any other owner or lessee of any poles or underground areas located within or without the Municipality, obtain right-of-way permits from appropriate Municipal, state, county, and federal officials necessary to cross or otherwise use highways or roads under their respective jurisdiction; obtain permission from the Federal Aviation Administration to erect and maintain antennas; and obtain whatever other permits the Municipality, county, state or federal agency may require.

(2) In those areas of the Municipality where telephone and electric services are provided by underground facilities, all new facilities shall be placed underground. In all other areas, the permittee, upon request of the Municipality, shall use its best efforts to place facilities underground. However, the term "facilities" as used in the preceding sentence shall not include equipment, which is customarily placed on or above the ground in conjunction with underground transmission facilities (e.g. splice and terminal pedestals, equipment cabinets and transformers). Where not otherwise required to be placed underground by this chapter, the permittee's system shall be located underground at the request of the adjacent property owner, provided the placement of such system shall be consistent with the permittee's construction and operating standards and provided that the excess cost over the aerial location shall be borne by the property owner making the request. All cable to be installed under the roadway shall be installed in conduit. In no circumstance shall new poles be located in any area of the Municipality where they are not replacing existing poles without written approval of the Construction Services Administrator, which shall not be unreasonably withheld.

(3) The permittee shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements and FCC technical standards, and those standards are incorporated by reference herein. The system shall be designed, constructed, operated and maintained for twenty-four hour a day continuous operation.

(4) The permittee shall comply with the Municipality's normal permitting process prior to commencing any work in the rights of way except for emergencies and otherwise as provided in this chapter. No work in the rights of way shall be commenced until all required permits have been issued by the Municipality. The Municipality shall not unreasonably withhold the granting of any permit.

(5) Any contractor proposed for work of construction, installation, operation, maintenance, and repair of system equipment must be properly licensed under laws of the State, and all local ordinances. The contractor's or permittee's system and associated equipment erected by the contractor or permittee within the Municipality shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places. No pole or other fixtures placed in any public ways by the contractor or permittee shall be placed in such a manner as to interfere with normal travel on such public way.

(6) The Municipality does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public right-of- way, where necessary, the location shall be verified by excavation.

(7) Construction, installation, operation, and maintenance of the utility or telecommunications system shall be performed in an orderly and workmanlike manner, in accordance with the permittee's then current corporate construction and maintenance practices. When consistent with the safety codes and standards set forth in Section 1197.05, all cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple configurations shall be arranged in parallel and bundled with due respect for engineering consideration.

(8) The permittee shall at all times comply with applicable Nation Electrical Safety Code (National Bureau of Standards); applicable National Electrical Code (National Bureau of Fire Underwriters); and applicable FCC or other federal, state and local regulations; and standards as set forth in the permit.

(9) In any event, the system shall not endanger or interfere with the safety of persons or property in the permit area or other areas where the contractor or permittee may have equipment located.

(10) The franchisee or permittee shall provide either a performance bond (or self-bonding by permittee having capitalization in excess of five million dollars ($5,000,000) as determined by the Mayor), an irrevocable letter of credit acceptable to the Municipality or a certified check in an amount determined by the Mayor to pay the cost of restoration of the right-of-way should the permittee fail to perform restoration required by this chapter or the permit or to pay the cost of removal or relocation of the system required by this chapter should the permittee fail to perform said removal or relocation.

(c) Right-of-way Work Permit Required. All permittees shall obtain a right-of-way work permit from the Construction Services Administrator prior to beginning the erection, installation or maintenance including tree trimming, of any lines or equipment. Prior Municipal approval shall not be required for emergency repairs, routine maintenance and repairs, operation which do not require excavation in the public right-of-way, blockage of any street or alley or material disruption to any landscaping or structures and/or irrigation systems. The permittee, and/or its subcontractors shall leave the streets, alleys, and other public places where such work is done in as good condition or repair as they were before such work was commenced and to the reasonable satisfaction of the Municipality. Such right-of-way work permit shall be issued in writing and is subject to conditions that may be attached by the Construction Services Administrator including, but not limited to, requirements concerning traffic control, safety scheduling, notification of adjoining property owners, and restoration with seed, sod or specific plant material as directed by the Municipality. The permittee and/or its subcontractors shall endeavor to complete in a timely manner repairs to the right-of-way. All workmanship and materials used by the permittee and/or

its subcontractors to repair the streets and roadways shall conform to the current Municipal standards and specifications and be subject to the inspection and approval of the Construction Services Administrator or authorized agent and shall be warranted for a period of two years from the date of completion for any failure due to workmanship or quality of materials. Permittees shall provide the Municipality with a work permit fee in an amount set forth in subsection (d) hereof and shall post a performance bond in an amount determined by the Technical Review Board. Said fees are payable at the time application is made for the work permit, or in the case of an emergency repair, at the earliest time possible.

(d) Fee Schedule. Work permit fees shall be provided by the Permittee to the Municipality to ensure adequate public compensation for monitoring compliance with Municipal requirements and protection of public property.

(1) Single new service line/tap, soft surface, $50.00.

(2) Single new service line/tap, hard surface, $250.00.

(3) Single isolated repair, soft surface, $50.00.

(4) Single isolated repair, hard surface, $250.00.

(5) Relocation of utility main, fee will be established by the Technical Review Board based on project schedule, location and impact to public infrastructure.

(6) New construction of utility main, fee will be established by the Mayor based on project schedule, location and impact to public infrastructure.

Fees may be adjusted for inflation by the Technical Review Board, however, not more than once per calendar year.

(e) As Built Drawings. Permittee shall furnish "as-built" drawings not later than one hundred twenty (120) calendar days after construction has been completed. Drawings shall show ownership of conduits, ducts, poles and cables used for the telecommunications or utility system. Drawings shall be drawn to an appropriate scale using the standard format adopted by the Municipality. Permittee shall provide one (1) set of CD's, in pdf format, and one (1) set of blue or black line "as-built" drawings. State plane coordinates shall be shown for benchmarks, curb lines, and structures. Drawings shall show horizontal dimensions from the curb line and elevations.

## 1197.06 NOTICE OF RIGHT-OF-WAY WORK; JOINT PLANNING

(a) All applicants for right-of-way work permits under Section 1197.05 of this chapter shall file a written notice with the Construction Services Administrator at least seven calendar days before working in or on the right-of-way, unless waived by the Construction Services Administrator, except in the case of emergency as determined by the Construction Services Administrator. In addition to such other information this chapter shall require, this notice shall contain or indicate, to the extent applicable:

(1) The right-of-way affected;

(2) A description of any facilities to be installed, constructed or maintained;

(3) Whether or not any street will be opened or otherwise need to be restricted, blocked or closed;

(4) An estimate of the amount of time needed to complete such work;

(5) A description and timetable of any remedial measures planned to close any street opening or repair any damage done to facilitate such work;

(6) A statement verifying that other affected or potentially affected permittees and franchisees have been notified; and

(7) A statement that any consumers of any utility, cable television, communications or other service which will be adversely affected by such work have been or will be notified in conformance with applicable rules and regulations of the Public Utilities Commission of Ohio.

(8) An attached plan sheet detailing the work to be performed.

(9) The contractors name, contact person, address and telephone numbers.

(10) The utility owners name, contact person, address and telephone numbers.

(11) A maintenance of traffic plan if any street, sidewalk or path will be opened or otherwise need to be restricted, blocked or closed.

(b) All applicants for right-of-way work permits under Section 1197.05 shall submit a bond guaranteeing completion of all restoration work as required by the Mayor.

(c) Permittees and contractors may, under emergency or other exigent circumstances, work in the right-of-way so long as the permittees use best efforts to provide the Municipality the notice required by Section 1197.06 at the earliest possible time and satisfy the requirements of Section 1197.05(c).

## 1197.07 USE OF PERMITTEE FACILITIES.

(a) The Municipality shall have the right to install and maintain, free of charge, upon any poles and within any underground pipes and conduits or like facilities of any telecommunication and utility or special permittee, communications facilities ("Municipal Facilities") solely for governmental use desired by the Municipality unless:

(1) Such installation and maintenance unreasonably and materially interferes with existing and future operations of the permittee, or

(2) Such installation and maintenance would be unduly burdensome to such permittee.

(b) Each permittee and franchisee shall cooperate with the Municipality in the planning and design of its facilities so as to accommodate the Municipality's reasonable disclosed governmental requirements. Neither the Municipal facilities nor the capacity of bandwidth thereon shall be leased, licensed or otherwise made available to third parties. The Municipality's use and occupancy or a permittee's conduit shall be limited to the right to occupy a single inner duct in any given conduit and a single attachment to any given pole. The Municipality's right to use and occupancy of a permittee's poles or conduit shall be subject to any and all reasonable terms and conditions the permittee requires of other third party uses of its poles and conduit.

(c) The Municipality shall pay the permittee the reasonable cost to make the poles or conduit ready for the Municipality's use and occupancy. Nothing herein shall be construed to require a permittee to construct poles or conduits where none exist or to rearrange, modify or alter its facilities on a pole or conduit in order to provide space for Municipal facilities where space is not otherwise available.

## 1197.08 INDEMNIFICATION.

(a) To the fullest extent permitted by law, all permittees shall, at their sole cost and expense, fully indemnify, defend and hold harmless the Municipality, its officers, public officials, boards and commissions, agents, and employees from and against any and all lawsuits, claims (including without limitation, Workers' Compensation claims against the Municipality or others), causes of actions, actions, liability and judgments for injury or damages (including but not limited to expenses for reasonable legal fees and disbursements assumed by the Municipality in connection therewith):

(1) To persons or property, in any way arising out of or through the acts or omissions of permittee, its subcontractors, agents or employees attributable to the occupation by the permittee of the right-of-way to which permittee's negligence shall in any way contribute, and regardless of whether the Municipality's negligence or the negligence of any other party shall have contributed to such claim, cause of action, judgment, injury or damage.
(2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent or any other right of any person, firm and corporation by the permittee, but excluding claims arising out of or related to Municipal programming.
(3) Arising out of permittee's failure to comply with the provisions of any federal, state, or local statute, ordinances or regulations applicable to permittee in its business hereunder.
(b) The foregoing indemnification is conditioned upon the Municipality:
(1) Giving permittee prompt notice of any claim or the commencement of any action, suit or proceeding for which indemnification is sought;
(2) Affording the permittee the opportunity to participate in and fully control any compromise, settlement, or other resolution or disposition of any claim or proceeding subject to indemnification; and
(3) Fully cooperating in the defense of such claim and making available to the permittee all pertinent information under the Municipality's control.
(c) The Municipality shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof, and the permittee shall pay the reasonable fees and expense of such separate counsel if employed with the approval and consent of the permittee or if representation of both permittee and the Municipality by the same attorney would be inconsistent with accepted canons of professional ethics.
(d) Each permittee shall maintain insurance coverages (or self-insurance coverage by permittees having capitalization in excess of five million dollars ($5,000,000), as determined by the Mayor) in accordance with the following:
(1) General liability insurance. The permittee shall maintain, and by its acceptance of any franchise granted hereunder, specifically agrees, that it will maintain throughout the term of the permit, general liability insurance insuring the franchisee in the minimum of:
A. $1,000,000 per occurrence;
B. $2,000,000 annual aggregate;
C. $1,000,000 excess general liability per occurrence and annual aggregate.
Such general liability insurance must be written on a comprehensive coverage form, including the following: premises/operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury.
(2) Automobile liability insurance. The permittee shall maintain, and by its acceptance of any permit granted hereunder, specifically agrees that is will maintain throughout the term of the permit, automobile liability insurance for owned, non-owned, or rented vehicles in the minimum amount of:
A. $1,000,000 per occurrence; and
B. $1,000,000 excess automobile liability per occurrence.
(3) Workers' Compensation and employer's liability insurance. The franchisee shall maintain and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain

throughout the term of the franchise, Workers' Compensation and employer's liability valid in the State of Ohio in the minimum amount of:

A. Statutory limit for Workers' Compensation;
B. $1,000,000 for employer's liability per occurrence;
C. $1,000,000 excess employer liability.

## 1197.09 REMOVAL OF FACILITIES.

(a) In the event any permittee intends to remove, excluding normal repairs and maintenance, or abandon any facilities within the rights-of-way, such permittee shall submit a notice to the Construction Services Administrator describing the portion of the facilities to be removed or abandoned and the date of removal or abandonment, which date shall be less than thirty calendar days from the date such notice is submitted to the Construction Services Administrator. The permittee may not remove, destroy or permanently disable any such facilities after such notice without the written approval of the Construction Services Administrator. The permittee shall remove and secure such facilities as set forth in the notice unless directed by the Construction Services Administrator to abandon such facilities in place.

(b) Upon such abandonment the Municipality may elect to accept title to the abandoned facility. Such acceptance shall be in writing and upon such acceptance, full title and ownership of such abandoned facilities shall pass to the Municipality without the need to pay compensation to the permittee or franchisee. The permittee shall, however, continue to be responsible for all taxes on such facilities or other liability associated therewith, until the date the same was accepted by the Municipality.

## 1197.10 REMEDIES AND REVOCATION.

(a) In case of any failure of permittee's physical plant, whether due to damage, age, lack of maintenance or any other cause, the Municipality shall notify permittee or franchisee who shall, within a reasonable time stipulated by the Municipality, respond and repair such failed plant. Should the permittee fail to act as required, or in cases where protection of public safety required an immediate response, the Municipality may take any required, correction action and recover the costs of same from the permittee.

(b) The Construction Services Administrator shall give the permittee sixty (60) calendar days prior written notice of the Municipality's intent to revoke the permit under the provisions of this chapter stating the reasons for such action. If the permittee cures the stated reason within the sixty-day notice period, or if the permittee initiates efforts satisfactory to the Municipality to remedy the stated violation, the Municipality shall not revoke the permit. If the permittee does not cure the stated violation or undertake efforts satisfactory to the Municipality to remedy the stated violation then, after granting the permittee or contractor an opportunity to be heard in person or in writing, the Council may revoke the permit.

(c) In the event the permit is revoked, all facilities located in the rights of way or located upon public property pursuant to this permit shall be removed from the streets and public places of the Municipality at the sole expense of the permittee.

## 1197.11 RESERVATION OF RIGHTS.

(a) Nothing in this chapter shall be construed to prevent the Municipality from constructing, maintaining, repairing or relocating any Municipal utility, communications or like facilities;

grading, paving, maintaining, repairing, relocating or altering any street or right-of-way; or constructing, maintaining, relocating or repairing any sidewalk or other public work or improvement.

(b) Nothing in this chapter should be construed so as to grant any right or interest in any right or way or public property other than that explicitly set forth herein or in a permit.

## 1197.12 STREET VACATION.

Unless preempted by state or federal law, in the event any street or right-of-way used by a permittee or franchisee shall be vacated by the Municipality during the term of any permit granted pursuant to this chapter, the permittee shall, at the permittee's expense forthwith remove its facilities therefrom unless specifically permitted by the Municipality to continue the same or such continuance of use is permitted by state law, and upon the removal thereof, restore, repair, or construct the area where such removal has occurred to a condition materially equivalent to that existing before such removal took place. In the event of failure, neglect or refusal of the permittee after thirty calendar days written notice by the Municipality to remove the facilities or to repair, restore, reconstruct, improve or maintain such vacated area, the Municipality may, if in accordance with applicable law, do such work or cause it to be done, and the cost thereof as found and declared by the Municipality shall be paid by the permittee as directed by the Municipality and collection may be made by any available remedy.

## 1197.13 TEMPORARY MOVEMENT OF FACILITIES.

In the event it is necessary temporarily to move or remove any of the permittee's wires, cables, poles or other facilities placed pursuant to this chapter, in order to lawfully move a large object, vehicle, building or other structure over the streets of the Municipality, upon two weeks written notice by the Municipality to the permittee, the permittee shall at the expense of the person requesting the temporary removal of such facilities, comply with the Municipality's request.

## 1197.14 FORECLOSURE AND RECEIVERSHIP.

(a) Foreclosure. Upon the foreclosure or other judicial sale of the permittee's facilities located within the right-of-way, the permittee shall notify the Municipality of such fact and its permit shall be deemed void and of no further force and effect.

(b) Receivership. The Municipality shall have the right to cancel any permit granted pursuant to this chapter subject to any applicable provisions of law, including the Bankruptcy Act, 120 calendar days after the appointment of a receiver or trustee to take over and conduct the business of the permittee whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days or unless:

(1) Within 120 calendar days after election or appointment, such receiver or trustee shall have fully complied with all the provisions of this chapter and the relevant permit and remedied all defaults thereunder; and

(2) Such receiver or trustee, within said 120 days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this chapter and the relevant permit.

## 1197.15 NONENFORCEMENT AND WAIVERS BY MUNICIPALITY.

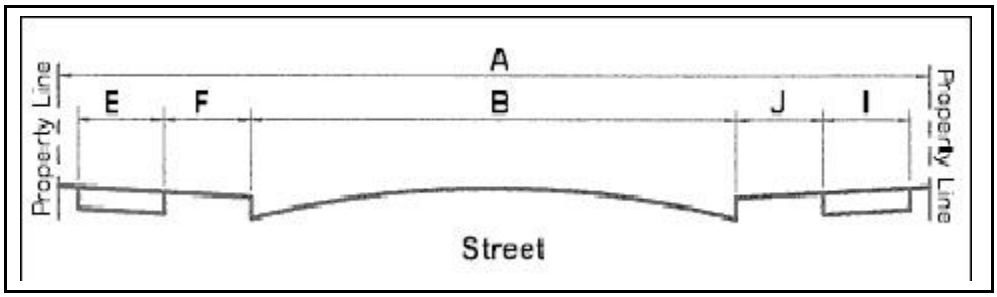
The permittee or franchisee shall not be relieved of its obligation to comply with any of the provisions of this chapter due to any failure of the Municipality to enforce prompt compliance. However, the Construction Services Administrator may in individual instances and upon a request in writing establishing hardship and for good cause shown waive, in writing, any requirements of this chapter.

### 1197.16 PUBLIC RIGHT-OF-WAY CONSTRUCTION STANDARDS.

The specifications, rules, and regulations governing the repair, construction, or reconstruction of sidewalks, driveways, curbs, and gutters in streets, alleys, and public ways of the Municipality are as found in the Ohio R. C. 717.19, 717.01, 723.01, and Village Standard Drawings and Specifications.

### 1197.17 OBSTRUCTION OF RIGHT-OF-WAY.

The public right-of-way must not be obstructed in any way. This includes, but is not limited to, vehicles, portable sports equipment, and irrigation systems. Plantings, landscaping rocks and similar landscaping materials are also prohibited except when provided adjacent to mailboxes.




A - Width of Right of Way from Property Line to Property Line
B - Width of Street from face of curb to face of curb
F & J - Typical tree lawn between face of curb and sidewalk
E & I - Sidewalk.

**CHAPTER 1199**
**Commercial Development Standards**

## 1199.01 PURPOSE.

(a) Commercial development in Commercial Point has a direct effect on the character and livability of the community. Commercial Point, therefore, has a responsibility to adopt standards to promote desirable commercial development.

(b) These Commercial Development Standards aspire to create a high quality built environment throughout Commercial Point and to protect the municipality's character. Through architectural and site standards, this Chapter aims to enhance commercial development in Commercial Point.

## 1199.02 APPLICABILITY.

Applications for new non-residential construction shall require the developer to satisfy these Commercial Development Standards in addition to the Zoning Code, Subdivision Regulations and other applicable documents and standards. The Commercial Development Standards shall be applicable as follows:

(a) Only non-residential structures located within the General Commercial, Neighborhood Commercial, Suburban Office, Planned Commercial District, Planned Unit District, or Planned Industrial District zoning districts shall be subject to the Commercial Development Standards. Any standards specifically stated in an adopted zoning text shall supersede the related standard found in the Commercial Development Standards.

(b) Properties located within the Old Town Overlay shall not be required to meet the Commercial Development Standards.

(c) New additions or accessory structures that have a square footage of less than fifty (50) percent of the existing buildings square footage shall only be required to meet Section 1199.03 (Building Design) of these Commercial Development Standards. If an addition or accessory structure is fifty (50) percent or larger than the existing building, the entire building and site shall be subject to all Commercial Development Standards.

(d) All newly constructed parking areas shall meet the requirements of the Commercial Development Standards.

## 1199.03 BUILDING DESIGN.

Buildings shall be designed to be seen from three hundred sixty (360) degrees and have the same caliber of finish on all elevations. Building additions and accessory structures, whether attached or detached, shall be of similar design, materials, and construction to that of the existing or principal structure.

(a) Architectural Features. The purpose of requiring four-sided architecture is to avoid large areas of blank exterior. For every one hundred (100) feet of elevation width, each side and rear elevation must contain at least two (2) design elements and each front elevation must contain at least three (3) design elements. For multi-story buildings, each story on a single elevation shall contain at least two (2) design elements. Typical design elements are as follows:

(1) A door of at least twenty-eight (28) square feet in area with an awning, window, faux window or other feature subject to approval by the Planning and Zoning Commission.

(2) A window of at least six (6) square feet in area. Windows closer than ten (10) feet shall be considered as one (1) element. A set of adjacent windows, such as double or bay windows, shall be considered as one element.

(3) A chimney.

(4) An articulated gable vent of at least four (4) square feet in area.

(5) Porches, decks or similar structures.

(6) A similar significant permanent architectural feature consistent with the style of the building upon approval by the Planning and Zoning Commission.

(b) Articulation. A building frontage that exceeds a width of fifty (50) feet shall incorporate articulation and offset of the wall plane to inhibit a large expanse of blank wall and add interest to the facade.

(c) Materials. All exterior walls shall be comprised of eighty (80) percent natural material with brick or stone as the predominant material. Other natural materials may also be incorporated into the building's exterior design. Use of "newer" materials is subject to approval

by the Planning and Zoning Commission. Stucco, drivit and like materials may be used as accents provided the total square footage of accent material does not exceed twenty (20) percent of the gross exterior building wall square footage.

(d) Glass. Elevations facing the primary street shall be a minimum of forty (40) percent glass between the height of two (2) feet and ten (10) feet and have an unobstructed view of the building interior to a depth of four (4) feet. The use of black, gold, green, silver, or any other reflective colored glass on a building is prohibited. The use of spandrel glass is also prohibited. Frosted glass may be permitted in some cases, subject to approval of the Planning and Zoning Commission.

(e) Building Orientation. Buildings shall be oriented to face the primary street right of way. An entryway shall be located on the front of the building. Corner entrances are acceptable to meet this requirement if one side of the corner entrance faces the primary street right of way.

(f) Roofing. All pitched roofs shall be of dimensional shingles, standing seam metal, slate, or simulated slate.

(g) Mechanical Equipment. All external and rooftop mechanical equipment, including satellite antennas, and trash dumpsters shall be screened from view at all property lines on which the building is located. Screening materials shall be complimentary to those used on the majority of the building. For ground mounted equipment, landscaping is the preferred method of screening. If two or more buildings are located on the same property, rooftop equipment shall not be visible at ground level within fifty (50) feet from any building.

(h) Drive Thru Features. A drive thru, if deemed appropriate for the site by the Planning and Zoning Commission via a Conditional Use of the applicable zoning district, shall be designed as an integral part of the structure it serves. Features incorporated with a drive through, including, but not limited to canopies, awnings and support posts, shall match the materials and color scheme of the building they are serving. Drive thru features shall not have any pick-up windows, ordering areas, signage, or other related items located on the front elevation of a building or located between the front of the building and a street right of way.

(i) In-Line Retail Exemption. Side or rear elevations of in-line retail developments may be exempt from the building design standards of Section 1199.03 if such elevations are not visible to customer traffic, a public right of way or if a future phase of the inline retail development is forthcoming adjacent to the elevation. Such exempt elevations shall use materials complimentary to the primary elevation and be screened by landscaping, mounding, fencing, or a combination thereof, as outlined in Section 1191.03(f), and as deemed appropriate by the Planning and Zoning Commission.

## 1199.04 SITE DESIGN.

(a) Build-To Line. To promote quality streets, buildings shall meet build-to lines along public roadway frontages. Build-to lines shall be fifty (50) feet from the right of way on major arterials as designated on the Commercial Point Transportation Thoroughfare Plan and twenty-five (25) feet from the right of way on all other streets.

(1) In order to achieve quality streetscapes, variation from the build-to line will be permitted to allow for added green space, amenities, outdoor seating and the like. Buildings may be located further from the right of way than the established build-to line per the following:

| Building Height | Variation from Build-To Line |
|---|---|
| One Story Building | 0 feet to 5 feet |
| Two Story Building | 0 feet to 10 feet |
| Three Story Building | 0 feet to 15 feet |

(2) At least fifty (50) percent of the building's front elevation shall be located within the applicable variation from the build-to line range.

(3) Uncovered seating areas or architectural features may project up to five (5) feet closer to the right of way than the established build-to line.

(4) Buildings larger than twenty thousand (20,000) square feet or attached to existing in-line retail space shall be exempt from the build to line requirements if located more than three hundred (300) feet from the right of way.

(b) Sidewalks and Multi Purpose Paths. A sidewalk, or multi-purpose path as designated in the Commercial Point Comprehensive Plan, shall be constructed along all public streets. In addition, a sidewalk shall connect the building entrance with the sidewalk or multi-purpose path along the primary public street.

(c) Adjacent Pavement. Pavement is prohibited directly adjacent to any building elevation, except for loading zone areas, vehicular building entrances, drive thru windows, or at entrance walk ways into the building.

(d) Trash Containers, Service Areas and Loading Zones. Trash containers, service areas and loading zones shall be located at the rear of the building. Trash containers, service areas and loading zones may be permitted on the side of a building if not oriented towards a public or private street and properly screened from public or private streets and residential zoning districts.

(e) Utility Boxes. Utility boxes shall be located to the rear of the building and painted the same, or primary, color of the building elevation where the utility box is located.

## 1199.05 PARKING LOT DESIGN.

Parking lot areas shall be designed to reduce their visual impact, production of excess heat and effect on drainage. Appropriately sized landscaped areas shall be provided within each parking lot area allowing for a variety of shade trees to be planted that will not buckle the parking lot's surface and at the same time provide shade. Therefore, all off-street parking lot areas shall be designed using the "parking bay" concept, which consists of parking spaces grouped together and each parking bay separated by landscaped tree islands.

(a) Parking Lot Location. All parking spaces, drives or other structures for vehicular parking or movement shall be located to the rear or side of the principal building with no more than fifty (50) percent of such parking area located to the side of the principal building.

(1) Buildings larger than twenty thousand (20,000) square feet or attached to existing in-line retail space shall be permitted to have parking to the front of the building if the building is located more than three hundred (300) feet from the right of way and the parking lot is located no closer than two hundred (200) feet from the right of way.

(2) If a drive thru is deemed appropriate by the Planning and Zoning Commission and designed per Section 1199.03(h) of this Zoning Code, a drive lane may be permitted to be located in front of the building. In such case, the building shall be moved the furthest away from

the build-to line as indicated in Section 1199.04(a) (1) of the Commercial Development Standards.

(b) Parking Bays. No parking bay shall contain more than twenty-four (24) total parking spaces, with a maximum of twelve (12) spaces in a single row.

(c) Maximum Number of Parking Spaces. Off street parking areas shall only be permitted to have twenty-five (25) percent more spaces than stated as the applicable minimum in Section 1185.03 of this Zoning Code.

(1) Parking spaces above the maximum shall be permitted with an additional sixty (60) square feet of landscaping provided for every one (1) additional parking spaces. The provided additional landscaping shall be in addition to the minimum landscaping required in Section 1191.02(c)(2) of this Zoning Code.

(2) Additional landscaping shall include a mix of trees and shrubs and be clearly identified as additional landscaping on the site's landscaping plan.

(d) Parking Lot Islands. Each landscaped tree island in a single loaded parking stall design shall have a minimum area of one hundred and sixty two (162) square feet with a minimum width of nine (9) feet. Each landscaped island located in a double loaded parking stall design shall have a minimum area of three hundred twenty four (324) square feet, with a minimum width of nine (9) feet. The landscaped tree island(s) shall contain at least one shade tree and include at least fifty (50) square feet of other plant materials.

(e) Bio-swales. Bio-swales, also referred to as rain gardens, may be incorporated in the overall parking lot design. In addition to separating parking bays, when properly designed bio-swales/rain gardens can also assist with stormwater quality and quantity management.

(f) Intersection Site Distance. When a drive isle intersects with an internal service road, nothing shall materially impede the vision between a height of two and one-half (2½) feet and ten (10) feet for the area bounded by the intersecting street lines of those roadways and a line joining points along said roadways fifteen (15) feet from the point of intersection.

## 1199.06 SITE LIGHTING.

Site lighting shall be required for all developments and be designed to sufficiently illuminate the site and minimize spillover off of the property.

(a) Design. All external lighting shall be decorative or historic in design. Typical "shoe box" light fixtures are not acceptable. Pack light, wall pack lights and similar lights that primarily shine perpendicular to (away from) a building's elevation are not permitted on any building elevation. Decorative wall lights that shine parallel to (up or down) a building's elevation are subject to approval by the Planning and Zoning Commission.

(b) Lighting Intensity. Foot candles measure the intensity of light. One foot candle is equal to the amount of light generated by one candle shining on a square foot surface one foot away. All parking lot areas shall have lighting intensity meeting the following standards as measured at grade:

| | |
|---|---|
| Maximum Intensity | 20 Foot Candles |
| Average Intensity | 1 to 3 Foot Candles |

(c) Light Spillage. All outdoor lighting shall be directed, reflected or shielded so as not to be of excessive brightness or cause glare hazardous to pedestrians or drivers, create a nuisance or unreasonably interfere with a neighboring property owner's right to enjoy his property. Light spillage shall not exceed one tenth (0.1) foot candles when adjacent to a residential district or existing residential use.

(d) Light Pole Height. Pole heights should be in harmony with the parcel, building and parking lot size as well as the surrounding area. Smaller parcels in a more dense condition pole height should be limited in height to respond to the smaller parcels and more human scale of the site. In large commercial centers with large building footprints, parcels and parking lots, the pole heights can be higher to reduce the number of poles needed to adequately light the site. Parking lots with thirty (30) or less spaces shall have a maximum lighting pole height of eighteen (18) feet. Parking lots with more than thirty (30) spaces shall have a maximum lighting pole height of thirty (30) feet.

## 1199.07 SIGNAGE.

(a) Monument Signs. All freestanding signs shall be monument-type, have a base consistent with the primary building material and have a minimum of fifty (50) square feet of year-round landscaping around all sides of the monument sign.

(b) Multi Tenant Buildings. For multi-tenant buildings, signs for first floor tenants shall not extend above the window sill of the second story unless the tenant is located on the second floor.

(c) Prohibited Signs. Cabinet box, exposed neon, exposed LED, changeable copy (manual or electronic), roof-mounted, monopole, rotating, signs with flashing messages or bare bulbs, signs on backlit awnings, off-premise signs, billboards, and bench signs are not permitted.

## 1199.08 STORM WATER DETENTION.

(a) Detention Basins. Dry detention basins are prohibited. All detention basins shall be wet basins and may require aeration devices in their design. The requirement of aeration devices and their installation detail shall be determined and approved by the Technical Review Group.

(b) Bio-retention Basins. Bio-retention basins, also known as rain gardens, may be used only when approved by the municipality.

Appendix A is the Commercial Point Comprehensive Development Plan

Appendix B is this table of supplemental building standards

| ; | R-1 | R-3 | | | TND |
|---|---|---|---|---|---|
| Min. Lot Area | 25,000 sq. ft. | 14,375 sq. ft. | | Min. Lot Area | 16 acres |
| Max. Lot Coverage | 30% | 30% | | Max. Lot Area | 200 acres |
| Min. Lot Width | 100 ft. | 80 ft. | | Density | min. 8 du/ac; max 12 du/ac |
| Lot Width on Curving Street or Cul-De-Sac | 60 ft. at street<br>100 ft. at bldg. line | 45 ft. at street<br>80 ft. at bldg. line | | Neighborhood Size: | allow residents to walk to neighborhood square in 5 - 10 minutes (1,320 ft.) |
| Front Yard Setback | 60 ft. | 30 ft. | | | |
| Side Yard Setback | 15 ft. per side | 10 ft. each side | | | |

| | | | |
|---|---|---|---|
| Rear Yard Setback | 40 ft.; 8 ft. for acc. bldg. | 30 ft.; 8 ft. for acc. bldg. | See Chapter 1159 for further TND District requirements |
| Max. Building Height | 35 ft. or 2- stories | 35 ft. or 2- stories | |
| Basement Required | over 20 ft. or 1 1/2 stories | over 20 ft. or 1 1/2 stories | |
| Public Open Space | 15% of net site | 15% of the net site | |

| | **MF-A and MFC** | **NC** | **GC** | **SO** | **LM** |
|---|---|---|---|---|---|
| Min. Lot Area | 15,000 sq. ft.; 7,094 sq. ft. per dwelling unit | No Minimum | No Minimum | No Minimum | No Minimum |
| Max. Lot Coverage | 35% | No Maximum | No Maximum | No Maximum | No Maximum |
| Min. Lot Width | 80 ft. | No Minimum | No Minimum | No Minimum | No Minimum |
| Lot Width on Curving Street or Cul-De-Sac | 45 ft. at street 80 ft. at bldg. line | Not Applicable | Not Applicable | Not Applicable | Not Applicable |
| Front Yard Setback | 25 ft. | 50 ft. | 50 ft. | 50 ft. | 50 ft. |
| Side Yard Setback | 10 ft. | 20 ft. | 20 ft. | 20 ft. | 20 ft. |
| Rear Yard Setback | 25 ft.; 8 ft. for acc. bldg. | 25 ft. | 25 ft. | 20 ft. | 20 ft. |
| Building Size | | max. 5,000 sq. ft. | | | |
| Max. Building Height | 35 ft. or 2 1/2 stories | 35 ft. or 2 1/2 stories | 40 ft. or 3 stories | 40 ft. or 3 stories | 40 ft. or 3 stories |
| Public Open Space | 20% of the net site | | | | |

NOTE: A Conditional Use may require higher development standards.
Non-residential next to residential may require higher development standards.

| | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
|---|---|---|---|---|---|
| Min. Lot Area | 5 | None | 10 | 20 | 10 |
| Min. Lot Width at building line | 350 | 350 | 500 | 750 | 350 |
| Min. Frontage | 250 | 250 | 400 | 600 | 250 |
| Max. Coverage | N/A | 45% | 50% | N/A | N/A |
| Max. Building Height | 35 | 40 | 40 | 40 | 35 |
| Max. Density | 4.0 du/acre | | | 4.0 du/acre | 4.0 du/acre |
| Public Open Space | 25% of the net site | | | 25% of the net site | 50% of the net site |

Appendix C

| Commercial Point Zoning Code | Table of Permitted Uses and Conditional Uses by Zoning District | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| **Residential dwellings and Associated and Public Uses** | | | | | | | | | | | | | |
| Accessory buildings and uses | P | P | P | P | | | | | P | | | P | P |
| Accessory structures used as private kennels | CU | CU | CU | CU | | | | | | | | | |
| Apartments | | | P | P | | | | | | | | | |
| Bed & Breakfast Inns | CU | CU | | | | | | | | | | | |
| Cluster housing units | | | | | | | | | | | | | P |
| Common wall single-family attached dwelling units | | | | | | | | | | | | | P |
| Condominiums (attached & detached) | | | P | P | | | | | | | | | |
| Family care homes & group care homes | | | | | | | | | | | | | P |
| Home Occupations (see Ch. 1187) | CU | CU | | | | | | | P | | | P | P |
| Residential quarters as an integral part and subordinate to a permitted use | | | CU | CU | P | | | | | P | | P | |
| Residential structures containing between 2 & 4 dwelling units | | | | | | | | | | | | | |
| Nursing & rest homes | CU | | | | | | | | | | | | |
| Single family detached dwellings | P | P | | | | | | | | | | | |
| Single-family, two-family & multi-family | | | | | | | | | P | | | P | P |
| Single-family zero lot line, attached twin singles, townhouses or other innovative forms | | | | | | | | | | | | | P |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| of residential plans. | | | | | | | | | | | | | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| **Institution** | | | | | | | | | | | | | |
| Colleges & universities | | | | | P | | | | | P | | P | |
| Elementary & secondary schools | | | | | P | | | | | P | | P | |
| Hospitals | | | | | P | | | | | P | | P | |
| Museums & art galleries | | | | | P | | | | | P | | P | |
| Libraries | | | | | P | | | | | P | | P | |
| Nonprofit educational & scientific research services | | | | | CU | | | | | P | | P | |
| Professional schools | | | | | P | | | | | P | | P | |
| Religious organizations | | | | | P | | | | | P | | P | |
| Research, development & testing laboratories | | | | | CU | | | CU | | P | P | P | |
| School & educational services hot elsewhere classified | | | | | CU | | | | | P | | P | |
| Vocational schools | | | | | P | | | | | P | | P | |
| **Other Uses** | | | | | | | | | | | | | |
| Agricultural operations, customary | CU | CU | | | | | | | | | | | |
| Athletic fields & paved parking areas | | | | | | | | | | | | | |
| Children's nurseries, day care centers & preschool | CU | CU | | | CU | P | | | P | | | P | P |
| Churches & other similar places of worship | CU | CU | CU | CU | P | | | | P | | | P | P |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| | | | | | | | | | | | | | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Other Uses (Cont.)** | | | | | | | | | | | | | |
| Crops, grazing & other agricultural uses | | | | | | | | | | | | | |
| Forest & wildlife preserves | | | | | | | | | | | | | P |

| | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Management for watershed, fish & wildlife, and fishing | | | | | | | | | | | | | | |
| Minor improvements such as picnic tables & park benches | | | | | | | | | | | | | | |
| Paved surfacing (i.e., bike paths, drives) | | | | | | | | | | | | | | |
| Picnic shelter, playground equipment, seating/viewing stands, restrooms, concession stands, equipment storage buildings | | | | | | | | | | | | | | |
| Private kennels | | P | P | | | | | | | | | | | |
| Projects specifically designed for watershed protection, conservation of soil or water or flood control | | | | | | | | | | | | | | P |
| Public buildings and/or uses supported in whole or in part by taxes or by special public assessment | | | | | | | | | | | | | | P |
| Public & private schools | | CU | CU | CU | CU | | | | | | | | | |
| Public uses: | Parks | CU | CU | CU | CU | | | | | P | | | P | P |
| | Playgrounds | CU | CU | CU | CU | | | | | P | | | P | P |
| | Recreational & community center building | CU | CU | CU | CU | | | | | P | | | P | P |
| | Golf courses | CU | CU | CU | CU | | | | | P | | | P | P |
| | Public swimming pools | CU | CU | CU | CU | | | | | P | | | P | P |
| | Tennis courts & similar recreational uses | CU | CU | CU | CU | | | | | P | | | P | P |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Other Uses (Cont.)** | | | | | | | | | | | | | |
| Recreational uses except publicly-owned and operated parks & recreational facilities | | | | | | | | | | | | | |
| Residential lawns | | | | | | | | | | | | | |
| Tree & sod farming | | | | | | | | | | | | | |
| Unpaved paths & drives | | | | | | | | | | | | | |
| **Business & Professional Offices** | | | | | | | | | | | | | |
| Administrative, business and professional offices | | | | | P | | P | CU | | P | P | P | |
| Accounting, auditing & bookkeeping services | | | | | P | | P | | | P | | P | |
| Architects | | | | | P | | P | CU | | P | P | P | |
| Chiropractors | | | | | P | P | P | | | P | | P | |
| Combination of real estate, insurance, loan & law offices | | | | | | P | | | | P | | P | |
| Commercial & stock savings banks | | | | | | P | | CU | | P | P | P | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Credit agencies other than banks | | | | | | P | | | | P | | P | |
| Dentists & dental surgeons | | | | | P | P | P | CU | | P | P | P | |
| Engineers, engineering | | | | | P | | P | CU | | P | P | P | |
| Financial services | | | | | | | P | | | P | | P | |
| Graphic arts & interior design | | | | | P | | P | CU | | P | P | P | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| **Business & Professional Offices (Cont.)** | | | | | | | | | | | | | |
| Health & allied services not elsewhere classified | | | | | P | | P | | | P | | P | |
| Health care maintenance & emergency services | | | | | | P | P | | | P | | P | |
| Insurance agents, brokers & service | | | | | | P | P | | | P | | P | |
| Landscape architects | | | | | P | | P | CU | | P | P | P | |
| Legal services | | | | | P | P | P | | | P | | P | |
| Medical & allied services | | | | | | | | CU | | | P | | |
| Medical & dental laboratories | | | | | P | | P | | | P | | P | |
| Osteopathic physicians | | | | | P | | | | | P | | P | |
| Personal credit institutions | | | | | | P | | CU | | P | P | P | |
| Physicians & surgeons | | | | | P | P | P | CU | | P | P | P | |
| Professional services not elsewhere classified | | | | | CU | | | | | P | | P | |
| Real estate agents, brokers & managers | | | | | | P | | | | P | | P | |
| Urban planning | | | | | P | | P | CU | | P | P | P | |
| Veterinarian offices & animal hospitals | | | | | CU | | CU | | | P | | P | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **P = Permitted C U = Conditional Use** | **R -1** | **R -3** | **MF -A** | **MF C** | **S O** | **N C** | **G C** | **L M** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| **Organizations & Associations** | | | | | | | | | | | | | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Business associations | | | | | P | | | | | P | | P | |
| Charitable organizations | | | | | P | | | | | P | | P | |
| Civic, social & fraternal associations | | | | | P | | | | | P | | P | |
| Labor unions & similar labor organizations | | | | | P | | | | | P | | P | |
| Nonprofit membership org. not elsewhere classified | | | | | CU | | | | | P | | P | |
| Political organizations | | | | | P | | | | | P | | P | |
| Professional membership organizations | | | | | P | | | | | P | | P | |
| **Personal & Consumer Services** | | | | | | | | | | | | | |
| Beauty shops | | | | | CU | P | P | CU | | P | P | P | |
| Barber shops | | | | | CU | P | P | CU | | P | P | P | |
| Business services not elsewhere classified, except research, development & testing laboratories | | | | | | | | CU | | P | P | P | |
| Commercial photography studios | | | | | CU | | P | | | P | | P | |
| Consumer credit reporting agencies | | | | | | | | CU | | P | P | P | |
| Electrical repair | | | | | | | P | | | P | | P | |
| Funeral services & crematories | | | | | CU | | P | | | P | | P | |
| Furniture repair | | | | | | | P | | | P | | P | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| **Personal & Consumer Services (Cont.)** | | | | | | | | | | | | | |
| Garment repair & alteration | | | | | | P | | | | P | | P | |
| Laundromats | | | | | | | P | | | P | | P | |
| Misc. personal service | | | | | | | P | | | P | | P | |
| Pressing, alteration & garment repair | | | | | | P | P | CU | | P | P | P | |
| Recycling ctrs, not to include manufacturing | | | | | | | | CU | | | P | | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Re-upholstery repair | | | | | | | P | | | P | | P | |
| Shoe repair | | | | | | P | P | CU | | P | P | P | |
| Watch, clock & jewelry repair | | | | | | | P | | | P | | P | |
| **Retail** | | | | | | | | | | | | | |
| Accessories & personal furnishing stores | | | | | | | P | | | P | | P | |
| Advertising stores | | | | | | | P | | | P | | P | |
| All auto-related uses, e.g., sales & services | | | | | | | CU | CU | | | | | |
| Antique & secondhand stores | | | | | | | P | | | P | | P | |
| Automobile car wash | | | | | | | CU | | | P | | P | |
| Automobile convenience markets | | | | | | | CU | CU | | P | P | P | |
| Automobile parking | | | | | | | CU | | | P | | P | |
| Automobile repair services & garages | | | | | | | CU | CU | | P | P | P | |
| Automobile service stations | | | | | | | CU | CU | | P | P | P | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Bicycle shops | | | | | | | P | | | P | | P | |
| Blueprinting | | | | | | | P | CU | | P | P | P | |
| Bowling | | | | | | | CU | | | P | | P | |
| Camera & photographic supply stores | | | | | | | P | | | P | | P | |
| Candy, nut & confectionary stores | | | | | | P | P | | | P | | P | |
| Cigar stores | | | | | | | P | | | P | | P | |
| Clothing stores | | | | | | | P | | | P | | P | |
| Commercial kennels | | | | | | | CU | CU | | P | P | P | |
| Commercial retail, subordinate to another permitted use & limited to no more than 25% of total gross floor area of all structures on the subject lot(s) | | | | | | | | P | | P | P | P | |
| Convenience food markets | | | | | | P | | | | P | | P | |
| Custom tailors | | | | | | | P | | | P | | P | |
| Dairy products stores | | | | | | P | P | | | P | | P | |
| Dance halls & studios; dance schools | | | | | | | CU | | | P | | P | |
| Department stores | | | | | | | P | | | P | | P | |
| Drive-up window service in association with a principal permitted use | | | | | CU | CU | CU | | | P | | P | |
| Drug stores & proprietary stores | | | | | | P | P | | | P | | P | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use**<br>**P = Permitted**<br>**CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** | |
| **Retail (Cont.)** | | | | | | | | | | | | | | |
| Duplicating | | | | | | | | | | | P | | P | |
| Eating & drinking establishments with no drive-thru window service | | | | | | | | | | P | | | P | |
| Eating & drinking places | | | | | | | | | CU | | P | | P | |
| Electrical supply equipment | | | | | | | | | | | P | | P | |
| Electronic products | | | | | | | | | | P | P | | P | |
| Farm equipment | | | | | | | | | | | P | | P | |
| Florists | | | | | | | | | | P | P | | P | |
| Fruit stores & vegetable markets | | | | | | | | | | P | P | | P | |
| Furniture & home furnishings stores | | | | | | | | | | | P | | P | |
| Furriers & fur shops | | | | | | | | | | | P | | P | |
| Gasoline service stations | | | | | | | | | | | | | | |
| General merchandise, miscellaneous | | | | | | | | | | | P | | P | |
| Gift, novelty & souvenir shops | | | | | | | | | | | P | | P | |
| Grocery stores | | | | | | | | | | | P | | P | |
| Hardware stores | | | | | | | | | | P | P | | P | |
| Heating & plumbing equipment | | | | | | | | | | | P | | P | |
| Hotels & motels | | | | | | | | | | | CU | | P | |
| Household appliance stores | | | | | | | | | | | P | | P | |

| Commercial Point Zoning Code | Table of Permitted Uses and Conditional Uses by Zoning District | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| **Retail (Cont.)** | | | | | | | | | | | | | |
| Jewelry stores | | | | | | | | | P | | | P | | P | |
| Liquor stores | | | | | | | | | P | | | P | | P | |
| Lumber & other building materials | | | | | | | | | P | | | P | | P | |
| Mail order houses, mailing | | | | | | | | | P | CU | | P | P | P | |
| Meat and fish (seafood) markets | | | | | | | | P | P | | | P | | P | |
| Misc. apparel & accessory stores | | | | | | | | | P | | | P | | P | |
| Misc. business services not elsewhere classified | | | | | | | | | P | | | P | | P | |
| Misc. retail stores not elsewhere classified | | | | | | | | | P | | | P | | P | |
| Music stores | | | | | | | | | P | | | P | | P | |
| News dealers | | | | | | | | | P | | | P | | P | |
| Optical goods stores | | | | | | | | | P | | | P | | P | |
| Organizational hotels & lodging houses on a membership basis | | | | | | | CU | | | | | P | | P | |
| Photocopying | | | | | | | | | P | CU | | P | P | P | |
| Private employment agencies | | | | | | | | | | CU | | | P | | |
| Radio stores | | | | | | | | | P | | | P | | P | |
| Retail bakeries | | | | | | | | P | P | | | P | | P | |
| Shoe stores | | | | | | | | | P | | | P | | P | |
| Skating rinks | | | | | | | | | CU | | | P | | P | |

| Commercial Point Zoning Code | Table of Permitted Uses and Conditional Uses by Zoning District | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Retail (Cont.)** | | | | | | | | | | | | | |
| Sporting goods stores | | | | | | | P | | | P | | P | |
| Supermarkets | | | | | | | P | | | P | | P | |
| Stationary stores | | | | | | | P | | | P | | P | |
| Stenography | | | | | | | P | C U | | P | P | P | |
| Swimming pools | | | | | | | CU | | | P | | P | |
| Television stores | | | | | | | P | | | P | | P | |
| Theaters | | | | | | | CU | | | P | | P | |
| Variety stores | | | | | | | P | | | P | | P | |
| Video rental stores | | | | | | P | P | | | P | | P | |
| **Manufacturing** | | | | | | | | | | | | | |
| Amusements | | | | | | | | P | | P | | P | |
| Automobile accessories & electronic components | | | | | | | | P | | | P | | |
| Beverage industries | | | | | | | | P | | | P | | |
| Bookbinding & related industries | | | | | | | | P | | | P | | |
| Boot & shoe cut stock & findings | | | | | | | | P | | | P | | |
| Bakery products, candy & other confectionary products | | | | | | | | P | | | P | | |
| Books, magazines & other publications | | | | | | | | P | | | P | | |
| Broad & narrow woven fabric mills | | | | | | | | P | | | P | | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |
| **Manufacturing (Cont.)** | | | | | | | | | | | | | |
| Commercial printing | | | | | | | | P | | | P | | |
| Canning & preserving fruits, vegetables & seafood | | | | | | | | P | | | P | | |
| Communication equipment | | | | | | | | P | | | P | | |
| Costume jewelry | | | | | | | | P | | | P | | |
| Costume novelties, buttons and misc. notions except precious metal | | | | | | | | P | | | P | | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Dairy products | | | | | | | | P | | | P | | |
| Dyeing & finishing | | | | | | | | P | | | P | | |
| Electronic components & accessories | | | | | | | | P | | | P | | |
| Electrical lighting & wiring equipment | | | | | | | | P | | | P | | |
| Equipment | | | | | | | | P | | | P | | |
| Floor covering mills | | | | | | | | P | | | P | | |
| Footwear | | | | | | | | P | | | P | | |
| Fur goods | | | | | | | | P | | | P | | |
| Glass products made of purchased glass | | | | | | | | P | | | P | | |
| Gloves & mittens | | | | | | | | P | | | P | | |
| Grain mill products | | | | | | | | P | | | P | | |
| Greeting cards | | | | | | | | P | | | P | | |
| Household appliances | | | | | | | | P | | | P | | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P= Permitted C U = Conditinal Use** | **R -1** | **R -3** | **MF -A** | **MF C** | **S O** | **N C** | **G C** | **L M** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** | |
| **Manufacturing (Cont.)** | | | | | | | | | | | | | | |
| Household & office furniture | | | | | | | | | | | P | | P | |
| Instruments for measuring, controlling & indicating physical characteristics | | | | | | | | | | | P | | P | |
| Jewelry, silverware & plated ware | | | | | | | | | | | P | | P | |
| Leather goods not elsewhere classified | | | | | | | | | | | P | | P | |
| Luggage, handbags & other personal leather goods | | | | | | | | | | | P | | P | |
| Manifold business forms | | | | | | | | | | | P | | P | |
| Men’s, youth’s & boys’ clothing | | | | | | | | | | | P | | P | |
| Misc. apparel & accessories | | | | | | | | | | | P | | P | |
| Misc. electrical machinery, equipment & supplies | | | | | | | | | | | P | | P | |
| Misc. fabricated textile products | | | | | | | | | | | P | | P | |
| Misc. textile goods | | | | | | | | | | | P | | P | |
| Musical instruments & parts | | | | | | | | | | | P | | P | |
| Nonferrous foundries | | | | | | | | | | | P | | P | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Ophthalmic goods | | | | | | | | P | | | P | | |
| Optical instruments & lenses | | | | | | | | P | | | P | | |
| Pens, pencils & other office and artists' materials | | | | | | | | P | | | P | | |
| Pharmaceuticals | | | | | | | | P | | | P | | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Manufacturing (Cont.)** | | | | | | | | | | | | | |
| Photographic equipment & supplies | | | | | | | | P | | | P | | |
| Plastic products | | | | | | | | P | | | P | | |
| Publishing & printing of newspapers | | | | | | | | P | | | P | | |
| Sausages & other prepared meat products | | | | | | | | P | | | P | | |
| Service industries for the printing trade | | | | | | | | P | | | P | | |
| Sheet metal work & machine shops, jobbing & repair | | | | | | | | P | | | P | | |
| Sporting & athletic goods | | | | | | | | P | | | P | | |
| Surgical, medical & dental instruments & supplies | | | | | | | | P | | | P | | |
| Toys | | | | | | | | P | | | P | | |
| Watches, clocks, clockwork operated devices & parts | | | | | | | | P | | | P | | |
| Women's, misses', children's & infants clothing | | | | | | | | P | | | P | | |
| Yarn & thread mills | | | | | | | | P | | | P | | |
| **Service Industries** | | | | | | | | | | | | | |
| Carpentering & wood flooring | | | | | | | | P | | | P | | |
| Concrete work | | | | | | | | P | | | P | | |
| Electrical work | | | | | | | | P | | | P | | |
| General construction contractors | | | | | | | | P | | | P | | |
| Masonry, stonework, tile setting & plastering | | | | | | | | P | | | P | | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Service Industries (Cont.)** | | | | | | | | | | | | | |
| Misc. special trade contractors | | | | | | | | P | | | P | | |
| Painting, paperhanging & decorating | | | | | | | | P | | | P | | |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Plumbing, heating & air conditioning | | | | | | | | P | | | P | | |
| Roofing & sheet metal work | | | | | | | | P | | | P | | |
| Water well drilling | | | | | | | | P | | | P | | |
| **Wholesaling** | | | | | | | | | | | | | |
| Beer, wine & distilled alcoholic beverages | | | | | | | | P | | | P | | |
| Dry goods & apparel | | | | | | | | P | | | P | | |
| Electrical goods | | | | | | | | P | | | P | | |
| Furniture & home furnishings | | | | | | | | P | | | P | | |
| Groceries & related products | | | | | | | | P | | | P | | |
| Hardware, plumbing & heating equipment & supplies | | | | | | | | P | | | P | | |
| Machinery equipment & supplies | | | | | | | | P | | | P | | |
| Paper & its products | | | | | | | | P | | | P | | |
| Pharmaceuticals, chemicals & allied products | | | | | | | | P | | | P | | |
| Tobacco & its products | | | | | | | | P | | | P | | |

| Commercial Point Zoning Code | **Table of Permitted Uses and Conditional Uses by Zoning District** | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Use P = Permitted CU = Conditional Use** | **R-1** | **R-3** | **MF-A** | **MFC** | **SO** | **NC** | **GC** | **LM** | **PRD** | **PCD** | **PID** | **PUD** | **PCND** |

| | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Wholesaling, Warehousing & Transportation Services** | | | | | | | | | | | | | |
| Farm products & raw materials | | | | | | | | P | | | P | | |
| Electrical goods | | | | | | | | P | | | P | | |
| Hardware, plumbing & heating equipment & supplies | | | | | | | | P | | | P | | |
| Machinery, equipment & supplies | | | | | | | | P | | | P | | |
| Mini-warehouses | | | | | | | | P | | | P | | |
| Misc. wholesalers except scrap & waste materials | | | | | | | | P | | | P | | |
| Public warehousing & freight forwarding | | | | | | | | P | | | P | | |
| Terminal & joint terminal maintenance facilities for motor freight transportation & misc. services incidental to transportation | | | | | | | | P | | | P | | |
| Trucking - local & long distance | | | | | | | | P | | | P | | |