# Chapter 1224: Development Review Procedures

## 1224.01 Purpose

The purpose of this chapter is to describe the procedures for review and approval of all applications for development activity in the City as regulated by this Code. Common review requirements, which are applicable to all or most types of development applications, are set forth in Section 1224.03: Common Application Requirements. Subsequent sections set forth additional provisions that are unique to each type of application, including timetables, staff and review board assignments, review standards, and other information.

## 1224.02 Summary Table of Development Review Procedures and Development Review Authority

(1) Table 1224-1 summarizes the development review authority of the entities that have roles in the administration of the procedures set forth in this chapter. Other duties and responsibilities of the entities are set forth in Chapter 1223: Development Approval Authority.

(2) Even though not referenced in this chapter, other boards, commissions, government agencies, and non-governmental agencies may be required or asked to review some development review applications.

**Table 1224-1: Summary Table of Development Review Procedures**

**H = Public Hearing Required** **R = Review and Recommendation**
**M = Public Meeting** **D = Decision**

| Development Review Procedure | Section | City Council | Planning and Zoning Commission | Board of Zoning Appeals | Design Review Board | Planning Department | Zoning Division |
|---|---|---|---|---|---|---|---|
| Text or Map Amendment | 1224.04 | H-D | M-R | | | R | |
| Minor Subdivision | 1224.05 | | M-D [1] | | | R-D | R[2] |
| Major Subdivision – Preliminary Plan | 1224.06 | | M-D | | | R | |
| Major Subdivision – Final Plat | 1224.06 | M-D | M-R | | | R | |
| Variance of Land Development Standards (Major Subdivisions) | 1224.06 (16) | | H-D | | | R | |
| Site Plan Review (including all Freestanding Signs) | 1224.07 | | M-D | | R | R | |
| Conditional Use Permit | 1224.08 | | H-D | | | R | |
| Land Disturbance Permit | 1224.09 | | | | | R-D | |
| Variance - General | 1224.10 | | | H-D | | | R |
| Appeals | 1224.11 | | | H-D | | | [3] |
| Zoning Permit | 1224.12 | | | | | | D |
| Certificate of Use and Compliance | 1224.13 | | | | | | D |

NOTES:
[1] The PZC shall review and decide on minor subdivisions upon referral from the Planning Director, otherwise the Planning Department may authorize minor subdivisions in compliance with this Code.
[2] The Zoning Division shall provide a secondary signature on minor subdivisions.
[3] The Zoning Division, or the department whose decision is being appealed, shall provide all information related to the appealed decision as part of the record.

# 1224.03 Common Application Requirements

The requirements of this section shall apply to all development review applications and procedures subject to review under this Code unless otherwise stated.

## (1) Authority to File Applications

(A) Unless otherwise specified in this Code, development review applications may be initiated by:

**1.)** The owner of the property that is the subject of the application; or

**2.)** The owner's authorized agent.

(B) When an authorized agent files an application under this Code on behalf of a property owner(s), the owner(s) of all properties shall be required to sign the application, which shall bind all decisions, and related conditions of approval, to the owner of the property.

## (2) Application Submission Schedule

The schedule for the submission of applications in relation to scheduled meetings and hearings of the review bodies shall be established by the Planning Department and made available to the public.

## (3) Application Contents

### (A) Submittal Requirements

Applications required under this Code shall be submitted in a form and in such numbers as established by the Planning Department and made available to the public.

### (B) Submission of Fees

Applications shall be accompanied by a fee as established by City Council, in a separate ordinance, and pursuant to Subsection 1224.03 (6): Fees.

### (C) Complete Application Determination

**1.)** The Planning Department shall only initiate the review and processing of applications submitted under this chapter if such application is complete.

**2.)** The Planning Department shall make a determination of application completeness within 10 days of the application filing.

**3.)** If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Code.

**4.)** If an application is determined to be incomplete, the Planning Department shall provide notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a future re-submittal application.

**5.)** Additional fees may be required if the applicant fails to submit a complete application within 60 days of the initial application.

**6.)** If the applicant fails to re-submit a complete application within 60 days, the original fee shall be forfeited and the applicant shall be required to submit a new application including fees pursuant to this chapter.

**7.)** If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(4) Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this Code (e.g., a site plan review or variance), the applications for those approvals may, at the option of the Planning Director, be processed simultaneously, so long as all applicable requirements are satisfied for all applications.

(5) Effect of Preapplication Conferences or Meetings

Discussions that occur during a preapplication conference or meeting are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

(6) Fees

(A) Determination of Fees

City Council shall approve the fees to accompany applications submitted under this Code through the adoption of a fee schedule. City Council may adjust the fees from time-to-time.

(B) Fees to be Paid

No application shall be processed or determined to be complete until the established fee has been paid.

(C) Refund of Fees

**1.)** Application fees are not refundable except where the Planning Department determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.

**2.)** For final subdivision plats, in the event that the plat is withdrawn by the applicant before any physical inspection of the site has been made or before any staff review time, the Planning Director may process a request that the applicant be refunded an amount not to exceed one-half of the fee paid.

(7) Public Notification

Applications for development approval shall comply with all applicable ORC requirements and the provisions of this chapter with regard to public notification.

(A) Content

Notices for public hearings, whether by publication or mail (written notice), shall, at a minimum:

**1.)** Identify the address or location of the property subject to the application and the name, and address of the applicant or the applicant's agent.

**2.)** Indicate the date, time, and place of the public hearing.

**3.)** Describe the land involved by street address, or by legal description and the nearest cross street, and project area (size).

**4.)** Describe the nature, scope, and purpose of the application or proposal.

**5.)** Identify the location (e.g., the offices of the Planning Department) where the public may view the application and related documents.

**6.)** Include a statement that the public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.

**7.)** Include a statement describing where written comments will be received prior to the public hearing.

(B) Notice Requirements

Published and mailed notice shall be provided as defined in Table 1224-2: Notice Requirements.

**Table 1224-2: Notice Requirements**

| Development Review Procedure | Agency Responsible for Notification | Published Notice | Mailed Notice |
|---|---|---|---|
| **Text or Map Amendment** | Clerk of Council | Published notice required a minimum of 30 days before the City Council hearing. | Written notice shall be required a minimum of 20 days before the City Council hearing only if a zoning map amendment will affect ten or fewer properties. Written notice shall be provided to the applicant and all property owners within, contiguous, and directly across the street of the subject property |
| **Conditional Use Permit** | Planning Department | Published notice required a minimum of ten days before the PZC hearing. | Written notice to the applicant and all property owners within, contiguous, and directly across the street of the subject property shall be required a minimum of ten days prior to the hearing. |
| **Variance** | Zoning Division | Published notice required a minimum of ten days before the BZA hearing. | |
| **Appeals** | Zoning Division | Published notice required a minimum of ten days before the BZA hearing. | |

(C) Published Notice

When the provisions of this Code require that notice be published, the agency responsible for notification shall prepare the content of the notice and publish the notice in a newspaper of general circulation.. The content and form of the published notice shall be consistent with the requirements of Subsection 1224.03 (7)(A) and State law.

(D) Written Notice

**1.)** The agency responsible for notification shall notify applicable property owners by regular mail, of information required in Subsection 1224.03 (7)(A) and State law.

**2.)** The letters to the applicable property owners shall be postmarked no later than the minimum number of days required in Subsection 1224.03 (7)(B).

(E) Constructive Notice

**1.)** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the agency having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this Code, and such finding shall be made available to the decision-making body prior to final action on the request.

**2.)** When the records of the City document the publication, mailing, and posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

(8) Continuation of Public Hearings

A public hearing for which proper notice was given may be continued to a later date without again complying with the written notice requirements of this Code, provided that the continuance is set for a date within 60 days and the date and time of the continued hearing are announced at the time of the continuance.

(9) Effect of Inaction on Applications

When a review or decision-making body fails to take action on an application within the time required, such inaction shall be deemed a denial of the application, unless the decision-making body agrees to an extension of the time frame that is mutually agreed upon between the applicant and the decision-making body.

## 1224.04 Text or Map Amendment

(1) Purpose

City Council may amend the text of this Code or the Zoning Map pursuant to the procedure set forth in this section. The purpose of a text or map amendment is to make adjustments due to changed conditions, changes in public policy, recommendations of the Land Use Plan, or that necessary to advance the health, safety, and general welfare of the City.

(2) Applicability

This section shall apply to requests to amend the text of this Code or the Official Zoning Map of the City of Green, hereafter referred to as the “Zoning Map.”

(3) Initiation

(A) Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for amendment;

(B) The PZC may make a motion to initiate a text or map amendment; or

(C) City Council may initiate a zoning text or zoning map amendment by recommendation or referral to the PZC.

(4) Procedure

The review procedure for a text amendment or an amendment of the Zoning Map shall be as follows:

(A) Step 1 – Preapplication Conference

**1.)** The applicant shall meet with the Planning Department for a preapplication conference before submitting an application for an amendment to the Zoning Map.

**2.)** The applicant shall supply preliminary information to the Planning Department in a form established by the Department. Such information shall be submitted at least three business days prior to the preapplication conference.

**3.)** The purpose of the preapplication conference shall be to discuss the proposed development, review submittal requirements, and discuss compliance with the provisions of this Code and the Long Range Land Use Plan prior to the submission of an application.

(B) Step 2 – Application

**1.)** The applicant shall submit an application in accordance with Section 1224.03: Common Application Requirements and with the provisions of this chapter.

**2.)** If the applicant fails to submit an application within 120 days of the preapplication conference (Step 1), the applicant shall be required to begin the review procedure again from the preapplication conference (Step 1).

**3.)** Amendments initiated by City Council through legislation shall be referred to the PZC for review.

**4.)** Amendments initiated by the Planning Department on behalf of the PZC, shall be reviewed by the Planning & Zoning Commission and their recommendation referred to City Council pursuant to this section.

(C) Step 3 – Planning Department Review and Staff Report

Prior to the PZC meeting where the text or map amendment is scheduled for review, the Planning Department shall review the application and prepare a staff report.

(D) Step 4 – PZC Review and Recommendation

**1.)** Within 60 days of receipt of the application for the proposed amendment (Step 2), the PZC shall submit a written recommendation on the application to City Council. The PZC shall recommend approval, denial, or approval with some modification, of the proposed amendment.

**2.)** If the PZC fails to make a recommendation within 60 days of the receipt of an application, the application shall be forwarded to City Council and the application shall be considered to have received a recommendation for approval from the PZC.

(E) Step 5 – City Council Review and Decision

**1.)** Upon receipt of the recommendation from the PZC, the Planning Department shall request legislation from the Law Department and said legislation shall be introduced within 30 days of receipt of the PZC's recommendation. City Council shall set a time for a public hearing on the proposed amendment.

**2.)** During such 30 days, the text of the proposed amendment, maps or the site or general plans (PDs), if applicable, and the recommendations of the PZC, shall be on file for public examination in the office of the Clerk of Council or in such other office as is designated by City Council.

**3.)** After the public hearing, Council shall either adopt or deny the recommendations of the PZC, or adopt some modification thereof. In the event Council adopts, modifies or denies the recommendations of the PZC, concurrence by a majority of the full Council members shall be required.

(5) Approval Criteria

Recommendations and decisions on text or map amendment shall be based on consideration of the following criteria:

(A) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact since the time that the original text or map designations were established;

(B) Whether the proposed amendment is consistent with the Land Use Plan or other applicable City plans;

(C) Whether the proposed amendment is consistent with the purpose of this Code;

(D) Whether and the extent to which the proposed amendment addresses a demonstrated community need;

(E) Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;

(F) Whether the proposed amendment will result in significant mitigation of adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation;

(G) Whether the proposed amendment will ensure efficient development within the City; and

(H) Whether the proposed amendment will result in a logical and orderly development pattern.

(6) Proposed Planned Development District Requirements

All proposed amendments to the Zoning Map that will result in the creation of a PD District shall meet the following requirements in addition to the procedures and requirements of this chapter:

(A) The applicant shall submit a general plan as part of the map amendment application pursuant to Section 1224.03: Common Application Requirements.

(B) The general plan shall be reviewed simultaneously with the PD map amendment.

(C) Amendment to the Approved General Plan

No substantial change in or deviation from the approved general plan shall be made without prior review and recommendation by the PZC and the approval by City Council pursuant to the review procedure established in Subsection 1224.04 (4): Procedure and Subsection 1224.04 (6): Proposed Planned Development District Requirements.

(D) Final Development Plan Review Required

**1.)** Prior to site development of any phase of a planned development project, an application shall be submitted to the PZC for review and approval of the final development plan. This shall include the review of any and all legal documents required for the platting of land, pursuant to Subsection 1224.06 (4)(f)(1), and all on-site (and off-site, if applicable) improvement plans, pursuant to Subsection 1224.06 (4)(f)(2). The bonding requirements of Subsection 1224.06(8): Estimated Cost and Subsection 1224.06(9): Bonding Requirements shall apply in cases where the planned development will contain public roadways.

**2.)** In addition to the approval requirements for final development plan review, the final development plan shall be reviewed for compliance with the applicable provisions of this Code and the approved general plan for the planned development.

**3.)** Failure to comply with the general plan or any applicable provision of this Code will result in the denial of the final development plan.

(E) Time Limit for Planned Development Approvals

**1.)** The applicant shall be required to submit a site plan for site plan review within one year of the effective date of the map amendment and general plan. Failure to file the final development plan within one year of approval shall invalidate the general plan.

**2.)** If a general plan becomes invalid, the applicant shall be required to resubmit for general plan approval pursuant to the procedure outlined in Subsection 1224.04 (4): Procedure and Subsection 1224.04 (6): Proposed Planned Development District Requirements.

**3.)** If a general plan becomes invalid, the City Council or PZC may initiate a map amendment of the planned development district.

(F) Site Plan Review Required

All buildings within the planned development which require site plan review, as stipulated in Subsection 1224.07(2): Applicability, shall be reviewed pursuant to the provisions of Section 1224.07: Site Plan Review prior to the issuance of a zoning permit for construction.

# 1224.05 Minor Subdivision

## (1) Purpose

The purpose of the minor subdivision review process is to ensure compliance with this Code while allowing for small-scale subdivisions that will not result in new roads or major extensions of infrastructure.

## (2) Minor Subdivision Determination and Applicability

The Planning Department shall make a determination if a proposed subdivision is a minor subdivision if the proposed subdivision meets the following conditions:

(A) The subdivision will result in less than five lots after the original tract has been completely subdivided;

(B) The subdivision will occur along an existing public street;

(C) The subdivision will not result in the creation, widening, or extension of any street or road;

(D) The proposed subdivision will not be contrary to the applicable provisions of this Code; and

(E) No lot depth shall exceed four and one-half times the lot width or be less than one and one-half times the lot width at the minimum building setback line unless otherwise required by this Code.

## (3) Replats

(A) Any minor subdivision that involves the consolidation of lots or the adjustment of a boundary(ies) between lots that are situated within platted subdivisions shall adhere to the procedures set forth in Subsection 1224.05(5): Procedure, and be subject to the approval criteria set forth in Subsection 1224.05(6): Approval Criteria, below.

(B) Any subdivision of land within a platted subdivision which results in one or more additional lots within that subdivision shall adhere to the procedures for a major subdivision, as applicable, as set forth in Section 1224.06: Major Subdivision.

## (4) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a minor subdivision.

## (5) Procedure

The review procedure for a minor subdivision shall be as follows:

### (A) Step 1 – Application

The applicant shall submit an application in accordance with Section 1224.03: Common Application Requirements.

### (B) Step 2 – Review and Comment by Applicable Agencies

**1.)** Upon determination that the application for a minor subdivision is complete, the Planning Department may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer, and the agencies having jurisdiction over wastewater or water.

**2.)** Such agencies may supply comments, recommendations, and approvals as applicable, to the Planning Department for consideration prior to the department's decision (Step 3).

(C) Step 3 – Review and Decision by the Planning Department

**1.)** Within ten days of the determination that the application (Step 1) is complete, the Planning Department shall review the application and approve or deny the application for a minor subdivision based on the approval criteria established in Subsection (5) below.

**2.)** The Planning Department may choose to refer the application to the PZC who shall then make a final decision on the application for a minor subdivision at its next scheduled meeting for which it meets the applicable submittal deadlines.

**3.)** If the Planning Department denies an application for a minor subdivision, the Department shall provide the applicant with written finding for the denial.

**4.)** Both the Planning Department and the Zoning Division shall be required to sign the minor subdivision (total of two signatures).

(6) Approval Criteria

In order to approve a minor subdivision, the Planning Department and/or the PZC shall determine the following:

(A) That the minor subdivision complies with all applicable provisions of this Code;

(B) That the minor subdivision does not conflict with other regulations, plans, or policies of the City;

(C) That applicable review agencies have no objections that cannot be resolved by the applicant; and

(D) That the minor subdivision is not otherwise contrary to the interest of the City.

(7) Recording

(A) If the Planning Department approves the minor subdivision without a plat, the conveyance shall be stamped with "Approved for transfer only, no building site approved. Valid for 180 days from the above date."

(B) The Planning Director shall sign and date the conveyance.

(8) Appeals

(A) If the Planning Department denies the application for a minor subdivision, the applicant may appeal the decision to the PZC within 20 days of the Planning Department's decision.

(B) The PZC shall review and decide on the appeal at its next regular meeting following, for which the submittal of the appeal meets the applicable submittal deadlines.

(9) Approval Time Limit

The minor subdivision approval shall expire 180 days after the Planning Department signs and dates the conveyance unless the instrument of conveyance (deed) is recorded in the office of the Summit County Fiscal Officer during said period.

# 1224.06 Major Subdivision

## (1) Purpose

The purpose of the major subdivision review process is to ensure compliance with this Code while promoting the appropriate development of the City as provided for in the purpose of this Code.

## (2) Major Subdivision Determination and Applicability

A major subdivision shall include any subdivision that includes the construction of a public roadway, that does not meet the requirements of a minor subdivision, or that includes the improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures, which ultimately are to be jointly owned under a recorded condominium property declaration under the provisions of ORC Chapter 5311.

## (3) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a major subdivision.

## (4) Procedure

The review procedure for a major subdivision shall be as follows:

### (A) Step 1 – Preapplication Conference

**1.)** The applicant shall meet with the Planning Department for a preapplication conference before submitting an application for a major subdivision.

**2.)** The applicant shall supply preliminary information to the Planning Department in a form established by the department. Such information shall be submitted at least three business days prior to the preapplication conference.

**3.)** The purpose of the preapplication conference shall be to discuss the proposed subdivision, review submittal requirements, and discuss compliance with the provisions of this Code prior to the submission of an application.

**4.)** Subsequent to the preapplication conference with the Planning Department, the applicant may consult with, at a minimum, the City Engineer and the County Soil and Water Conservation District. The applicant shall also consult with the agencies having jurisdiction over wastewater or water, where applicable.

### (B) Step 2 – Application and Official Filing of the Preliminary Plan

**1.)** The applicant shall submit an application in accordance with Section 1224.03: Common Application Requirements and with the provisions of this chapter.

**2.)** The preliminary plan shall be submitted as part of the initial application.

**3.)** Upon determination by the Planning Department that the preliminary plan has been properly submitted, the preliminary plan shall be accepted as being officially filed.

**4.)** The application and the official filing of the preliminary plan shall take place a minimum of 45 days prior to the regular meeting of the PZC where the application will be heard.

**5.)** If the applicant fails to submit an application and preliminary plan within 120 days of the preapplication conference (Step 1), the applicant shall be required to begin the review procedure again from the preapplication conference.

(C) Step 3 – Site Visit

**1.)** The applicant shall be responsible for scheduling with the Planning Department to allow for viewing of the site in the field.

**2.)** Members of the PZC will be invited to the site visit to help understand the project with proper legal notice given if a quorum of PZC members are to be in attendance.

**3.)** The developer shall delineate the centerline of proposed roads prior to the site visit.

**4.)** The site visit shall take place a minimum of seven days prior to the regularly scheduled PZC meeting where the preliminary plan will be reviewed.

**5.)** The Planning Director may waive the site visit requirement if the Planning Director determines that there is no need for the visit due to minimal impacts of the proposed project, the availability of information in the application to fully illustrate the plan, and similar considerations.

(D) Step 4 – Staff Review and Staff Report on the Preliminary Plan

**1.)** Upon determination that the application for a major subdivision is complete, the Planning Department shall transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer, agencies having jurisdiction for water and/or sanitary sewer, or other agencies the department deems appropriate.

**2.)** Such agencies shall supply comments and recommendations to the Planning Department a minimum of ten days prior to the regularly scheduled PZC meeting where the preliminary plan will be reviewed.

**3.)** Prior to the PZC meeting where the preliminary plan is scheduled for review, the Planning Department shall review the preliminary plan and prepare a staff report.

(E) Step 5 – Review and Decision on the Preliminary Plan by the PZC

**1.)** The PZC shall not consider a major subdivision unless the preliminary plan is officially filed (Step 2).

**2.)** The following information shall be provided to the Planning Department prior to the PZC meeting or shall be identified for future review as a condition of approval.

a.) A statement indicating that the proposed subdivision meets all applicable provisions of this Code.

b.) A letter from the Summit County Health Department indicating sublot acceptability for individual septic systems and/or drilled wells, or a letter from the agency having jurisdiction for sanitary sewer indicating the availability of centralized sewage facilities.

c.) Additional information as deemed necessary by the Planning Department. If the Developer requires additional time to acquire the needed information, he or she may do so by submitting a written request to the Planning Department.

**3.)** The PZC shall hold a public meeting to review and decide on the preliminary plan. The PZC shall approve, approve with conditions, or deny the preliminary plan. The PZC may also continue the meeting if questions regarding the plan are not addressed by the applicant.

**4.)** Upon approval, the PZC shall communicate its action to City Council.

**5.)** If the PZC denies the preliminary plan, the applicant shall not move forward in the review process until a preliminary plan is approved by the PZC.

(F) Step 6 –Filing of the Final Plat and Improvement Plans

The final plat and improvement plans shall be submitted and reviewed concurrently.

**1.) Filing of the Final Plat**

a.) The applicant shall submit the final plat in accordance with Section 1224.03: Common Application Requirements and with the provisions of this chapter.

b.) Upon determination by the Planning Department that the final plat has been properly submitted, the final plat shall be accepted as being filed.

c.) The official filing of the final plat shall take place a minimum of 30 days prior to the regular meeting of the PZC where the final plat will be heard.

d.) The final plat submission shall include a signed warranty deed for any lot(s) where open space, a park, playground, school site, or other public land is to be dedicated to the public. The deed shall be considered part of the final plat for approval and recording purposes.

e.) The final plat submission shall include the submission of improvement plans for the corresponding phase of development.

**2.) Submission of the Improvement Plans**

a.) The applicant's engineer shall prepare improvement plans, which shall conform to the approved preliminary plan, and include all work to be performed. In cases where the applicant proposes to develop the subdivision in phases, improvement plans shall be submitted for each individual phase.

b.) The applicant shall supply the improvement plans to the Planning Department in a form and number established by the Department.

c.) If the applicant finds, in the process of preparing improvement plans, that the approved preliminary plan is not workable and changes in layout are required, the applicant shall inform the Planning Department. The Planning Department may require that a revised preliminary plan be submitted for reapproval.

(G) Step 7 – Planning Department Review and Staff Report on the Final Plat

Prior to the PZC meeting where the final plat is scheduled for review, the Planning Department shall review the final plat and prepare a staff report.

(H) Step 8 – Staff Review and Decision on the Improvement Plans

**1.)** The Planning Department shall distribute copies of the improvement plans to the City Engineer and, where applicable, the applicant shall submit the improvement plans to the agencies having jurisdiction for sanitary sewer or water, the Ohio Environmental Protection Agency, and any other applicable agencies.

**2.)** The review agencies shall provide comments and recommendations on the improvement plans to the Planning Department.

**3.)** A copy of the improvement plans shall be marked and returned to the applicant's engineer for corrections, if necessary. If found to be satisfactory, the original tracing shall be submitted for approval signature by the Planning Director, City Engineer, and the agencies having jurisdiction over sanitary sewer or water (where applicable).

**4.)** Improvements shall not be constructed until such time as the City has accepted the final plat and performance bond, and the City and other applicable agencies have approved the improvement plans. The applicant is required to participate in a pre-construction meeting and file all bond documents with the Planning Department prior to commencing construction of improvements.

(I) Step 9 – Review and Decision on the Final Plat by the PZC

**1.)** The PZC shall hold a public meeting to review and make a recommendation on the final plat. The PZC shall take one of the following actions:

a.) The PZC shall give a favorable recommendation on the final plat before any required improvements are installed pursuant to the improvement plans, authorizing its Chairperson, or any other officer of the PZC, to indicate such approval and the date on the tracing of the final plat.

b.) Notwithstanding the provisions of Subsection 1229.01 (13): Approval, where it appears that the requirements of Subsection 1229.01 (13): Approval, will be met prior to the PZC's next scheduled meeting, the PZC may, with the consent of the applicant, give final approval effective upon the City Engineer's future approval of the improvement plans and signing of the plat. Such final approval shall take effect as of the date of the City Engineer's signature.

c.) If the requirements of Subsection 1229.01 (13): Approval, have not been met by the time of the PZC's next scheduled meeting, the final plat may be placed on the agenda for the next PZC meeting, at which the PZC may reaffirm, modify or change its previous action.

d.) Should the PZC deny the final plat, written notice of such action, including reference to the regulation or regulations not complied with by the plat, shall be mailed to the applicant and the applicant's engineer and/or surveyor. The action shall also be entered on the official records of the PZC.

**2.)** The Chairman of the PZC shall certify the final plat by signing and dating the final plat upon approval from the PZC.

**3.)** Upon making a favorable or unfavorable recommendation, with or without conditions, the PZC shall communicate its action to City Council.

(J) Step 10 – Review and Decision on the Final Plat by the City Council

**1.)** After full compliance with this section, the Planning Department shall request the Law Director to prepare the necessary legislation for Council for introduction no later than the 60 days of the PZC's recommendation.

**2.)** Council shall review and judge the final plat with access to the files of the PZC and shall accept bonds for the guarantee of performance of public improvements pursuant to Subsection 1224.06 (9): Bonding Requirements, and acceptance of the plat.

**3.)** If approval is given, the plat and any appropriate documents shall be signed by the President and Clerk of Council upon passage of the acceptance resolution duly signed by the Mayor. All drawings shall be returned to the Planning Department for distribution and filing.

(5) Approval Criteria

In order to approve a major subdivision, the PZC and City Council, as appropriate, shall determine the following:

(A) That the major subdivision complies with all applicable provisions of this Code;

(B) That the major subdivision does not conflict with other regulations, plans, or policies of the City;

(C) That applicable review agencies have no objections that cannot be resolved by the applicant; and

(D) That the major subdivision is not otherwise contrary to the interest of the City.

(6) No Construction until Bond is Accepted

(A) No construction shall take place until a bond, as required by this Code, is received and approved by the Planning and Law Departments and authorization to proceed is granted by the City at the time the final plat is approved and accepted.

(B) A land disturbance permit may be issued if all criteria for its issuance are approved.

(C) No public infrastructure may be installed.

(7) Effect of Approvals

(A) Effect of Preliminary Plan Approval

**1.)** An approved preliminary plan is to be used as a guide for the preparation of improvement plans and the final plat for final approval and recording upon fulfillment of all conditions of the preliminary plan approval and all provisions of this Code.

**2.)** Approval of a preliminary plan shall be valid for a period of one year at which point the PZC shall review the preliminary plan for renewal. If the PZC does not authorize renewal, the preliminary plan shall expire.

**3.)** Upon expiration of a preliminary plan approval, no approval of a final plat shall be given until the preliminary plan has been resubmitted and approved pursuant to Subsection 1224.06 (4): Procedure.

(B) Effect of Final Plat Approval

**1.)** Approval of a final plat by the PZC shall not be an acceptance by the public of the offer of dedication of any street, highway, or other public way or open space upon the plat, until such acceptance is also endorsed by the City Council upon the tracing of the final plat.

**2.)** The PZC's approval shall automatically expire if the final plat is not presented to the City Council for approval within one year of the PZC's preliminary plan approval.

(8) Estimated Cost

Upon approval of the construction drawings by the City Engineer and Planning Director, and before starting any construction work, the developer's engineer shall prepare and submit to the Planning Department and/or the agencies having jurisdiction over sanitary sewer or water (where applicable), an independent estimate of costs, by item, for construction surveying; construction of roads, storm and sanitary sewers, sanitary treatment plants, pumping stations and water supply systems; drainage structures; erosion control, stormwater management basins, restoration of land and site clean-up; and other related items. The total estimated cost, including labor, shall be prepared and signed by the developer's engineer. The City Engineer and/or the agencies having jurisdiction over sanitary sewer or water (where applicable), may add to the developer's estimate an amount to cover contingencies, including inspection costs, to arrive at the total estimated cost. The approved total of estimated costs shall be the basis for the establishment of the performance bond amount.

(9) Bonding Requirements

(A) Performance Bonds

**1.)** Before the recording of any plat of any subdivision, the developer shall furnish performance bonds to the Planning Director in an amount equal to 100 percent of the approved total estimated cost of the improvements. The improvements shall be covered by separate bonds according to the department which shall guarantee completion of the required improvements, as follows:

a.) **City of Green**

*i.)* Paving

*ii.)* Storm sewer

*iii.)* Miscellaneous (i.e. monuments, street signs, restoration of land, site clean-up, etc.)

b.) **Agencies having jurisdiction for:**

*i.)* Water

*ii.)* Sanitary sewer

**2.)** The performance bond will remain in effect until released by the Mayor through Executive Order. In lieu of a surety bond, the developer may deposit a fund equal to 100 percent of the performance bond in an escrow account with a bank and approved by the City. The developer and the bank shall inform the City, in writing, that said money is secured and deposited in the bank for the improvements and shall be in a form dictated by the City of Green. Performance bonds shall not be released without approval of the City of Green.

**3.)** The developer's engineer shall verify all invoices and statements of expenditures and submit them to the Planning Director and/or the agencies having jurisdiction for sanitary sewer or water (where applicable), for review and approval.

**4.)** The withdrawal of funds from the escrow account shall not exceed 90 percent of the total estimated costs until the performance bond is released and the maintenance bond is in effect. The Mayor may, upon recommendation of the City Engineer and Planning Director, elect to release a portion of the performance bond based on the amount of construction work performed. Upon full release of the performance bond then the City may accept the maintenance bond prior to the completion of the project provided the public improvements are 90% complete and the maintenance bond includes work to be performed at a value of 100% of the cost of items yet to be completed.

**5.)** If the developer fails to proceed with the project within 18 months of the date the performance bonds are filed, and the Planning Director and/or agencies having jurisdiction over sanitary sewer or water (where applicable), deems it necessary to notify the Mayor that the developer has failed in his or her duty to complete the project, the Mayor or his or her designee shall notify the developer and the bank, in writing, of such failure and of their intention to vacate the subdivision or complete the project, using proceeds from the bond.

(B) Maintenance Bond or Bonds

Before the City Engineer and/or the agencies having jurisdiction over sanitary sewer or water (where applicable), will recommend the acceptance of the subdivision roads or release any performance bond, the developer shall provide a maintenance bond or cash to the Planning Director, which shall be divided and administered as follows:

**1.)** Bonds as required by the agency having jurisdiction for water or sanitary sewer; and

**2.)** Ten percent of the total estimated cost of all other improvements divided into separate bonds as follows:

a.) **City of Green**

*i.)* Paving

*ii.)* Storm sewer

*iii.)* Miscellaneous (i.e. monuments, street signs, restoration of land and site clean-up, etc.)

b.) **Agencies having jurisdiction over sanitary sewer or water:**

*i.)* Water

*ii.)* Sanitary sewer

**3.)** The Planning Director and/or the agencies having jurisdiction over sanitary sewer or water, as applicable, may increase the required maintenance bond above the specified amounts if, in his or her opinion, unusual topographic, subsoil or other construction limitations warrant such action. However, in such situations, the City Engineer or the agencies having jurisdiction over sanitary sewer or water, as applicable, shall furnish written explanations of their action to the Mayor and City Council. No action shall be taken by the City regarding bonding with the agencies having jurisdiction over sanitary sewer or water. These maintenance bonds shall guarantee that the developer will maintain the road and related improvements for a minimum of one year and that the developer will restore the road and related improvements, if determined to be necessary by the City Engineer and/or the agencies having jurisdiction over sanitary sewer or water (where applicable). If the developer fails to perform the maintenance and restoration items, the Mayor will authorize the City Engineer and/or the County Executive to authorize the agencies having jurisdiction over sanitary sewer or water (where applicable), to have the work performed. The cost of this work shall be deducted from the money on deposit as the maintenance bond for that work. The developer shall be held liable for any expenditures over and above the maintenance bonds. After all maintenance and restoration work has been completed to the satisfaction of the City Engineer and/or the agencies having jurisdiction over sanitary sewer or water (where applicable), the City's and the County's Chief Executive shall release the maintenance bonds or those portions remaining to the developer, respectively. It is the responsibility of the developer to request inspection for bond release. The bonds shall remain in effect until formally released by the Mayor through an executive order, as applicable.

**4.)** Upon release of the performance bond and acceptance of the maintenance bond, the City shall provide for the removal of snow & ice provided all roadway improvements are complete.

### (10) Land Disturbance Permit Required

A land disturbance permit, issued in accordance with Section 1224.09: Land Disturbance Permit, shall be required prior to commencement of clearing and grading activities on the site. Clearing and grading activities shall not begin until the applicant has held a pre-construction meeting with either the City of Green, or, if required, the Summit Soil and Water Conservation District and a plan for clearing and grading is approved. Such permit shall be based on a clearing and grading plan prepared and approved as part of the major subdivision process.

### (11) Recording

(A) After all required approvals are secured, the final plat shall be submitted by the Planning Department for final recording with the Summit County Fiscal Office.

(B) No plat of any subdivision shall be recorded in the office of the Summit County Fiscal Officer, or have any validity, until it has been approved and processed in the manner prescribed in this section.

(C) In the event that any such unapproved plat is recorded, it shall be considered invalid.

(D) All costs for recording of the plat shall be borne by the owner and/or developer.

### (12) Requirements for the Start of Construction of Public Improvements

The applicant must comply with the following requirements in order to begin construction on the public improvements pursuant to the approved improvement plan.

(A) The following items must have been approved prior to the commencement of construction:

**1.)** The improvement plans for the subdivision;

**2.)** The construction schedule, showing the starting and completion dates for each phase of the construction work, and a date for the completion of the entire subdivision; and

**3.)** Any bonds required for the project must be filed with the Planning Department.

(B) The contractor must have all necessary permits required for the project prior to the start of construction.

(C) A preconstruction meeting will be held, at which time the owner, the developer and/or his or her representative, the design engineer, the contractor, the City Engineer, the Planning Director, any other interested City officials and other agencies, as required, will attend prior to the commencement of any project. At this time, the project will be discussed in regard to the procedure, construction methods, plans, materials, inspections, stormwater management, erosion control, etc.

### (13) Amendments

(A) No changes, erasures, modifications or revisions shall be made to any improvement plans of a subdivision after approval has been given by the City and an endorsement is made in writing thereon, unless the improvement plan is first resubmitted and the changes approved by the City and/or the agencies having jurisdiction over wastewater or water (where applicable).

(B) No changes, erasures, modifications or revisions shall be made to any final plat of a subdivision after approval has been given by the PZC and City Council, and an endorsement is made in writing on a final plat, unless the final plat is first resubmitted and the changes approved by the PZC and City Council.

(C) If it becomes necessary to modify the improvements as approved due to unforeseen circumstances, the subdivider shall inform the Planning Director who shall consult with the City Engineer and the agencies having jurisdiction over wastewater or water (where applicable), in writing, of the conditions requiring the modifications. Written authorization from the appropriate review agency to make the required modification must be received before proceeding with the construction of the improvement.

### (14) Plan Checking and Field Inspection Fees

The applicant shall pay or reimburse the City of Green and/or the agencies having jurisdiction over wastewater or water (where applicable), the total cost of plan review and field inspection of the improvements.

(A) The review and inspection fee shall be determined by the City and the agencies having jurisdiction over wastewater or water (where applicable).

(B) The inspector's salary shall be paid at the rate discussed at the pre-construction meeting.

(C) The rate per hour will be the inspector's regular rate per hour as paid by the City and/or the agencies having jurisdiction over wastewater or water (where applicable), plus appropriate fringe benefits and an overhead percentage.

(D) The applicant is held responsible for all City plan review and inspection fees which will be payable upon invoice.

(E) Failure to pay fees shall result in the City not issuing permits until all fees are paid in full.

(F) The performance bond posted by the applicant guarantees the payment of all inspection fees and no bonds will be released until all inspection fees have been paid in full.

### (15) Final Drawings

At the completion of the construction, and before acceptance, the subdivider's engineer shall update the original tracings as directed by the City Engineer and the agencies having jurisdiction over wastewater or water (where applicable), showing the locations, sizes and elevations of all improvements as constructed. A legible mylar reproduction shall be furnished to the agencies having jurisdiction over wastewater or water (where applicable). The original tracings shall remain with the City Planning Department.

### (16) Variance of Land Development Standards

(A) The PZC may consider and grant variances from the standards identified in Section 1229.01: General Subdivision Design and Regulations, Section 1229.02: Transportation and Access, Section 1229.03: Drainage Standards, and Section 1229.04: Lot Layout and General Site Regulations, as they relate to subdivisions, where unusual or exceptional factors or conditions require such modification, provided that the PZC shall:

**1.)** Determine that the size, shape, location or surroundings of the property are unusual and that unusual topographical or physical conditions or other conditions inherent in the land exist;

**2.)** Determine that a strict compliance with the provision would create an extraordinary and unnecessary hardship in the face of the exceptional conditions;

**3.)** Permit any variance of a provision only to the extent necessary to equitably remove the hardship so that substantial justice is done;

**4.)** Determine that any modification granted will not be detrimental to the public interest nor in conflict with the spirit, intent, and purpose of these Regulations;

**5.)** Require such other conditions to be met by the proposed plat as the PZC may find necessary to accomplish the purposes of this Code, when modified; and

**6.)** Determine that a strict compliance with the provision would deprive the property of privileges enjoyed by similar properties in the vicinity.

(B) In making its determinations, the PZC may also consider:

**1.)** Whether the property will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

**2.)** Whether the essential character of the neighborhood will be altered or whether adjoining properties would be adversely affected as a result of the variance; and

**3.)** Whether the variance would adversely affect the delivery of governmental services.

(C) Cul-de-sacs shall be discouraged if future roadway connections can be made. PZC shall have the right to deny cul-de-sacs based on development design versus service-related functions. Where a subdivision includes a cul-de-sac that requires a variance because the cul-de-sac is in excess of the maximum permitted length, the PZC may also consider the number and size of sublots served by the cul-de-sac, and the availability of central water service, to determine if the variance will permit appropriate development of the land without unduly affecting the public safety. The PZC may also consider the opinions of local City officials.

(D) If the proposed variance involves the creation of a sublot whose depth exceeds four and one-half times its width, the PZC may also consider the pattern of existing platting for similarly zoned land adjacent to the property and within 500 feet of the proposed site.

(E) The City Council may support variances affecting required improvements upon approval by the PZC. Such recommendations shall be based on the findings listed in this section.

### (17) Appeals

(A) Whenever an applicant presenting a preliminary plan for a major subdivision to the PZC has been rendered a decision from the PZC which is adverse to the request of the applicant, the aggrieved applicant may make an appeal to Council.

**1.)** The appeal shall be submitted to Council within 30 days following the PZC decision, and a copy of said appeal shall be filed with the PZC and the Planning Department.

**2.)** The appeal shall state, in full, the reasons it is being filed and the facts surrounding the same. Any facts and/or information not previously available to the PZC, the inclusion of which at the time of the appeal would operate to substantially alter the facts and information submitted to the PZC prior to its original decision concerning the matter, shall be cause for resubmission of such matter to the PZC, together with new facts and information, for its reconsideration.

**3.)** Council shall, upon receipt of an appeal, request a statement from the PZC setting out the reasons for the decision being appealed, so as to properly advise Council as to the considerations and regulations upon which the original decision was based.

**4.)** The Clerk of Council shall notify the PZC, applicant, owner of the subject property, and contiguous property owners of the time and place of Council's consideration of any such appeal. All parties shall be heard and final judgment rendered by a two-thirds vote of Council. Such decision shall be in writing, with the original being sent to the appellant and a copy to the PZC.

## 1224.07 Site Plan Review

### (1) Purpose

The purpose of this chapter is to provide a process for the review and approval of site plans and building designs by the DRB, PZC, and City officials. These regulations are established in the interest of encouraging quality development, establishing compatibility of designs, establishing a sense of place and identity for the community and for the special design districts within the community, to ensure proper design of sites for the effective use of land, and to promote high standards in the layout, design, landscaping and construction of development. Site plan review is intended to control site and building design only to the extent necessary to promote these objectives, while allowing flexibility and creativity in the design of individual sites.

### (2) Applicability

No use or construction for which a site plan review is required shall be established or commenced and no permit or certificate shall be issued until a site plan application has been approved by the PZC.

(A) In all residential districts and planned development districts that allow residential uses, any new construction, substantial renovation, or expansion of a building or site improvements, or establishment of a new use for:

**1.)** Two-family dwellings;

**2.)** Multi-family dwellings;

**3.)** Conditional uses;

**4.)** Agricultural building, roadside stand, private stable or building for housing domestic animals;

**5.)** Commercial uses, as permitted in planned developments; and

**6.)** Recreational facilities, as permitted in planned developments.

(B) In all commercial or industrial districts, any new construction, substantial renovation or expansion of a building or site improvements, or establishment of a new use as defined in paragraph (C) below.

(C) As used in this section, "new construction, substantial renovation, expansion of a building or site improvements, or establishment of a new use" shall include the following:

**1.)** New construction, expansion in floor area, change in location on a lot, or significant reconstruction or alteration of an exterior wall, roof, or other exterior part of a main structure or of an accessory structure, not including repair or replacement of a structure or part of a structure in a manner conforming to an approved site development plan;

**2.)** New construction, alteration, or expansion of any freestanding sign or any attached sign which is greater than 20 square feet, and replacement of sign panels in an existing nonconforming sign;

**3.)** Construction of a new curb cut, parking area, drive, loading area, or related improvement;

**4.)** Alterations to site improvements (including, but not limited to, fences, walls, and landscaping enclosing loading and storage areas) which are designed to buffer or protect abutting properties from impacts, except that, if no other changes to the site require site plan review by the Planning and Zoning Commission, the Planning Director may approve the design of such improvements without site plan review by the Commission or may require that such improvements be reviewed by the Commission; and

**5.)** A change in the use of an existing building or lot, where:

a.) A dwelling is replaced by any other use or where a dwelling use replaces any other use;

b.) The number of dwelling units is increased in a multi-family dwelling or on a lot having multi-family use;

c.) A commercial use is replaced by an industrial or institutional use;

d.) An industrial use is replaced by a commercial or institutional use;

e.) An institutional use is replaced by a commercial or industrial use; or

f.) A use other than a dwelling is expanded into existing, unfinished floor area; and

g.) The Planning Director determines that a proposed new use will create new impact on abutting properties, will generate additional traffic, will require additional parking or altered curb cuts and drives, or will have other effects which justify review of the suitability of the site and improvements to support the proposed new use.

### (3) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a site plan review.

### (4) Procedure

The review procedure for a site plan review shall be as follows:

(A) Step 1 – Application and Preliminary Site Plan

**1.)** The applicant shall submit an application in accordance with Section 1224.03: Common Application Requirements.

**2.)** A preliminary site plan shall be prepared and submitted with the application and appropriate fee.

(B) Step 2 – Planning Department and City Review of the Preliminary Site Plan

**1.)** Upon determination that the application is complete, that Planning Department shall coordinate review of the preliminary site plan, including distribution to other City departments as appropriate.

**2.)** Within ten days of the application, the Planning Department shall advise the applicant of amendments, deficiencies or additional information necessary to prepare the final site plan.

**3.)** When an application proposes modifications to a structure known or believed to be older than 50 years, the Planning Department shall transmit a copy of the application to the Historic Preservation Commission. The Historic Preservation Commission shall, prior to the scheduled meeting of the DRB, advise the Planning Department of the historic status of the structure and of any issues which should be considered in the site plan review process.

(C) Step 3 – Final Site Plan Submission

**1.)** Upon receiving comments from the Planning Department on the preliminary site plan, the applicant shall prepare a final site plan for review by the DRB.

**2.)** The Planning Department shall review the final site plan submission for completeness and shall advise the applicant of any deficiencies which may delay submittal to the PZC.

**3.)** The final site plan shall be submitted to the Planning Department a minimum of 15 days prior to the scheduled DRB meeting when the site plan requires DRB review or a minimum of 30 days prior to the PZC meeting where the final site plan shall be reviewed.

(D) Step 4 – DRB Review and Recommendation

**1.)** For site plans that require DRB review, the Planning Department shall deliver the application to the DRB for review at its next scheduled meeting for which it meets the applicable submittal deadlines.

**2.)** Within 30 days of the DRB meeting at which the site plan is reviewed, the DRB shall review the application and submit a recommendation to the PZC. In making the decision, the DRB may make a favorable or unfavorable recommendation, with or without conditions, or table the review of the site plan. The DRB shall communicate its action to the PZC.

(E) Step 5 – Planning Department Review and Staff Report

**1.)** The Planning Department shall distribute the final site plan to appropriate administrative departments for review and comment. Such departments shall return written comments to the Planning Department a minimum of seven days prior to the PZC meeting at which the site plan will be reviewed.

**2.)** The Planning Department shall review the final site plan and make a recommendation to the PZC to approve, approve with conditions, or deny the final site plan. The Planning Department may also recommend the continuance of the matter to allow for further review.

(F) Step 5 – PZC Review and Decision

**1.)** The PZC shall hold a public meeting within 30 days of the filing of the final site plan where a recommendation from the DRB is not required or 45 days of the filing of the final site plan when a recommendation from the DRB is required.

**2.)** Within 60 days of the public meeting, the PZC shall either approve, approve with conditions, deny the approval, or table the review of the final site plan.

**3.)** If the site plan is denied, the PZC shall make a finding, in writing, justifying the denial of the plan and provide a copy of the findings to the applicant.

**4.)** The PZC may attach conditions to the approval of a site plan as may be reasonably required to promote the public health, safety, and welfare.

**5.)** The PZC shall not take action on a site plan application until it has received and considered the recommendations of the DRB (where applicable).

**6.)** Approval of the site plan shall be indicated by a letter from the Planning Department. The approved plan will be stamped "Approved."

(5) Approval Criteria

Recommendations and decisions on a site plan shall be based on consideration of the following criteria:

(A) That the proposed development is consistent with all the requirements of this Code; and

(B) That the proposed development is in compliance with the applicable zoning districts.

(6) Time Limit

(A) Approval of a site plan shall expire six months from the date of approval unless the applicant has received all applicable zoning permits.

(B) Upon written request, one extension of up to six months may be granted by the Planning Department if the applicant can show good cause.

### (7) Design Exceptions

(A) Where, as a result of characteristics of a site or use, or due to the nature of surrounding development, it is impracticable to comply with one or more of the site plan review standards of Section 1229.08: Site Plan Review Standards, the applicant may request approval of a alternative design that is equal to or exceeds the intent of the original standard.

(B) The written request shall be submitted to the Planning Director for transmittal to the DRB and PZC. The request shall state the conditions which result in the impracticability of compliance. The request shall be accompanied by additional information and illustrations necessary to support the request. The request shall describe or illustrate site improvements which will be constructed to mitigate the effects of granting the design exception or to otherwise insure that the site plan meets the intent of this Code.

(C) The PZC may grant a design exception after review of the request. Findings and grounds for approval of a design exception shall be entered into the motion for approval of the site plan.

### (8) Effect of Approval

Approval shall constitute authorization to proceed with application for required zoning permits and construction in compliance with the approved site plan and in compliance with all other applicable regulations of this Code.

### (9) Land Disturbance Permit Required

A land disturbance permit, issued in accordance with Section 1224.09: Land Disturbance Permit, shall be required prior to commencement of clearing and grading activities on the site. Clearing and grading activities shall not begin until the applicant has held a pre-construction meeting with either the City of Green, or if required, the Summit Soil and Water Conservation District and a plan for clearing and grading is approved. Such permit shall be based on a clearing and grading plan prepared and approved as part of the site plan review process.

### (10) Amendments of an Approved Site Plan

Amendments to an approved site plan shall be accomplished in the manner required for an original approval pursuant to Subsection 1224.07 (4): Procedure, provided, however, that minor technical changes and additions or alterations to accessory structures which do not substantially alter a previously approved site plan or that do not require a variance may be authorized by approval of the Planning Director.

### (11) Qualifications Required to Prepare Site Plans

Site plans shall be prepared by persons professionally qualified to do such work and shall be certified by an architect, engineer, landscape architect or land surveyor duly registered by the State of Ohio. Site plans for signs, fences, parking lot and loading facility additions, and minor structural additions or alterations, may be prepared by persons other than those stated above, except that the Planning and Zoning Commission shall not be required to review or take action upon plans which are not sufficient to clearly and completely document compliance with this chapter.

# 1224.08 Conditional Use Permit

## (1) Purpose

The characteristics and impacts of an ever-increasing number of new and unique uses, together with the broadening of numerous conventional uses, have fostered the development of more flexible regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety and general welfare of the community. Toward these ends, it is recognized that this Code should provide for more detailed evaluation of each use conditionally permissible in a specific district with respect to such considerations as location, design, size, methods of operation, intensity of use, public facilities requirements and traffic generation. Accordingly, conditional use permits shall conform to the procedures and requirements of this section

## (2) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a conditional use permit.

## (3) Procedure

### (A) Step 1 – Application

An application for a conditional use shall comply with the provisions of Section 1224.03: Common Application Requirements.

### (B) Step 2 – Planning Department Review and Staff Report

The Planning Department shall review the application for a conditional use permit and make a recommendation to the PZC to approve, approve with conditions, or deny the conditional use. The Planning Department may also recommend the continuance of the matter to allow for further review.

### (C) Step 3 –PZC Review and Decision on a Conditional Use

**1.)** The PZC shall hold a public hearing within 45 days of the filing of the application for a conditional use permit.

**2.)** Within 60 days of the public hearing the PZC shall either approve, approve with conditions, deny, or table the request for a conditional use permit.

**3.)** If the conditional use permit is denied, the PZC shall make a finding, in writing, justifying the denial of the conditional use permit and provide a copy of the findings to the applicant.

**4.)** In granting approval, the PZC may prescribe appropriate conditions and safeguards in conformance with the intent and purposes of this Code for the protection of nearby property and the public health, safety and general welfare. The PZC shall authorize the Planning Department to issue the conditional use permit with notation of conditions thereon or attached thereto.

## (4) Approval Criteria

In order to approve a conditional use, the PZC shall use the following review criteria:

(A) The use is in fact a conditional use as allowed in the applicable zoning district;

(B) A conditional use, except as specifically otherwise provided in this chapter or in the applicable zoning district regulations, shall conform to such district regulations and to other substantive requirements of this Code, and shall also satisfy the conditions, standards and requirements of this chapter;

(C) The use will be harmonious with, and in accordance with, the purpose of this Code and the goals of the Land Use Plan;

(D) The use will conform to the general character of the neighborhood in which it will be located;

(E) The use complies with all applicable provisions of this Code including any use-specific provisions established in Chapter 1226: Use Regulations;

(F) If the use is permitted, the public health, safety, and general welfare of the neighborhood in which it will be located, will be secure;

(G) The use will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and will not change the essential character of the same area;

(H) The use will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools, or the persons or agencies responsible for the establishment of the proposed use will be able to provide adequately any such service;

(I) The use will not create excessive additional requirements, at public cost, for public facilities and services and will not be detrimental to the economic welfare of the community;

(J) The use will not be detrimental to property in the immediate vicinity or to the community as a whole;

(K) The use will have vehicular approaches to the property designed so as not to create an interference with traffic on surrounding public thoroughfares; and

(L) The use will not result in the destruction, loss or damage of a natural or scenic feature of importance or a locally or nationally designated historic landmark.

### (5) Effect of a Conditional Use Permit

(A) Approvals granted under a conditional use permit shall run with the land and shall not be affected by a change in ownership.

(B) The breach by the applicant of any condition, safeguard, or requirement expressed or referred to on the conditional use permit shall render the permit void and shall constitute a violation of this Code.

### (6) Subsequent Development

Development authorized by a conditional use permit shall not be carried out until the applicant has secured all other approvals required by this Code or any other applicable provisions of the City. The approval of a conditional use permit shall not ensure that the development approved as a conditional use shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Code or other applicable provisions are met.

(7) Time Limit

(A) A conditional use permit shall be valid for a period of 90 days from the date of approval. The conditional use permit shall become invalid after the 90-day time limit unless the applicant receives approval of a zoning permit or is granted an extension within such time period.

(B) Upon written request, one extension of 30 days may be granted by the Planning Director if the applicant can show good cause.

(8) Amendment

A conditional use permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval. A request for a change in the conditions of approval of a conditional use permit shall be considered an amendment and subject to the full review procedure set forth in this section.

## 1224.09 Land Disturbance Permit

(1) Purpose

The purpose of this section is to establish a procedure to review grading and clearing activities within the City to ensure the promotion of the public health, safety, comfort, and general welfare of the citizens of the City. This permit and review procedure also helps to eliminate the unnecessary clearing of trees and vegetation so as to maintain them as long as possible in order to preserve the benefits associated with their existence. Regulating grading and clearing activities will also assure that adequate provisions are made for the prevention of surface erosion and pollution of water resources prior to the grading of land.

(2) Applicability

No clearing and/or grading activities shall be commenced within the City without first obtaining a land disturbance permit from the Planning Department. Exemptions from permit requirements include:

(A) Parcels of less than one acre of land;

(B) An area of a larger parcel of land where less than one acre is to be disturbed;

(3) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a land disturbance permit.

(4) Procedure

(A) Step 1 – Application

**1.)** An application for a land disturbance permit shall comply with the provisions of Section 1224.03: Common Application Requirements.

**2.)** An application for a land disturbance permit shall be submitted a minimum of 30 days prior to commencement of the clearing and/or grading activities.

(B) Step 2 – Planning Department and Applicable Agency Review and Decision or Staff Report

**1.)** Submitted plans must be reviewed and approved by the Planning Department, the Summit Soil and Water Conservation District, and any other applicable City department.

**2.)** Within 30 days after the application (Step 1) is determined to be complete, the Planning Department shall review the application and approve, approve with conditions, or deny the land disturbance permit based on the approval criteria established in Subsection (5), below.

**3.)** All comments from the City and other review agencies shall be provided to the Planning Department for transmission of comments to the applicant. The applicant shall be required to revise all applicable plans and resubmit such revised plans to the Planning Department prior to the issuance of a land disturbance permit.

(C) Step 3 - Notification

The land disturbance permit holder shall agree to notify the city and, if applicable, the Summit Soil and Water Conservation District a minimum of 48 hours before commencing with permitted clearing and/or grading activities.

(5) Approval Criteria

In order to approve a land disturbance permit, the Planning Department shall use the following review criteria:

(A) Compliance with applicable provisions of this Code; and

(B) No land disturbance permit shall be issued until any and all necessary erosion and sediment control devices have been approved by the Summit Soil and Water Conservation District and appropriate City Departments.

(C) All current best management practices (BMP's) are considered to control erosion and sediment and a plan for implementation of such practices is approved by the Summit Soil and Water Conservation District and appropriate City departments.

(D) A pre-construction meeting was held with either the City of Green or, if required, the Summit Soil and Water Conservation District.

(6) Inspections

(A) All permitted clearing and/or grading activities shall be inspected on a regular basis by appropriate City staff and the Summit Soil and Water Conservation District to ensure compliance with the approved plan.

(B) Violation notices shall be issued, if necessary, as determined through the inspection process. Violations shall be rectified within the period stated.

(7) Time Limit

(A) Work permitted by a land disturbance permit shall commence within 90 days of the permit approval or the grading and permit shall become invalid.

(B) The land disturbance permit shall also become invalid if the work is suspended or abandoned for a period of 120 days at any time after the work has commenced or one year after the date of issuance.

(C) Once a project is started it shall remain the responsibility of the permit holder to maintain all elements of an approved Stormwater Pollution Prevention Plan until completion of the project, including any periods during which work has been suspended or after any abandonment of the work prior to completion.

(D) If a permit expires, no work may commence until a new permit is issued.

(8) Burning Prohibited

Open burning shall be prohibited for the clearing of land. All clearing must be performed by generally accepted means, unless otherwise permitted as part of the land disturbance permit review procedure.

## 1224.10 Variance

(1) Purpose

A variance from the requirements of this Code may be granted by the BZA, or in limited cases by the PZC, where the applicable board determines that such a variance will not be contrary to the public intent and where due to special conditions and practical difficulties with strict application of this Code may exist.

(2) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a variance.

(3) Procedure

(A) Step 1 – Application for a Variance

An application for a variance shall comply with the provisions of Section 1224.03: Common Application Requirements.

(B) Step 2 – Variance Application Review

**1.)** The Zoning Division shall process the variance request upon its denial of a zoning permit.

**2.)** The Planning Department (variances requested during the subdivision process or as part of a flood plain permit) shall review the variance request and make a recommendation to the PZC to approve, approve with conditions, or deny the request. The Planning Department may also recommend the continuance of the matter to allow for further review.

(C) Step 3 – BZA or PZC Hearing and Decision on a Variance

**1.)** The BZA or the PZC shall hold a public hearing within 45 days of the filing of the variance application, provided adequate notification is provided pursuant to Subsection 1224.03(7): Public Notification.

**2.)** Within 45 days of the public hearing, the BZA or PZC shall either approve, approve with conditions, or deny the request for a variance.

**3.)** The BZA or PZC shall further make a finding, in writing, that the reasons set forth in the application justify the granting or denial of the variance.

**4.)** The BZA or PZC may amend the variance application, with approval from the applicant, as part of the motion. However, such amendment shall not create a larger nonconformity or larger variance published as part of the notification requirements.

**5.)** In approving a variance, the BZA or PZC may further prescribe any conditions and safeguards that it deems necessary to insure that the objectives of the provisions to which the variance applies will be met and completed. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the variance has been granted, shall be deemed a punishable violation under this Code.

(4) Basis for Granting a Variance

In order to grant a variance, the BZA or PZC shall use the following review criteria:

(A) The BZA or PZC shall not grant a variance, as authorized in this Code, unless it can determine that there are circumstances, conditions, and practical difficulties encountered by the applicant in complying with the provisions of this Code. This evaluation shall include, but is not limited to, the following criteria:

**1.)** Whether the property will yield a reasonable return without the variance or whether there can beneficial use of the property;

**2.)** Whether the variance is substantial;

**3.)** Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;

**4.)** Whether the variance would adversely affect the delivery of governmental services;

**5.)** Whether the property owner purchased the property with knowledge of the zoning restrictions;

**6.)** Whether the problem can feasibly be addressed through some method other than variance (e.g., zone change); and

**7.)** Whether the variance preserves the spirit and the intent behind the purpose of this Code and whether substantial justice would be done by granting the variance.

No single factor listed above in subparagraphs one through seven shall control, and not all factors shall be applicable in each case. Each case shall be determined on its own facts.

(B) To obtain a variance, the applicant must show “practical difficulty”, by demonstrating:

**1.)** Whether strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;

**2.)** Whether a variance would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation would give substantial relief and be more consistent with justice to others;

**3.)** Whether the plight of the owner is due to unique circumstances of the property:

**4.)** Whether the problem is self-created.

(C) Variances shall not be granted on the grounds of convenience or profit.

(D) The BZA shall not consider or grant a use variance when the use is otherwise prohibited in the zoning district in which the property is located. In such cases, the applicant may submit a request for a zoning map amendment pursuant to Section 1224.04: Text or Map Amendment in order to accommodate the proposed use.

(E) The fact that a structure, use, or lot does not conform to this Code prior to the consideration of a variance application may not be used as a basis for the granting of a variance.

### (5) Effect of a Variance

(A) The issuance of a variance shall authorize only the particular variation that is approved in the variance.

(B) A variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

### (6) Subsequent Development

Development authorized by the variance shall not be carried out until the applicant has secured all other approvals required by this Code or any other applicable provisions of the City. A variance shall not ensure that the development with an approved variance shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this Code or other applicable provisions are met.

### (7) Time Limit

No variance shall be valid for a period longer than 12 months of the date of variance approval unless the applicant receives approval of a zoning permit.

### (8) Amendment of a Variance after a Decision

When an amendment is requested that would increase the extent or severity of the variance, the variance shall be amended, extended, or modified only in accordance with the procedures and standards established for its original approval. An amendment that reduces the extent or severity of the approved variance may be approved by the Planning Director (for example, if the original variance grants a 10-foot variance on a 20-foot setback, the Planning Director may approve an amendment if the applicant only needs a five-foot variance).

### (9) Appeals of BZA Decisions

Those aggrieved by the decision of the BZA or any taxpayer, may appeal such decision to the Summit County Court of Common Pleas, as provided in ORC Chapter 2506.

## 1224.11 Appeals

### (1) Purpose

This section sets out the procedure to follow when a person claims to have been aggrieved by any administrative decision made in the enforcement of this Code.

### (2) Initiation

Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this Code.

(3) Procedure

(A) Step 1 – Submission of Appeal (Application)

**1.)** An appeal pursuant to this section shall be initiated by filing a written appeal of the administrative decision or determination within 20 days of the date of the order, decision, determination, or interpretation with the Zoning Division.

**2.)** Where the decision of the PZC is the subject of the appeal, the 20 day timeframe shall not start until after 30 days of the original PZC decision within which the PZC may reconsider its original decision.

**3.)** Appeals shall comply with the provisions of Section 1224.03: Common Application Requirements.

(B) Step 2 – Forwarding of the Record to the BZA

Upon receiving the written appeal of an administrative decision or determination, the Zoning Division shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision or determination to the BZA. This material shall constitute the record of the appeal.

(C) Step 3 – BZA Review and Decision on Appeal

**1.)** The BZA shall hold a public hearing within 45 days of the filing of the appeal provided adequate notification is provided pursuant to Subsection 1224.03(7): Public Notification.

**2.)** Any person affected by the appeal may appear at the public hearing and testify in person or by attorney.

**3.)** The Board shall render a decision on the appeal without unreasonable delay. The Zoning Division shall notify the appellant in writing of the decision of the Board.

(4) Review Criteria

A decision or determination shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the decision or determination fails to comply with either the procedural or substantive requirements of this Code.

(5) Stay

A properly submitted appeal shall stay all administrative proceedings by the City in furtherance of the action appealed, unless the Zoning Division certifies to the BZA that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the BZA for good cause shown.

(6) Appeals of BZA Decisions

Those aggrieved by the decision of the BZA or any taxpayer, may appeal such decision to the Summit County Court of Common Pleas, as provided in ORC Chapter 2506.

# 1224.12 Zoning Permit

## (1) Purpose

A zoning permit shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of this Code, and to otherwise protect the public health, safety, and general welfare of the citizens of the City.

## (2) Applicability

No land shall be used nor shall any building or structure be used, established, constructed, enlarged, moved, modified, without first obtaining a zoning permit. Zoning permits shall be issued only in conformity with the provisions of this Code unless the Zoning Division receives a written order from the BZA deciding an appeal or variance, or approval from the PZC for a conditional use permit, site plan or planned development as provided in this Code or approval of the Planning Director.

## (3) Exemptions

Buildings having a foundation area of 30 square feet or less, excepting outdoor toilets, and roadside stands shall be exempted from permit requirements. Such accessory buildings, however, are subject to all other zoning regulations.

## (4) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a zoning permit.

## (5) Procedure

The review procedure for a zoning permit shall be as follows:

### (A) Step 1 – Application

**1.)** The applicant shall submit an application in accordance with Section 1224.03: Common Application Requirements.

**2.)** The applicant shall not begin construction until a zoning permit has been issued and setbacks approved in the field.

### (B) Step 2 – Zoning Division Review and Decision on a Zoning Permit

**1.)** Within ten days of the determination that the application is complete, the Zoning Division shall approve or deny the application based on the provisions of this Code.

**2.)** When the Zoning Division denies a zoning permit, it shall provide written findings for the denial of the zoning permit application.

## (6) Approval Criteria

In order to approve a zoning permit, the Zoning Division shall consider the following:

(A) The application complies with all applicable provisions of this Code and the applicable zoning district; and

(B) The application complies with all approved site plans or other development approvals.

(7) Time Limit

(A) Zoning permits shall be effective for 12 months and shall not be invalidated by a change in zoning during that period.

(B) A permit shall expire at the end of 12 months unless the footer or other base for the structure has been completed in compliance with the plans presented as part of the zoning permit application.

(C) If, after the footer or base has been completed, construction has been stopped for more than six months, the permit shall become invalid and a new permit shall be required before construction can proceed.

(D) Temporary use permits shall include an expiration date for the approved use.

(E) Zoning permits and temporary use permits may be renewed or extended by the Zoning Division if just cause is shown.

(8) Temporary Use Permits

(A) Applications for temporary use permits shall follow the same review procedure outlined in Subsection (5) above, but shall be submitted at least seven days before the start of such temporary use.

(B) An application for a temporary use permit shall be made to the Zoning Division and shall contain a graphic description of the property to be used, a description of the proposed use, and a site plan, with sufficient information to determine the setbacks, parking and sanitary facility requirements for the proposed temporary use, and any other information required to process the permit.

## 1224.13 Certificate of Use and Compliance

(1) Purpose

A certificate of use and compliance shall be required for multi-family uses and nonresidential uses to ensure that new construction and changes in tenants or uses comply with the provisions of this Code.

(2) Initiation

Pursuant to Subsection 1224.03 (1): Authority to File Applications, any person having authority to file applications may initiate an application for a certificate of use and compliance.

(3) Applicability

(A) No person shall use, occupy, or permit the use or occupancy of a multi-family or nonresidential building or lot, or part thereof, until the Zoning Division issues a certificate of use and compliance stating that the proposed use of the building, land, or part thereof conforms to the requirements of this Code. A certificate of use and compliance shall also state, where applicable, that new construction complies with the plans approved as part of the zoning permit procedure and approval.

(B) A certificate of use and compliance shall be obtained from the Zoning Division for any of the following:

**1.)** Use and occupancy of a multi-family or nonresidential use building hereafter erected or structurally altered unless exempted in Subsection 1224.13 (4): Exemptions;

**2.)** Use of vacant land or change in use of land;

**3.)** Any change in the use of a non-conforming use;

**4.)** Any change of tenants in a nonresidential building, portion of a nonresidential building, and/or tenant space; and

**5.)** Any change in the ownership of any multi-family dwelling or nonresidential building.

(4) Exemptions

The following uses shall be exempt from the requirement of a certificate of use and compliance:

(A) Single-family dwellings;

(B) Multi-family dwellings with no more than two units,

(C) Accessory uses; or

(D) Temporary uses.

(5) Procedure

The review procedure for a certificate of use and compliance shall be as follows:

(A) Step 1 – Application

The applicant shall submit an application and all required documents to the Zoning Division for a certificate of use and compliance.

(B) Step 2 – Zoning Division Review and Decision

**1.)** Within ten days of the application for a certificate of use and compliance, the Zoning Division shall schedule an inspection, where necessary, or review the application and approve or deny the application based on the provisions of this Code.

**2.)** In cases where the Zoning Division denies an application, it shall provide the applicant with written findings for the denial.

(6) Approval Criteria

In order to approve a certificate of use and compliance, the Zoning Division shall determine the following:

(A) That the use and structure comply with the zoning permit as issued and any applicable development approvals or conditions;

(B) That the use complies with all applicable provisions of this Code;

(C) That the use, structure, or tenant has gained all other necessary approvals prior to the issuance of the certificate of use and compliance; and

(D) That applicable review agencies have no objections that cannot be resolved by the applicant.

(7) Approvals Outside of the Certificate of Use and Compliance Required

(A) The following approvals and/or certificates shall be required prior to the issuance of a certificate of use and compliance:

**1.)** All required municipal, county, state, and federal approvals and/or certificates must be obtained for the proposed use, including any necessary fire inspection(s) by the Green Fire Division; and

**2.)** Any necessary approvals, permits, or certificates from County offices, including the Building Department, the Summit County Health Department (including any required septic approvals), the Summit County Department of Environmental Services (for sanitary sewer approval), the State of Ohio Environmental Protection Agency (OEPA) and the Federal Army Corps of Engineers.

(B) Written documentation of these approvals and/or certificates must be submitted to the Zoning Division prior to the issuance of the City's certificate of use and compliance.