

**ORDINANCE NO.:** 2009-21 (Amended October 13, 2009; October 27, 2009)  
**SPONSOR:** MAYOR NORTON  
**INTRODUCED:** SEPTEMBER 9, 2009

**PLANNING**

**AN ORDINANCE ADOPTING A NEW LAND DEVELOPMENT CODE FOR THE CITY OF GREEN; REPEALING AND REPLACING EXISTING CITY OF GREEN ORDINANCES; REPEALING INTERIM DEVELOPMENT CODE, AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Green retained McBride Dale Clarion to assist them in the development and implementation of a new Land Development Code; and

WHEREAS, the Land Development Code has been discussed, reviewed, amended and revised over the past two years; and

WHEREAS, it is also necessary to adopt an amended Zoning District Map; and

WHEREAS, the Planning and Zoning Commission reviewed the proposed Land Development Code at their meeting on August 20, 2009 and favorably recommended the acceptance of the new Land Development Code and amended Zoning District Map to City Council by a vote of 3-0; and

WHEREAS, it is necessary to repeal existing chapters of the City's Codified Ordinances and adopt the Land Development Code; and

WHEREAS, it is also necessary to repeal the Interim Development Code established by City Council by Resolutions 2005-R89 and 2008-R68; and

WHEREAS, the City also must adopt a new fee schedule for the fees and permits established by the new Land Development Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GREEN, COUNTY OF SUMMIT, AND STATE OF OHIO, THAT:**

**SECTION ONE:**

City Council repeals the following chapters of Green's Codified Ordinances to-wit:

1260	1262	1264	1265	1266	1268
1269	1270	1272	1273	1274	1276
1278	1280	1282	1284	1286	1288
1290	1292	1294	1296	1298	1460

**CITY COUNCIL ALSO REPEALS RESOLUTIONS 2005-R89 AND 2008-R68.**

**SECTION TWO:**

City Council adopts the following provisions and designates them as Chapter 1222 of Green's Codified Ordinances:



## **1222.01 Title**

The official title of these regulations shall be the "Land Development Code for the City of Green, Summit County, Ohio" and the same shall be referred to herein as "the Code."

## **1222.02 Purpose**

The code is adopted to secure and provide for the City of Green the following objectives:

- (1)** To promote the public health, safety, comfort, and welfare of the residents of the City of Green;
- (2)** To establish and maintain zoning districts in order to protect the property rights of all individuals by assuring the compatibility and efficient relationships of uses and practices within districts;
- (3)** To facilitate the provision of public utilities and public services;
- (4)** To provide the proper arrangement of streets or highways in relation to existing or proposed streets and highways (and the city's transportation plan);
- (5)** To promote orderly, efficient, and appropriate development of land;
- (6)** To provide uniform procedures and standards for observance by both the approving authority and the subdivider for the division, subdivision, and development of land;
- (7)** To provide standards and guidelines for compatibility of designs, materials, layout, landscaping, and effective use of land for quality commercial development;
- (8)** To provide reasonable and appropriate visual identification of commercial establishments;
- (9)** To ensure adequate provision of open space for light, air, and fire safety;
- (10)** To manage traffic via access points and other planning tools;
- (11)** To preserve and protect existing trees and vegetation, flood plains, stream corridors, and other areas of scenic and environmental significance from adverse impacts of land development;
- (12)** To provide guidelines for development of recreational uses;
- (13)** To require the adequate and safe provision of transportation, water, sewage, and drainage in the city; and
- (14)** To preserve the character and quality of residential neighborhoods.

### **1222.03 Authority**

The authority for the preparation, adoption, and implementation of this Code is derived from Ohio Revised Code (ORC) Chapters 711 and 713, which permit the adoption of uniform rules and regulations governing the zoning and subdivision of land.

### **1222.04 Effective Date**

This Code was adopted by City Council on October 27, 2009. This Code shall become effective 30 days after adoption by City Council.

### **1222.05 Compliance Required**

#### **(1) Compliance**

- (A) No building or structure shall be erected, constructed, enlarged, moved or structurally altered, except in conformity with all of the regulations herein specified as being applicable to such land or structure, nor shall any land, building, or structure be used, subdivided, or changed, except in compliance with all of the applicable regulations established by this Code.
- (B) Any new lots created after the effective date of this code must conform to the applicable requirements of this code unless allowed by Section 1222.10: Transitional Rules.
- (C) No yard or lot existing upon the effective date of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements herein established.

### **1222.06 Permits and Certificates Required**

- (1)** Permits or certificates issued on the basis of plans and applications approved by the agency having jurisdiction authorize only the use and arrangement set forth in such approved plans and applications and no other use, arrangement, or construction. Any other use, arrangement or construction, or failure to obtain an appropriate permit, certificate, or inspection, shall be deemed to be a violation of this Code, punishable under Chapter 1230: Violations and Penalties.
- (2)** Failure to construct in accordance with approved plans shall be deemed to be a violation of this Code, punishable under Chapter 1230: Violations and Penalties.

### **1222.07 Relationship to the Long Range Land Use Plan**

The administration, enforcement, and amendment of this Code should be consistent with the City of Green Long Range Land Use Plan, as amended and herein referred to as the "Land Use Plan." In the event this Code becomes inconsistent with the Land Use Plan, then this Code should be amended within a reasonable time so as to become or remain consistent with the Land Use Plan. Additionally, all amendments to this

Code should maintain and enhance the consistency between this Code and the Land Use Plan.

## **1222.08 Interpretation and Conflicts**

### **(1) Conflict with Other Public Laws, Ordinances, Regulations, or Permits**

- (A) In its interpretation & application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare.
- (B) Whenever the requirements of this Code conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, resolutions, or laws, the more restrictive, or that imposing the higher standard, shall govern.

### **(2) Conflict with Private Agreements**

- (A) Nothing in this Code is intended to invalidate any easement, covenant, deed restriction, or other private agreement. Where the regulations of this Code are more restrictive than such easement, covenant, deed restriction, or other private agreement, then the requirements of this Code shall govern.
- (B) In no case shall the City enforce the provisions of private easements, covenants, deed restrictions, or agreements between private parties.

## **1222.09 Sale of Land in a Subdivision**

No owner or agent of an owner of any land located within a subdivision shall transfer or agree to transfer ownership thereof in the future by reference to, exhibition of, or use of, a plan or plat of a subdivision before such plan or plat has been accepted, approved and recorded in the manner described in this Code. Any sale or transfer contrary to the provisions of this section is void. The description of such subplot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the provisions of this Code.

## **1222.10 Transitional Rules**

### **(1) Purpose**

The purpose of these transitional rules is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, on the effective date of this Code.

### **(2) Violations Continue**

- (A) Any violation of the previous versions of the City of Green Planning and Zoning Code, shall continue to be a violation under this Code and shall be subject to the penalties and enforcement set forth in Chapter 1230, Violations and Penalties:, unless the use, development, construction, or other activity complies with the provisions of this Code.
- (B) Payment shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered to be a violation under this Code.

**(3) Uses, Structures, and Lots Rendered Nonconforming**

Where any use, building, structure, or lot that legally existed on the effective date of this Code does not meet all standards set forth in this Code, such building, structure, or lot shall be considered nonconforming and shall be controlled by Section 1226.05: Nonconforming Uses.

**(4) Processing of Applications Commenced or Approved Under Previous Regulations**

**(A) Pending Applications**

- 1.) Any complete application that has been submitted or accepted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this Code, shall be reviewed in accordance with the provisions of the subdivision and zoning regulations in effect on the date the application was deemed complete by the City.
- 2.) If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be subject to the requirements of this Code.
- 3.) Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- 4.) An applicant with a pending application may waive review available under prior regulations through a written letter to the authority having jurisdiction and request for review under the provisions of this Code.

**(B) Approved Projects**

- 1.) Approved preliminary plans, improvement plans, final plats, planned developments, variances, conditional uses, zoning permits, or certificates of use and compliance that are valid on the effective date of this Code shall remain valid until their expiration date, where applicable.
- 2.) Any building or development for which a permit or certificate was granted prior to the effective date of this Code shall be permitted to proceed to construction, even if such building or development

does not conform to the provisions of this Code, as long as the permit or certificate remains valid.

- 3.) If the development for which the permit or certificate is issued prior to the effective date of this Code fails to comply with the time frames for development established for the permit or certificate, the permit or certificate shall expire, and future development shall be subject to the requirements of this Code.

## **1222.11 Separability**

- (1) If any court of competent jurisdiction invalidates any provision of this Code, then such judgment shall not affect the validity and continued enforcement of any other provision of this Code.
- (2) If any court of competent jurisdiction invalidates the application of any provision of this Code to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other building, structure, or situation not specifically included in that judgment.
- (3) If any court of competent jurisdiction judges invalid any condition attached to the approval of a development review application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

### **SECTION THREE:**

City Council adopts the following provisions and designates them as Chapter 1223 of Green's Codified Ordinances:

## **1223.01 Purpose**

The purpose of this chapter is to identify the authority of the review and decision-making bodies in the development review procedures as established in Chapter 1224, Development Review Procedures.

## **1223.02 Administration Generally**

The staff of the City's Planning Department, Zoning Division, the Mayor, City Council, the Planning and Zoning Commission, and the Board of Zoning Appeals shall administer this Code jointly as specified herein, except where specific authority is given to another City or County department or agency as set forth in this Code.

## **1223.03 The Mayor and City Council**

- (1) Powers and Duties

In addition to any other authority granted to the Mayor or City Council by charter, ordinance, or State law, the Mayor and City Council shall have the following powers and duties related to this Code:

- (A) Initiate, hear, review, and make decisions related to amendments to this Code;
- (B) Initiate, hear, review, and make decisions related to amendments to the Zoning District Map;
- (C) Appoint members of the Planning and Zoning Commission (PZC), the Board of Zoning Appeals (BZA), the Design Review Board (DRB), and to appoint the persons responsible for the administration and enforcement of this Code.
- (D) Establish fees for development review & permits; and
- (E) To hear, review, and confirm decisions on final plats and acceptance of public improvements as part of major subdivisions and general plans for planned developments.

## **1223.04 Planning and Zoning Commission (PZC)**

### **(1) Reference**

The Planning & Zoning Commission, established in the City of Green Charter shall be known and hereafter referenced in this code as the (PZC).

### **(2) Membership**

The members of the Planning and Zoning Commission (PZC), shall be appointed to five (5) year staggered terms. (Charter, Article VII, Section 7.5)

### **(3) Powers and Duties**

The Planning and Zoning Commission (PZC) shall have the following functions, powers and duties, exercisable in accordance with the procedures contained in this Code, Ohio Revised Code, and as established by the City Charter:

- (A) Initiate, hear, review, and make recommendations related to amendments to this Code;
- (B) Initiate, hear, review, and make recommendations related to amendments to the Zoning Map;
- (C) Hear, review, and make decisions on conditional use applications;
- (D) To interpret the boundaries on the Zoning Map, where questions with respect to zoning boundaries may have been raised, to carry out the intent and purpose of this Code. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the Zoning Map may be made to the PZC and a determination shall be made by the PZC, after formal public notice is given to adjacent and other

affected property owners pursuant to the procedure established in Section 1224.11: Appeals.

- (E) To hear, review, and make decisions on preliminary plans and make recommendations on final plats as part of major subdivisions.
- (F) To hear, review, and make decisions on minor subdivisions upon referral of the Planning Director
- (G) To hear, review, and make decisions on an appeal of the Planning Director's decision on a minor subdivision pursuant to Subsection 1224.05 (7).
- (H) To hear, review, and make decisions on site plans required in and pursuant to Section 1224.07: Site Plan Review.
- (I) To hear, review, and make decisions on applications to vary the terms of the land development standards (related to subdivision) of Chapter 1229, Development Standards, as part of a major subdivision review, when such variance will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the provisions of this Code will result in undue hardship, and so that the spirit of this Code shall be observed and substantial justice done. Such variances shall be made pursuant to Subsection 1224.06 (16).

#### **(4) Meetings**

All meetings of the PZC shall be open to the public and the PZC shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall be immediately filed in the office of the Planning Department and City Council and shall be a public record.

#### **(5) Bylaws**

The PZC shall, by a majority vote of its entire membership, adopt bylaws governing its procedures on such matters as officers, agendas, voting, quorum, order of business, and related matters as it may consider necessary or advisable, provided such bylaws are consistent with the provisions of this Code.

#### **(6) Action by the PZC**

Any action taken by the PZC shall have the supporting votes of the majority of the full membership of the PZC, regardless of the number of Commission members present.

### **1223.05 Board of Zoning of Appeals (BZA)**

**(1) Reference**

The Zoning Board of Appeals, established in the City of Green Charter, shall be known and hereafter referenced as the Board of Zoning Appeals (BZA) in this code.

**(2) Membership**

The members of the BZA, shall be appointed to five (5) year staggered terms by the Mayor per Green City Charter. (Charter, Article VII, Section 7.6)

**(3) Powers and Duties**

The Board of Zoning Appeals (BZA) shall have the following functions, powers, and duties, exercisable in accordance with the procedures contained in this Code, Ohio Revised Code, and as established by the City Charter::

**(A) Appeal**

To hear, review, and make decisions on appeals where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Code or any amendment adopted pursuant thereto. Such appeals shall be made pursuant to Section 1224.11: Appeals.

**(B) Variance**

To hear, review, and make decisions on applications to vary the terms of this Code, unless otherwise specified, when such variance will not be contrary to the public interest, where, owing to special conditions, literal enforcement of the provisions of this Code will result in undue hardship, and so that the spirit of this Code shall be observed and substantial justice done. Such variances shall be made pursuant to Section 1224.10: Variance.

**(4) Meetings**

- (A) All meetings of the BZA shall be open to the public and the BZA shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the Offices of the Zoning Division and City Council.
- (B) The Chairperson, or in his or her absence, the acting Chairperson may administer oaths, and the BZA may compel the attendance of witnesses.

**(5) Action by the BZA**

Any action taken by the BZA shall have the supporting votes of the majority of the full membership present at a hearing of the BZA.

**(6) Bylaws**

The BZA shall, by a majority vote of its entire membership, adopt bylaws governing its procedures on such matters as officers, agendas, voting, quorum, order of business, and related matters as it may consider necessary or advisable, provided such bylaws are consistent with the provisions of this Code.

**1223.06 Design Review Board (DRB)**

**(1) Establishment/Reference**

The Design Review Board (DRB) shall have the following functions, powers, and duties, exercisable in accordance with the procedures contained in this Code:

**(2) Membership**

(A) The DRB shall consist of five members, who shall be appointed as follows:

- 1.) The Mayor shall appoint one member. The term of the mayoral appointment shall be two years and a person appointed by the Mayor shall fill any expired or unexpired term of the mayoral appointment.
- 2.) The City Council shall appoint two members. The term of the council appointments shall be two years with one term scheduled to expire each year. Any expired or unexpired term shall be filled by an appointment by City Council.
- 3.) The City Engineer; and
- 4.) The Planning Director.

(B) Each appointed member shall be a registered architect, landscape architect, surveyor, professional engineer, or certified land planner or shall have significant experience in building design or construction, or a related field.

**(3) Powers and Duties**

The DRB shall have the power and duty, exercisable in accordance with the procedures contained in this Code, to review and make recommendations to the PZC on site plans pursuant to Section 1224.07: Site Plan Review.

**(4) Meetings**

The DRB shall hold at least one meeting annually, in January of each year, for the purpose of organizing. Additional meetings shall be held as agreed by the members and as required by this chapter.

- (A) Meetings shall be open to the public.
- (B) Attendance by a majority of the DRB members shall constitute a quorum for the conduct of business.
- (C) Recommendations and other actions shall be made by vote of the majority of the membership.

**(5) Bylaws**

The DRB shall, by a majority vote of its entire membership, adopt bylaws governing its procedures on such matters as officers, agendas, voting, quorum, order of business, and related matters as it may consider necessary or advisable, provided such bylaws are consistent with the provisions of this Code.

## **1223.07 Planning Department**

**(1) Establishment and General Powers and Duties of the Planning Department**

The Planning Department, established by City Charter, shall have the following general functions, powers and duties, exercisable in accordance with the procedures contained in this Code. The Planning Department shall include the Planning Director and any other personnel as shall be determined.

- (A) To establish application requirements and schedules for review of all development review applications, to review and make recommendations to the City Council, PZC, and DRB on all application for development approval considered by those public bodies, and take any other actions necessary to administer the provisions of this Code.
- (B) To review and make decisions on land disturbance permits pursuant to Section 1224.09: Land Disturbance Permit.
- (C) To review and make decisions on minor subdivisions pursuant to Section 1224.05: Minor Subdivision.
- (D) Unless otherwise noted, the Planning Director shall be responsible for administering, as prescribed by Section 1229.14: Flood Protection Standards.
- (E) The Planning Department shall prepare staff reports and recommendations for all development review procedures, except appeals, that require PZC, DRB, or City Council review and/or decision.
- (F) The Planning Department shall coordinate meetings related to this Code and provide support, expertise, and technical assistance to City Council, PZC, BZA, and DRB.

- (G) To maintain a record of all administrative and legislative proceedings under this Code as it pertains to the Planning Department. The Planning Department shall also be responsible for maintaining the official zoning map.

## **1223.08 Zoning Division**

### **(1) Establishment and General Powers and Duties of the Zoning Division**

The Zoning Division shall have the following general functions, powers and duties, exercisable in accordance with the procedures contained in this Code.

To review and make decisions on applications for all zoning permits and certificates of use and compliance.

- (A) Determine the existence of code violations and cause such notifications, revocation notices, stop orders or citations to be issued, or initiate such other administrative or legal action as needed, to address such violations.
- (B) The Zoning Division shall provide the necessary information **AND ADMINISTRATIVE SUPPORT** for meetings, hearings and record-keeping.
- (C) To maintain a record of all required administrative actions under this Code as it pertains to the Zoning Division.
- (D) To review and process applications as noted under Table 1224.1.
- (E) To conduct inspections of building locations, sites, site amenities, and uses to determine compliance with approved plans and requiring corrective action when applicable.
- (F) To issue Certificate of Use & Compliance permits and ensure compliance with applicable codes.

### **SECTION FOUR:**

City Council adopts the following provisions and designates them as Chapter 1224 of Green's Codified Ordinances:

## **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.
- (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.

*Chapter 1224: Development Review Procedures*  
*Section 1224.02: Summary Table of Development Review Procedures and Development Review Authority*

Text or Map Amendment	Sec. 1224.04	H-D	M-R	R	Planning Department	Zoning Division
Minor Subdivision	Sec. 1224.05		M-D [1]		R-D	R[2]
Major Subdivision - Preliminary Plan	Sec. 1224.06		M-D		R	
Major Subdivision - Final Plat	Sec. 1224.06	M-D	M-R		R	
Variance of Land Development Standards (Major Subdivisions) (16)	Sec. 1224.06		H-D		R	
Site Plan Review (including all Freestanding Signs)	Sec. 1224.07		M-D	R	R	
Conditional Use Permit	Sec. 1224.08		H-D		R	
Land Disturbance Permit	Sec. 1224.09				R-D	
Variance - general	Sec. 1224.10			H-D		R
Appeals	Sec. 1224.11			H-D		[3]
Zoning Permit (Signs)	Sec. 1224.14					D
Certificate of Use and Compliance	Sec. 1224.15					D
Floodplain Permits	Sec. 1224.16				R-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 Section 1224.03 (6).

#### **(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 ten 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

**Chapter 1224: Development Review Procedures**  
**Section 1224.03: Common Application Requirements**

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.

<i>Text or Map Amendment</i>	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 <u>only</u> 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,

*Chapter 1224: Development Review Procedures*  
*Section 1224.03: Common Application Requirements*

			and directly across the street of the subject property
<i>Conditional Use Permit</i>	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.
<i>Variance</i>	Zoning Division	Published notice required a minimum of ten days before the BZA hearing.	
<i>Appeals</i>	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): Notice Requirements.

**(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), 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 (PUDs), 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 Subsections 1224.04 (4) and (6).

- (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(f)(1), and all on-site (and off-site, if applicable) improvement plans, pursuant to Subsection 1224.06(f)(2). The bonding requirements of Subsections 1224.06(8) and 1224.06(9) 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 Subsections 1224.04 (4) and (6).

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), 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) and be subject to the approval criteria set forth in Subsection 1224.05(6) 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), 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), 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 meet all applicable provisions of this Code.
  - b.) A letter from the Summit County Health Department indicating subplot 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 Section 1229.01 (13), where it appears that the requirements of Section 1229.01 (13) 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 Section 1229.01 (13) 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) 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**

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. **A Land Disturbance Permit may be issued if all criteria for its issuance are approved. 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).

**(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.**
  - a.) 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.
  - b.) 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.**
  - c.) 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

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.

3.) 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, 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 (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 Sections 1229.01, 1229.02, 1229.03, and 1229.04 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.
  - 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 subplot 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' of proposed site.
- (E) The City Council may support variances affecting required improvements upon approval by 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), 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 1228.08, 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, 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), 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), 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), 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 paragraph (5).
- 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), 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).
- 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 be 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**

- (A) No variance shall be valid for a period longer than ~~twelve~~ 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).
- 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), 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 ~~twelve~~ months and shall not be invalidated by a change in zoning during that period.
- (B) A permit shall expire at the end of ~~twelve~~ 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 Section (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), 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).
  - 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 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**

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

- (A) 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

- (B) 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.
- (C) 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.

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**SECTION FIVE:**

City Council adopts the following provisions and designates them as Chapter 1225 of Green's Codified Ordinances:



**1225.01 Purpose**

The purpose of this chapter is to establish zoning districts in order to realize the general purposes set forth in this Code, to provide for orderly growth and development and to protect the property rights of all individuals by assuring the compatibility of uses and practices within districts.

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**1225.02 General Provisions**

**(1) Establishment of Districts**

For the purpose of this Code, the City is hereby divided into the zoning districts listed in Table 1225-1:

R-R	Rural Residential District
R-1	Single-Family Residential District
R-2	Multi-Family Residential District
B-1	General Business District
B-2	Professional Office District
B-3	Neighborhood Business District
B-4	Highway Business District
B-5	Airport Commerce District
I-1	General Industrial District
PD	Planned Development

**(2) Incorporation of the Zoning Map**

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- (A) The boundaries of the zoning districts are indicated upon the map of the City, which shall be known as the Zoning Map of the City of Green, Ohio, and which shall hereafter be referred to as the Zoning Map.
- (B) The Zoning Map, together with all notations, references, and other matters shown thereon, is hereby declared to be a part of this Code, thereby having the same force and effect as if herein fully described in writing.
- (C) The Zoning Map shall be available in the Planning Department and Zoning Division Offices.

**(3) Interpretation of District Boundaries**

The following rules shall be used to interpret the precise location of any zoning district boundary illustrated on the Zoning Map:

- (A) All zoning district boundaries proposed after the effective date of this Code shall follow lot lines or street centerlines to the maximum extent feasible.
- (B) For zoning district boundaries that existed prior to the effective date of this Code, the following rules shall apply:
  - 1.) Where district boundaries are so indicated as approximately following the centerlines of thoroughfares or highways, street lines or highway right-of-way lines, such centerlines shall be construed to be such boundaries.
  - 2.) Whenever any street or public way is vacated by official action of Council, the zoning districts adjoining each side of the street or public way shall be automatically extended to the center of such vacations, and all areas included in the vacation shall thereafter be subject to all regulations of the extended districts.
  - 3.) Where a zoning line does not follow a street, alley, or lot line, the district boundary lines shall be determined by the use of the scale appearing on the Zoning Map or by dimensions.

**(4) Existing Planned Developments**

Any planned development approved prior to the effective date of this Code shall continue in accordance with the approved general plan(s) and final site plan(s). Modifications, amendments, and expansion of existing planned developments shall be in accordance with Subsection 1224.04 (6).

**(5) Relationship of Overlay Zoning Districts**

Where land is classified into an overlay district as well as a base zoning district, the regulations governing development in the overlay district shall apply in addition to the regulations governing the underlying base district. In the event of an express conflict between the standards of the overlay zoning

district and the base zoning district, the standards governing the overlay district shall control.

### **1225.03 Zoning Districts**

The following is a list of the individual zoning districts and the specific purpose statement for each district.

**(1) R-R – Rural Residential District**

The R-R Rural Residential District is established to accommodate single-family residential development at a density characteristic of a rural area in order to preserve the natural environment and to provide alternatives for conservation open space residential subdivisions. Alternative subdivision designs are encouraged to protect and establish permanent open space.

**(2) R-1 – Single Family Residential District**

The R-1 Single Family Residential District is established to accommodate single-family and two-family residential development and maintain a density of development that will preserve the natural environment. Minimum area regulations are commensurate with the availability of water, proper provisions for satisfactory sanitation facilities and other conservation values. Alternative subdivision designs are encouraged to protect and establish permanent open space.

**(3) R-2 – Multi-Family Residential District**

The R-2 Multi-Family Residential District is designed to accommodate attached and detached dwellings at moderate densities. The purposes of this district are to provide for higher density residential development, in locations served by sanitary sewer, and public water services, which offer a greater choice of living environments; to regulate the bulk and location of buildings in relation to the land in order to obtain proper light, air, privacy, and useable open spaces; to regulate the location of higher density developments in order to maintain adequate services; and to promote and protect the desirable characteristics of the existing residential development. This district may be appropriate for areas designated as “transitional areas” in the Long Range Land Use Plan.

**(4) B-1 – General Business District**

The B-1 General Business District is established to accommodate a wide range of commercial development, along with outdoor storage and display, in select areas, so as not to disrupt and intrude upon residential areas. The purposes of this District are to promote, upgrade, and maintain the functional and aesthetic qualities of the district through the use of site plan review, and to protect the residential character of adjacent areas.

**(5) B-2 – Professional Office District**

The B-2 Professional Office District is designed to provide an environment exclusively for and conducive to the development of professional services and other office uses in locations which are served by arterial roadways. The regulations contained in this chapter are established to protect and ensure compatibility with adjacent residential development. This district may be appropriate for areas designated as “transitional areas” in the Long Range Land Use Plan.

**(6) B-3 – Neighborhood Business District**

The purpose of the B-3 Neighborhood Business District is to allow for small-scale retail commercial uses and personal service uses designed to serve nearby residential neighborhoods. Business in the B-3 District shall accommodate such service and retail uses by maintaining the characteristics of the surrounding residential uses and providing appropriate buffers to minimize or eliminate impacts on the residential uses. This district may be appropriate for areas designated as “transitional areas” in the Long Range Land Use Plan.

**(7) B-4 – Highway Business District**

The B-4 Highway Business District is designed to accommodate commercial activities that draw business primarily from a regional market area and provide services primarily to motorists. The B-4 District is designed to accommodate land that is typically associated with interstate travel. The regulations contained in this chapter are established to protect the health, safety and welfare of the properties within and adjacent to the District and to ensure the availability of suitable areas for the permitted uses by prohibiting unrelated uses in such areas.

**(8) B-5 – Airport Commerce District**

The B-5 Airport Commerce District is designed to accommodate business activities that can provide services related to airport users including, but not limited to, hotels, car rental facilities, and restaurants. The B-5 District is also designed to accommodate offices, public facilities, industrial uses, and uses not related to the airport that will not create an impact on the airport operations **and are deemed a compatible use.**

**(9) I-1 – General Industrial District**

The I-1 General Industrial District is established to provide for industrial uses which are generally major operations and extensive in character for the purpose of repairing, storing, manufacturing, processing or distributing goods. Such uses require large sites, open storage and service areas, extensive services and facilities and ready access to regional transportation, and normally generate some nuisances, such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the District boundary.

Such operations shall be in locations remote from existing or proposed residential areas.

**(10) PD – Planned Development District**

The PD Planned Development District is established to accommodate, in a unified development, creative and imaginative planned community design and to permit those innovations in the technology of land development that are in the best interests of the City. It is the purpose of this district to:

- (A)** Provide maximum opportunity for orderly, large-scale developments which benefit the community as a whole by offering a greater choice of living environments and commercial activities through both residential and commercial uses;
- (B)** Provide greater flexibility in the spacing of lots and buildings in order to encourage the following:
  - 1.) Provide for pedestrian and vehicular circulation in a safe manner;
  - 2.) Provision of readily accessible recreation areas and green spaces;
  - 3.) Conservation of the natural amenities of the landscape; and
  - 4.) Creation of functional and interesting residential, business, and mixed-use areas
- (C)** Permit suitable associated commercial development consistent with the demand created by planned residential development and compatible with the existing and proposed use of lands adjacent to the planned development;
- (D)** Encourage sound planning principles in the arrangement of buildings, the preservation of open space, the utilization of topography and other site features; and
- (E)** Allow for creative development that conforms to the goals and objectives set forth in the City of Green Long Range Land Use Plan.

**1225.04 Allowed Uses**

- (1)** Table 1226-1 lists the permitted and conditional uses within all zoning districts. Use-specific standards for permitted and conditional uses are provided in Section 1226.02: Use-Specific Regulations.
- (2)** Table 1226-2 lists the accessory uses, as permitted or conditionally permitted, in all zoning districts. Use-specific standards for accessory uses are provided in Subsection 1226.03(5): Use-Specific Standards.
- (3)** Table 1226-3 lists the temporary uses allowed within all zoning districts.

**1225.05 Site Development Standards**

- (1) Section 1227.02: Site Development Standards for Residential Districts provides development standards applicable to sites within residential districts.
- (2) Section 1227.03: Open Space Residential Subdivisions provides development standards applicable to open space subdivisions in the R-R and R-1 Districts.
- (3) Table 1227-8 lists the site development standards for conditional uses in the R-R and R-1 Districts.
- (4) Table 1227-9 lists the site development standards for commercial districts.
- (5) Chapter 1228: Planned Development Regulations provides development standards applicable to Planned Development Districts.

**SECTION SIX:**

City Council adopts the following provisions and designates them as Chapter 122 of Green's Codified Ordinances:

## **1226.01 Table of Allowed Uses**

Table 1226-1 below lists the uses allowed within all zoning districts. Each of the listed uses is defined in Chapter 1231, Definitions and Rules of Construction.

**(1) Explanation of Table Abbreviations and Columns**

**(A) Permitted Uses (P)**

A "P" in a cell indicates that a use is permitted by-right in the respective zoning district. Permitted uses are subject to all other applicable regulations of this Code, including the use-specific standards set forth in this Chapter and the development standards of Chapter 1227, Site Development Standards and Chapter 1229, Development Standards.

**(B) Conditional Uses (C)**

A "C" in a cell indicates that, in the respective zoning district, a use is permitted if reviewed and approved as a conditional use pursuant to Section 1224.08: Conditional Use Permit. Conditional uses are subject to all other applicable regulations of this Code, including the use-specific standards set forth in this Chapter and the development standards of Chapter 1227, Site Development Standards and Chapter 1229, Development Standards.

**(C) Prohibited Uses (Shaded Cells)**

A shaded cell indicates that the listed use is prohibited in the respective zoning district.

**(D) Additional Regulations**

Regardless of whether a use is permitted by-right or permitted as a conditional use, there may be additional regulations that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of Table 1226-1. These standards apply in all districts unless otherwise specified.

**(E) Unlisted Uses**

- 1.) 1.) If a zoning permit, site plan review, or a certificate of use and compliance application is submitted for a use that is not listed in Table 1226-1, the Planning Director is authorized to classify the new or unlisted use into an existing land use category that most closely fits the new or unlisted use. The Planning Director may consult with the PZC and obtain a motion of concurrence or objection to the use classification through the PZC hearing process.
- 2.) 2.) If no similar use determination can be made, the Planning Director shall refer the use to the PZC who may initiate an amendment to the text of this Code to clarify where and how the use should be permitted.

Uses	B-1	B-2	B-3	B-4	B-5	B-6	B-7	B-8	B-9	B-10	Additional Regulations
<b>Agriculture</b>											
Agriculture – animal husbandry and keeping of livestock	P	P							C	P	Sec. 1226.02(2)
Agriculture – raising of crops	P	P	P	P	P	P	P	P	P	P	
Nurseries and greenhouses				P		C	C	C	P		
<b>Residential</b>											
Adult family homes (3 to 5 adults)	PC	PC	PC								
Adult group homes (6 to 16 adults)			C								
Nursing homes and assisted living facilities			C	C						P	Sec. 1226.02(10)
Open Space Subdivisions	P	PC	C							P	
Single-Family dwellings	P	P	P							P	
Two-family dwellings		C	P							P	
Multi-Family dwellings			P							P	
<b>Commercial</b>											
Airport and airport related facilities									P		
Automotive body repair			C			C					
Automotive car washes			P			P	P				

**Chapter 1226: Use Regulations**  
**Section 1226.01: Table of Allowed Uses**

Uses	1	2	3	4	5	6	7	8	9	10	Additional Regulations	
<i>P = Permitted</i> <i>C = Conditional</i>												
Automotive fuel sales				P		C	P	P		P	Sec. 1226.02(3)	
Automotive rental				P			P	P	P			
Automotive repair and service & body repair				P			P	P	P		Sec. 1226.02(3)	
Automotive sales				P		C	P	P				
Banquet halls				P			P	P		P		
Bars and taverns				P		C	P	P		P		
Bed and breakfast establishments	C	C	C							P		
Day care centers				P	P	P			C	C	P	Sec. 1226.02(5)
Day care home, Type A (7 to 12 children, or 4 to 12 children when 4 or more are under two years old)				C	C	C				C		Sec. 1226.02(5)
Day care home, Type B (1 to 6 children, no 3 children are under two years old)	P	P	P							P		
Drive-through facilities				C		C	P	P		P		
Financial institutions				P	P	P	P	P		P		
Funeral homes				P	C	C	P	P	P			
Hotels and motels				P			P	P		P		
Recreation and indoor entertainment facilities				P			P	P	P	P		
Kennels				P					C	P		Sec. 1226.02(8)
Medical and dental offices				P	P	C	P	P	C	P		
Offices				P	P	C	P	P	P	P		
Parking lots/Decks	C	C	P	P	P	P	P	P	P	P		
Personal service establishments				P	C	C	P	P		P		
Research facilities and laboratories							P	P	P	P		
Restaurants				P	C	C	P	P	P	P		
Retail and service commercial uses				P	C	C	P	P		P		
Self-storage facilities				C					C	P		Sec. 1226.02(11)
Sexually oriented businesses							P					Sec. 1226.02(12)
Social clubs and fraternal organizations				P		C	P	P		P		
Theaters				C			P	P		P		
Veterinarian clinics				P	C	C	P	P	P			
Wireless telecommunications towers	C	C	C	C	C	C	C	C	C	C		Sec.

Uses	1	2	3	4	5	6	7	8	9	10	11	Additional Regulations
												1226.02(13)
<b>Industrial Uses</b>												
Distribution facilities, truck terminals, and warehouses							C	P	P			
Heavy industrial uses								C	C			
Light industrial uses								P	P			
Mineral extraction	C	C	C	C	C	C	C	C	C	C		Sec. 1226.02(9)
<b>Public Uses</b>												
Active parks, playgrounds and recreational facilities	C	C	C	P	P	P	P	P	P	P	P	Sec. 1226.02(1)
Cemeteries	C	C	C	C	C	C	C	C	C	C	P	Sec. 1226.02(4)
Community centers and clubhouses	C	C	C	P	C	C	P	P	P	P	P	
Educational facilities (public or private)	C	C	C	P	C	C	P	P	P	P	P	Sec. 1226.02(6)
Public and private utility services	P	P	P	P	P	P	P	P	P	P	P	
Governmental offices and facilities	C	C	C	P	P	P	P	P	P	P	P	1226.02(7)
Hospitals and clinics				P			P	P	P	P	P	
Libraries, museums, galleries, and cultural centers	C	C	C	P	P	P	P	P			P	
Passive parks and conservation areas	P	P	P	P	P	P	P	P	P	P	P	
Public safety/service facilities	C	C	C	P	C	C	P	P	P	P	P	1226.02(7)
Religious places of worship	C	C	C	C	C	C	C	C	C	C	P	

## 1226.02 Use-Specific Regulations

### (1) Active Parks, Playgrounds, and Recreational Facilities

The following regulations shall apply to when the principal use of a lot is an active park, playground, or recreational facility:

- (A) Unless otherwise approved by the PZC, active parks and playgrounds which include outdoor play areas, tot lots, or activity centers designed to be used by children under eight years of age shall be fully enclosed by a fence subject to approval by the PZC.
- (B) All structures shall be located at least 25 feet from all property lines or as approved by the PZC.

- (C) Vehicle access points of entrance or exit shall be located a minimum of 200 feet from the intersection of two major thoroughfares, or a minimum of 100 feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (D) Retail business uses shall be only those customarily accessory or incidental to the main recreational use, such as refreshment, souvenir, and concession stands.
- (E) The minimum gross lot area or portion of a lot required for golf courses, country clubs, horse riding academies, and campgrounds for camping in tents, travel trailers and other vehicles, cabins or lodges, including day camps, summer camps and health camps, shall be subject to review by the PZC.
- (F) Active parks, playgrounds, and recreational facilities within a subdivision or PD District shall require review and approval by the PZC.

**(2) Agricultural Uses-Animal Husbandry and Keeping of Livestock**

A lot may be used for agricultural purposes in accordance with the following regulations:

- (A) The minimum area of a lot for animal and poultry husbandry shall be five acres.
- (B) Apiculture, horticulture, floriculture, and viticulture shall be permitted on any size lot, however, buildings and structures accessory to an agricultural use shall be on a lot with a minimum area of five acres.
- (C) Dwellings shall conform to the minimum site development requirements for the applicable zoning district.
- (D) All structures used for keeping of farm animals, fowl, fur-bearing animals, horses, and/or ponies shall be set back a minimum of 20 feet from the property line.

- (E) Fenced enclosures for the keeping of farm animals, fowl, fur-bearing animals, horses and/or ponies closer than 5 feet from any lot line may be approved by the PZC as a conditional use according to the procedures, review criteria, and public hearing requirements set forth in Section 1224.08: Conditional Use Permit under the following conditions:
- 1.) The fenced enclosures shall be located a minimum of 50 feet from any existing dwelling except for a dwelling on the same lot as the fenced enclosure; or
  - 2.) Neighboring property owners within 100 feet shall be notified, in writing, when the proposed placement of the fence is less than five feet from the property lines.

**(3) Automotive Fuel Sales and Automotive Repair and Service Facilities**

In addition to the applicable provisions of this chapter, automotive fuel sales and automotive repair and service facilities shall comply with the following:

- (A) Automotive fuel sales and automotive repair and service facilities that are located on a corner lot shall have a minimum of 150 feet frontage on each street to allow for adequate ingress and egress without creating congestion at an intersection;
- (B) Fuel pumps and related driveways and paved areas may be erected in a front yard, but not less than 30 feet from an existing or proposed street right of way, except for lots with frontage on Massillon Road or Arlington Road, in which case the minimum distance shall be 40 feet from the right-of-way line.
- (C) A canopy may be constructed over the pump island, provided that the canopy shall extend no closer than 20 feet from an existing or planned right of way, except for lots with frontage on Massillon Road or Arlington Road, in which case the minimum distance shall be 30 feet from the right-of-way line.
- (D) If repair or service activities are performed on a vehicle, such vehicle shall be entirely within a building.
- (E) Outdoor sales, displays, and storage shall be in conformance with Section 1229.12: Outdoor Sales, Displays, and Storage.
- (F) On a corner lot, access drives shall be placed as far from the intersection as possible and shall be limited to no more than one access drive per fronting street.

**(4) Cemeteries**

The lot or the area of a lot proposed for a cemetery shall be used for cemetery purposes only and shall meet the following requirements:

- (A) A new cemetery shall have a minimum area of 20 10 acres. Expansion of an existing cemetery is exempt from this requirement.

- (B) The required building setback for all structures, including mausoleums and maintenance garages, shall be 25 feet from any property line.
- (C) Graves and burial lots shall be located no less than 15 feet from all property lines.
- (D) There shall be access to a collector street so that residential neighborhoods are not burdened by funeral processions.
- (E) For private cemeteries, the owner shall demonstrate to the PZC that there is adequate administrative and financial capacity to ensure perpetual maintenance and operation of the cemetery.

**(5) Day Care Centers and Type A Day Care Homes**

- (A) Outdoor play areas, tot lots, or activity centers designed to be used by children under eight years of age shall be fully enclosed by a fence subject to approval by the PZC.
- (B) The parking and circulation plan shall include a drop-off/pick-up point for children.
- (C) In residential districts, Type A day care homes shall meet the minimum applicable site development standards established in Chapter 1227, Site Development Standards.

**(6) Educational Facilities**

Educational facilities, which have outdoor play areas, tot lots, or activity centers designed to be used by children under eight years of age shall ensure that the activity areas are fully enclosed by a fence subject to approval by the PZC.

**(7) Governmental Offices and Facilities and Public Safety/Service Facilities**

Governmental offices and facilities, and public safety/service facilities, shall meet the minimum site development standards established for the applicable zoning district.

**(8) Kennels**

In addition to the applicable provisions of this chapter, kennels shall comply with the following:

- (A) All structures and activities related to the subject kennel use shall be located a minimum distance of 50 feet from side and rear property lines, except that when located adjacent to a residential district, the following additional restrictions shall apply:
  - 1.) All non-soundproofed structures or areas where animals are confined shall be located a minimum distance of 250 feet from any residential district.

- 2.) Soundproofed, air-conditioned buildings shall be located a minimum distance of 100 feet from any residential district.
- (B) All non-soundproofed structures for the confinement of animals shall be screened by a solid fence or wall a minimum of six feet in height located within 50 feet of the structure.
  - (C) Animals shall be confined in an enclosed building between the hours of 10:00 p.m. and 6:00 a.m.
  - (D) There shall be no burial or incineration of animals on the premises.

**(9) Mineral Extraction**

Mining, soil, sand and gravel removal and processing **may** be conditionally permitted in all zoning districts (except PD districts) provided that all proposed uses and the continuation through expansion of existing mining and extracting uses shall, at a minimum, meet the following conditions and limitations:

- (A) There shall be a minimum setback of 150 feet from all lot lines, outside of the site where the mineral extraction is taking place, within which there shall be no disturbance of land and no mineral extraction. This setback may be reduced to 100 feet along lot lines that have frontage on a public right-of-way.
- (B) All points of entrance or exit shall be located a minimum of 200 feet from the intersection of two major thoroughfares, and/or a minimum of 200 feet from the intersection of a major thoroughfare and a local or collector street.
- (C) Site locations should be preferred that offer natural or man-made barriers that would lessen the effect of intrusion into an area.
- (D) Truck routes shall be established for movement in and out of the development in such a way as to minimize the wear on public roads and prevent hazards and damage to other properties in the community.
- (E) Any temporary structures must be indicated as such on site plans submitted to the PZC for approval. Such structures shall not be continued as permanent structures. The period of continuance shall be set by the PZC. **A temporary use permit for each structure shall be issued by the Zoning Division.**
- (F) Truck parking areas, maneuvering lanes and accessways to public roads shall be designed to cause no interference with the safe and convenient movement of automobile and pedestrian traffic on, and adjacent to, the site, and shall be built and paved or treated to prevent the creation of dust and drainage problems.
- (G) All facilities, structures and activities shall meet all County and/or State health, building, electrical and other applicable codes. In cases of overlapping codes and/or jurisdictions, the more restrictive shall apply.

- (H) The area being mined or excavated shall be enclosed by a fence six feet or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespass and shall be placed no closer than 50 feet to the top or bottom of any slope.
- (I) No sand or gravel shall be removed or stored, or overburden stored, within 100 feet of any lot line not owned or controlled by the developer or operator of the business, or his or her agent, nor shall such mineral extraction business be conducted closer to any lot line or road so that areas contiguous and adjacent thereto do not have adequate lateral support.
- (J) Equipment and trucks shall be operated no earlier than 7:00 a.m. nor later than 8:00 p.m., except on Sundays and holidays, when there shall be no equipment operations.
- (K) Asphalt, cement or resins shall not be brought to the site to be processed, nor shall any stone, gravel or sand or another resource not extracted from the site be processed at the site.
- (L) A conditional zoning permit shall pertain to a specific site and acreage covered by the performance guarantees. Expansion shall require a new or renewed conditional zoning permit, which may be applied for any time prior to the 12-month expiration date of the current certificate.
- (M) A plan showing provisions for control of erosion and sedimentation during and after the development, construction, extraction or other use of the site shall be prepared. Such plan shall show proposals for restoration, rehabilitation and reclamation, where necessary, and shall be accompanied by documentation indicating the review and recommendation on such plan by the County Soil and Water Conservation District, the Division of Lands and Soil of the Department of Natural Resources, or other competent agency or soils scientist.
- (N) Effective erosion and sediment controls shall be planned and applied according to the following principles:
  - 1.) The smallest practical area of land should be exposed at any one time during development, construction, extraction or other use.
  - 2.) When land is exposed during development, use, extraction, etc., the exposure should be kept to the shortest practical period of time.
  - 3.) Temporary vegetation and/or mulching shall be used to protect critical areas exposed during development, use, etc.
  - 4.) Sediment basins (debris basins, desilting basins or silt traps) shall be installed and maintained to remove sediment from run-off waters from land undergoing development, use, etc.
  - 5.) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development, use, etc.

- 6.) The permanent final vegetation and structures shall be installed as soon as practical in the development, use, restoration, rehabilitation, etc.
  - 7.) The development, extraction or use plan shall be fitted to the topography and soils so as to create the least erosion potential.
  - 8.) Wherever feasible, natural vegetation should be retained and protected.
  - 9.) All excavations shall be made to either a water producing depth, such depth to be not less than five feet below the low water mark, or shall be graded or backfilled with non-noxious, nonflammable and noncombustible solids, to secure:
    - a.) That the excavated area shall not collect and permit to remain therein stagnant water; or
    - b.) That the surface of such area which is not permanently submerged is graded or backfilled as necessary to reduce the peaks and depressions thereof so as to produce a gently running surface that will minimize erosion due to rainfall and which will be in substantial conformity to the adjoining land area. The banks of all excavations shall be sloped to the water line at a slope which shall not be greater than three feet horizontal to one foot vertical, and said bank shall be needed.
- (O) **A Conditional Use Certificate issued for mineral extraction purposes shall be issued for a period of no less than six months nor more than twelve consecutive months, subject to renewal for NO MORE THAN an additional six-to-twelve month period, provided that the Mayor and/or City Council is satisfied that the holder of the Conditional Use Certificate is complying with the City of Green's zoning code, and with all conditions set forth in the Conditional Use Certificate.**

**Regarding all Conditional Use Certificates issued pursuant to Section 1224.08, if either the Mayor or City Council determines that the holder of the Conditional Use Certificate is violating the zoning code or any of the conditions set forth in the Conditional Use Certificate, the Mayor or City Council may authorize the Law Director to immediately notify the Certificate Holder of the violation(s) and demand the Certificate Holder to remedy the violation(s) within ten (10) calendar days of the date of the notice. The Mayor and City Council shall also have the authority to request the Law Director immediately institute legal action for a temporary restraining order and/or preliminary injunction against the Certificate Holder to cease operations until such time that the Certificate Holder proves that they are conducting operations in compliance with the City of Green's zoning code and any conditions set forth in the Conditional Use Certificate.**

In addition to the right to seek injunctive relief, the City of Green may also assess a fine in the amount of one hundred dollars (\$100.00) for each day a violation of the Conditional Use Certificate exists and/or continues up to a maximum fine of ten thousand dollars (\$10,000.00).

- (P) A bond or other financial provision acceptable to Council guaranteeing performance according to plan and the removal from the site, after termination of operations, of any abandoned equipment and accessories, shall be submitted to Council, in an amount per acre, or fraction thereof, of not less than \$2,500, and in a total amount of not less than \$25,000. The amount of the bond or guarantee shall be sufficient to ensure rehabilitation for the number of acres planned for operations during at least the ensuing twelve consecutive months. Such bond shall be of the type recognized in the State.
- (Q) The conditions and limitations provided in this subsection, as well as others deemed necessary by the PZC, shall be specified as conditions for the issuance of a conditional Zoning Permit and shall be so specified on the certificate.

**(10) Nursing Homes and Assisted Living Facilities**

Nursing homes and assisted living facilities may be permitted, provided that:

- (A) The minimum lot area shall be two acres.
- (B) All structures and activities shall be set back a minimum of 50 feet from all lot lines.
- (C) The density shall not exceed 18 patient rooms per acre.
- (D) All site entrance and exit drives shall be located a minimum of 200 feet from the intersection of two main roads and a minimum of 100 feet from main road and local road intersections.

**(11) Self-Storage Facilities**

In addition to the applicable provisions of this chapter, self-service storage facilities shall comply with the following:

- (A) All items shall be stored within a building.
- (B) Buildings shall not exceed one story, with a maximum overall height of 22 feet.
- (C) No door shall exceed 15 feet in either height or width.
- (D) Access to the facility shall be limited to one entrance and one exit per abutting street.
- (E) Loading and unloading of storage units shall be oriented towards the side and rear lot lines.

**(12) Sexually Oriented Business**

- (A) A sexually oriented business may only be located in the B-4 District.
- (B) A sexually oriented business may be located only in accordance with the following restrictions:
  - 1.) No such business shall be located on any parcel within 500 feet of any residential zoning district;
  - 2.) No such business shall be located on any parcel within 1,000 feet of any public library, public or private educational facility, public park, or religious place of worship;
  - 3.) No such business shall be located on any parcel within 1,000 feet of another sexually oriented business.
- (C) For purposes of Subsection (B) above, the measurement of distance shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a religious place of worship or public or private educational facility, or to the nearest boundary of an affected public park, residential zoning district or residential lot.
- (D) For purposes of Subsection (B) above, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- (E) No person shall establish, operate or cause the establishment or operation of any sexually oriented business in violation of the provisions of this section. Nothing in this section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video material, or any live performance, which, taken as a whole, contains serious literary, artistic, political, medical, educational or scientific value.

**(13) Wireless Telecommunications Towers**

**(A) General**

All new construction, or the placement of equipment related to wireless telecommunications shall conform to the regulations of the district in which it is located and to the additional development standards and supplementary regulations contained herein.

**(B) Construction Standards**

Proposed new telecommunications towers shall comply with the following development standards. Wireless telecommunications towers/facilities are permitted as a sole use on a lot or when combined with another use, subject to all existing regulations in each district and the following:

- 1.) The tower must be set back from any property line or any existing structure on lots adjacent to the lot on which the tower is to be located by a distance equal to the vertical height of the tower.
- 2.) The tower must not exceed a height of 150 feet (including antenna) if designed for use by a single user; 175 feet if designed for use by two co-users; and 200 feet if designed for use by three co-users. Due to the proximity of the Akron-Canton Airport, all wireless telecommunications towers must also receive Federal Aviation Administration (FAA) clearance and concurrence of the FAA decision by the Airport Director before construction may proceed.
- 3.) The maximum size of the equipment shelter shall be 300 square feet, or, if there is more than one shelter, a total of 750 square feet.
- 4.) When a wireless telecommunications tower/facility is to be located on a property with an existing use:
  - a.) The existing use need not be affiliated with the wireless telecommunications provider.
  - b.) The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
  - c.) The service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.
  - d.) Security fencing, eight feet in height, shall surround the tower, the equipment shelter and any guy wires, either completely or individually, as determined by the PZC.
- 5.) A vegetative screen shall be planted that consists of one row of a mixture of evergreen and deciduous trees or privet hedge planted five feet on center maximum. A landscaping plan is required to be submitted that indicates how the wireless telecommunications facility will be screened from adjoining properties.
- 6.) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- 7.) Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a mile of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within sixty days. The applicant shall present proof of mailing as well as responses to the PZC as a means of demonstrating the need

for a new tower. If a contacted wireless service provider fails to respond to a written request for co-location from the applicant within 60 days, the PZC may accept the non-response as proof that co-location on an existing tower is not feasible.

- 8.) No advertising is permitted anywhere on the facility, with the exception of identification signage.
- 9.) "No Trespassing" signs shall be posted around the facility, with a telephone number of who to contact in the event of an emergency.
- 10.) Applicants will provide evidence of legal access to the tower site and maintain this access regardless of other developments that may take place on the site.
- 11.) No tower shall be artificially lighted except to assure safety or as required by the Federal Aviation Administration (FAA). Security lighting around the equipment shelter is prohibited, unless specifically requested by the applicant and a need is proved to the PZC.
- 12.) The tower shall be painted a neutral tone, i.e. desert sand/khaki, so as to minimize its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the FAA.
- 13.) Any application to locate an antenna on a building or structure that is listed in the City's Inventory of Historic Structures shall be subject to review by the Historic Preservation Commission.
- 14.) The electromagnetic field levels of the tower shall conform to the standards developed by the National Council on Radiation Protection and Measurement (NCRP Report No. 86) or by the American National Standards Institute and the Institute of Electrical and Electronics Engineers (ANSI/IEEE C95.1-1992).

**(C) Construction in Residential Districts**

The construction of wireless telecommunications towers/facilities in residential zoning districts shall conform to all applicable existing zoning regulations, all development standards contained herein and the following supplementary regulations:

- 1.) In applying for site plan review to construct a wireless telecommunications tower/facility in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate nonresidential zone. Once those efforts to locate in a nonresidential zone have been exhausted, a wireless telecommunications facility may be located in a residential district.
- 2.) When the telecommunications facility is located on property with another principal use, the applicant shall present documentation

that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility.

**(D) Placement of Antennas and Equipment**

The placing of wireless telecommunications antennas on any legal tower, building or structure within the City is determined to be a conditionally permitted use in all zoning districts. The placement of equipment shall conform to the regulations of the zone in which it is located, as well as the following:

1.) Business and Industrial Zoning Districts

No wireless telecommunications antenna shall be higher than 20 feet or 20 percent of the building height, whichever is greater, above the existing tower, building or structure in a nonresidential zoning district.

2.) Residential Zoning Districts

No wireless telecommunications antenna shall be higher than 20 feet above the existing tower, building or structure in a residential zoning district.

3.) Equipment Shelters

If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located on or attached to the building), the shelter shall comply with all applicable development standards contained herein. Also, vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

**(E) Review and Approval of Plans**

No person or entity shall construct a wireless telecommunications tower and facility, or place a wireless telecommunications antenna, on any legal tower, building or structure, without a site plan review; (a public hearing and approval by the PZC), as specified below:

1.) The site plan for the construction of a wireless telecommunications tower and related facility shall be reviewed and approved according to the standards and procedures set forth in Section 1224.07: Site Plan Review and Section 1224.08: Conditional Use Permit of this Code.

2.) The placing of a wireless telecommunications antenna on any legal tower, building or structure (which may or may not involve

co-location with another wireless service provider) shall be reviewed and approved according to the standards and procedures set forth in this section of this Code, and the site plan shall consist of a drawing or depiction which accurately conveys the following information:

- a.) A vicinity map indicating the location of the site and the existing structure;
  - b.) The location of the antenna on the structure;
  - c.) The length of any projection above the existing structure (if applicable); and
  - d.) The location of the equipment shelter. If the equipment shelter is separate from the structure, its size, fencing, landscaping, setbacks and evidence of legal access to the site shall be indicated.
- 3.) All other applicable site plan review procedures, as set forth in Section 1224.07: Site Plan Review shall also be adhered to.

## **1226.03** Accessory Uses

### **(1)** Purpose

This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses.

### **(2)** General Accessory Use and Structure Standards

Accessory uses or structures shall be permitted provided:

- (A) The building or use is incidental to and customarily found in connection with a principal building or use permitted in the district in which it is located;
- (B) It is subordinate to and serves the principal building or use;
- (C) It is subordinate in size, area, extent, and purpose to the principal building or use;
- (D) It is located on the same lot as the principal use for which it serves;
- (E) An owner obtains the required Zoning Permit unless exempted in Table 1226-2;
- (F) The maximum height of an accessory detached garage shall be 18 feet in overall height;
- (G) The maximum height of any other accessory use or building shall be 15 feet in overall height;

- (H) Accessory uses and structures shall be prohibited in any common open space area that is preserved by covenant in a subdivision or PD, unless otherwise authorized by the PZC;
- (I) Unless otherwise specified in this Code, accessory buildings and uses shall be located a minimum of 5 feet from all side and rear lot lines; and
- (J) Comply with the maximum lot coverage ratios established in Chapter 1227, Site Development Standards

**(3) Table of Allowed Accessory Uses**

Table 1226-3 lists the accessory building and uses allowed within all zoning districts.

**(A) Explanation of Table Abbreviations**

1.) Permitted Uses (P)

A “P” in a cell indicates that an accessory building or use is permitted by-right in the respective zoning district. Permitted accessory uses are subject to all other applicable regulations of this Code, including the use-specific standards set forth in this Chapter.

2.) Conditional Uses (C)

A “C” in a cell indicates that, in the respective zoning district, an accessory building or use is permitted if reviewed and approved as a conditional use pursuant to Section 1224.08: Conditional Use Permit. Conditional uses are subject to all other applicable regulations of this Code, including the use-specific standards set forth in this Chapter.

3.) Prohibited Uses (Shaded Cells)

A shaded cell indicates that the listed accessory building or use is prohibited in the respective zoning district.

4.) Maximum Lot Coverage Provision

The column of Table 1226-2 titled “Subject to the Maximum Lot Coverage Provision” notes if the size of the accessory building or use shall be used in the calculation of maximum lot coverage of accessory buildings or uses as defined in Subsection 1227.02 (3).

5.) Permit Required

The “Permit Required” column identifies if a Zoning Permit and/or a Certificate of Use and Compliance is required for the applicable accessory building or use.

6.) Yards Permitted

The “Yards Permitted” column identifies what yards the applicable accessory building or use is permitted in unless otherwise exempted.

7.) Additional Regulations

Regardless of whether an accessory building or use is permitted by-right or permitted as a conditional use, there may be additional regulations that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of Table 1226-2. These standards apply in all districts unless otherwise specified.

Chapter 1226: Use Regulations  
Section 1226.03: Accessory Uses

Use P = Permitted C = Conditional	R-1		R-2		R-3		R-4		R-5		Maximum Lot Coverage Provision	Permit Required		Yards Permitted F = Front S = Side R = Rear	Additional Regulations
	P	C	P	C	P	C	P	C	P	C		Zoning Permit	Certificate of Use and Compliance		
Accessory dwelling units		C	C	C							Yes	Yes	R	Sec. 1226.03 (5)(A)	
Accessory garages or buildings	P	P	P	P	P	P	P	P	P	P	Yes	No	R		
Dining areas or restaurants			P	P	P	P	P	P	P	P	No	Yes	In Building	Sec. 1226.03 (5)(B)	
Fences	P	P	P	P	P	P	P	P	P	P	No	Yes	See Additional Regulations	Sec. 1226.03 (5)(C)	
Home occupations	P	P	P	P	P	P	P	P	P	P	No	Yes	In Building	Sec. 1226.03 (5)(D)	
Private stables	P	P								P	Yes	Yes	R	Sec. 1226.03 (5)(E)	
Retail commercial uses			P	P	P	P	P	P	P	P	No	Yes	In Building	Sec. 1226.03 (5)(F)	
Roadside stand	P	P								P	Yes	Yes	F, S, or R	Sec. 1226.03 (5)(G)	
Satellite dishes	P	P	P	P	P	P	P	P	P	P	No	See Additional Regulations	R	Sec. 1226.03 (5)(H)	
Stand alone automated teller machines (ATMs)			P								Yes	Yes	F, S, or R		
Swimming pools (outdoor)	P	P	P	P	P	P	P	P	P	P	Yes	No	R	Sec. 1226.03 (5)(I)	
Swing or gym sets	P	P	P	P	P	P	P	P	P	P	No	No	R		
Tennis courts or other ball courts	P	P								P	Yes	No	R		
Unenclosed patios	P	P	P	P	P	P	P	P	P	P	No	No	R		
Wood or solid surface decks	P	P	P	P	P	P	P	P	P	P	Yes	No	R	Sec. 1226.03 (5)(J)	
Other accessory uses	C	C	C	C	C	C	C	C	C	C	As determined by Planning & Zoning Commission				



**(4) Exceptions to the Location of Accessory Buildings and Uses**

**(A) Exemptions**

For accessory buildings and uses that may only be permitted in the rear yard pursuant to Table 1226-2, the following exemptions shall apply:

- 1.) On a corner lot, accessory buildings and uses may be located in the side yard as illustrated in Section 1227.01: Measurements, Computations, and Exceptions.
- 2.) On a double frontage lot, accessory buildings may be located in the front yard located to the rear of the principal structure as illustrated in Section 1227.01: Measurements, Computations, and Exceptions.

**(B) Attached Versus Detached Accessory Buildings**

- 1.) Typical accessory uses, such as a private garage, that are an integral part of a principal building shall be considered to be part of the principal use and shall be subject to the site development standards of the applicable zoning district.
- 2.) Accessory buildings located within five feet of a principal structure and connected by a permanently enclosed porch, walkway, breezeway, or other similar structure shall be subject to the site development standards of the applicable zoning district.
- 3.) Accessory buildings located more than five feet from a principal structure shall be considered a detached accessory building and shall be subject to the provisions of this section even if the accessory building is connected by a permanently enclosed breezeway, walkway, or other similar structure.

**(5) Use-Specific Standards**

**(A) Accessory Dwelling Units**

- 1.) An accessory dwelling unit shall only be permitted when attached to the principal or another accessory structure and where approved by the PZC.
- 2.) Mobile homes, recreational vehicles, and travel trailers shall not be used as accessory dwelling units.
- 3.) The gross floor area associated with an accessory dwelling unit shall be at least 400 square feet, but shall not exceed 50 percent of the gross floor area of the principal dwelling unit, or 800 square feet, whichever is less.
- 4.) There shall be no more than one accessory dwelling unit per parcel.

- 5.) At least one off-street parking space shall be provided for an accessory dwelling unit in addition to the required off-street parking serving the principal use, but in no instance shall more than two off-street parking spaces be provided with an accessory dwelling unit.
- 6.) The exterior materials of the accessory dwelling unit shall consist of the same materials as the principal structure.
- 7.) Accessory dwelling units shall not be sold apart from the principal dwelling unit. Accessory dwelling units shall not be leased or rented.

**(B) Dining Areas or Restaurants**

- 1.) Accessory dining areas or restaurants shall be restricted to 10 percent of the gross floor area of the principal building.
- 2.) Accessory dining areas that are outdoors shall be subject to the applicable standards of Section 1229.12: Outdoor Sales, Displays, and Storage.

**(C) Fences**

- 1.) In all districts, fences and walls shall comply with the following:
  - a.) In a front yard, a fence or wall shall not exceed 36 inches in height except that within 20 feet of a public right of way a fence shall not exceed 24 inches in height.
  - b.) In a side or rear yard in a residential district, a fence or wall shall not exceed six feet in height.
  - c.) In a side or rear yard in the B-1, B-2, B-3, or B-4 Districts, a fence or wall shall not exceed eight feet in height.
  - d.) In a side or rear yard in the B-5 or I-1 Districts, a fence or wall shall not exceed twelve feet in height.
  - e.) Decorative fencing used along the boundary of a major subdivision or a PD development shall require review and approval from the DRB and PZC.
  - f.) The use of barbed wire, razor wire, or similar fencing shall require approval by the DRB and PZC during site plan review.
- 2.) Any fence or wall proposed for a use that requires site plan review and which is not in a front or required rear or side yard pursuant to paragraph (1) above shall be reviewed and approved as part of a site plan pursuant to Section 1224.07: Site Plan Review. However, when a fence or wall is proposed at a separate time from any other development for new construction, additions or site renovation, fences or walls may be approved administratively by the Zoning Division when the Zoning Division determines that the proposal:

- a.) Complies with paragraph 1 above;
  - b.) Is consistent with any previously approved plan;
  - c.) Is compatible with the current site development if there is no approved plan; and
  - d.) Will have a minimum adverse impact to the surrounding areas.
- 3.) If, because of the nature of the proposed fence, the Zoning Division does not make such a determination, the request shall be referred to the BZA and considered by the Board according to the appeals procedures set forth in Section 1224.11: Appeals.

**(D) Home Occupations – Accessory to a Dwelling in Residential Districts**

- 1.) A home occupation may be conducted in a dwelling unit provided that the following standards are maintained:
- 2.) The occupation shall be conducted only by members of the family residing in the dwelling, and no one from outside the family shall be employed within the dwelling unit.
- 3.) The occupation shall be conducted wholly within a principal building, and any space used for sales, service or production shall occupy no more than 35 percent of the total floor area of the dwelling.
- 4.) Homes that serve as a gathering point for employees engaged in the business that takes place off the premises shall be prohibited. This may include, but it is not limited to, landscape business offices, construction offices, or a trucking business where drivers or employees gather at the home before being dispatched from the home for the purposes of the home occupation.
- 5.) The occupation shall not generate a significantly greater volume of traffic than would normally be expected in a residential area, and all parking shall be accommodated in the resident's driveway.
- 6.) There shall be no change in the outside appearance of the dwelling or other visible evidence of the conduct of such home occupation.
- 7.) No home occupation, or any aspect thereof, including the storage of materials and supplies, shall be conducted in any accessory building or in an open yard.

**(E) Private Stables or Kennels**

- 1.) Private stables for the keeping of one or more horses or ponies shall be permitted as an accessory use on a lot having a minimum of five acres and shall be permitted only for the use of the property owner, or a lessee thereof, and his or her family and/or friends invited to use such animals without the payment of any fee.

- 2.) Private stables and associated structures, buildings and structures accessory to a permitted agricultural use, and any fenced enclosure in which farm animals, fowl, fur-bearing animals, horses or ponies are kept, shall be set back a minimum of 5 feet from every lot line. A perimeter fence shall be permitted along a lot line, provided that such fence does not constitute a corral or fenced area used for the purpose of containing such animals.

**(F) Roadside Stand**

- 1.) Roadside stands shall only be permitted for the sale of products grown on the premises.
- 2.) Roadside stands shall be set back a minimum of 30 feet from the road right-of-way and located in front yard or side yard in relation to primary structures.
- 3.) Roadside stands shall not exceed 100 square feet in floor area.

**(G) Satellite Dishes**

Satellite dishes shall be permitted, without a Zoning Permit or Certificate of Use and Compliance, provided that such items are not located in the front yard and are smaller than 18 inches in diameter. Where such use exceeds 18 inches in diameter, the following shall apply:

- 1.) A Zoning Permit and a Certificate of Use and Compliance is required to be issued by the Zoning Division;
- 2.) The satellite dish shall only be located in the rear or side yard;
- 3.) The satellite dish shall not exceed 10 feet in diameter.

**(H) Swimming Pools**

1.) At-Grade or Below-Grade Swimming Pools

Any swimming pool below-grade or at-grade, when containing water to a depth of one and one-half feet or more, shall be completely surrounded by a fence or wall with a minimum height of four feet in order to minimize the attraction of the site to young children.

2.) Above-Grade Swimming Pools

Above grade pools, when raised a minimum of four feet above grade, shall not require fencing. However, access shall be restricted by a gate to minimize the attraction of the site to young children.

3.) Other Requirements

- a.) Swimming pools and associated structures (such as pool deck and diving board) shall be set back a minimum of 15 feet from the side and rear lot line.

b.) The construction and operation of a swimming pool shall meet all State and County regulations.

**(I) Wood or Solid Surface Decks and Porches**

Decks and porches shall meet all applicable safety and building codes.

**1226.04 Temporary Uses**

**(1) Purpose**

This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses do not negatively affect adjacent properties, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building or structure.

**(2) General Temporary Use Standards**

Temporary uses, structures, or events shall:

- (A) Obtain a Temporary Use Permit pursuant to Subsection 1224.12 (6);
- (B) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- (C) Be compatible with the principal uses taking place on the site;
- (D) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
- (E) Not include permanent alterations to the site;
- (F) Not maintain temporary signs associated with the use or structure after the activity ends;
- (G) Comply with the sign and parking regulations of this Code;
- (H) Not violate the applicable conditions of approval that apply to a site or use on the site;
- (I) Not interfere with the normal operations of any permanent use located on the property; and
- (J) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands.

(3) Table of Allowed Temporary Uses

Table 1226-3 lists the temporary uses allowed within all zoning districts.

Use	Duration	Permit Required	Districts
Construction Dumpster, Trailers, or Equipment Storage [1]	Until Completion of Construction [2]	Temporary Use Permit	Permitted in All Zoning Districts
Real Estate Sales Office/Model Sales Home	2 years [3]	Temporary Use Permit	Permitted in All Zoning Districts
Temporary Storage in a Portable Container	Once a year for a total of 60 days per year	Temporary Use Permit	Permitted in All Zoning Districts on a Driveway or in the Side or Rear Yard
Temporary Structure (as part of an educational facility or institutional use)	2 years [3]	Temporary Use Permit	Permitted in All Zoning Districts
Garage/Yard Sales/Sidewalk Sales	3 days per event; 6 total days per calendar year	No Temporary Use Permit Required	Permitted in All Zoning Districts
Temporary Sales[4] and Tents for the purpose of Temporary Sales	Up to 3 times per year with a maximum of 30 days of sales per year	Temporary Use Permit and Transient Vendor's License	Permitted in All Zoning Districts
Temporary Events	14 days per calendar year	Temporary Use Permit	Permitted in All Zoning Districts

NOTES:

[1] Construction dumpsters, trailers, and equipment storage shall not be located on a public street.

[2] Construction dumpsters, trailers, and equipment storage used during construction shall be removed prior to the issuance of the certificates of use and compliance.

[3] Annual extensions may be granted by the Planning Director if conditions warrant.

[4] Temporary sales must take place on lot of existing or vacated building and the Temporary Use Permit application must include a written statement from the property owner authorizing such sales. The Temporary Use Permit shall be prominently displayed at the site.

## **1226.05 Nonconforming Uses**

### **(1) Purpose**

In the provisions established by this Code, there exist uses of land, structures, lots of record, towers, and signs that were lawfully established before this Code was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this section is to regulate the continued existence of those uses, structures, and lots of record that do not conform to the provisions of this Code, or any amendments thereto.

### **(2) General Provisions**

#### **(A) Authority to Continue**

The lawful use of any dwelling or structure and of any land or premises existing and lawful at the time of the enactment of this Code, or any amendment thereto, may continue, although such use does not conform to the provisions of this Code or amendment thereto. Nevertheless, while it is the intent of this Code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, expanded or used as grounds for any other use or structure prohibited elsewhere in the district without the approval of the BZA, except as otherwise specifically provided for in this Code.

#### **(B) Conditional Uses**

Any use which is permitted as a conditional use in a district under the terms of this Code shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use provided the use meets all approval criteria and conditions established by the PZC for the conditional use.

#### **(C) Accessory Uses**

A nonconforming use that is accessory to a principal use shall not make the principal use nonconforming.

#### **(D) Determination of Nonconformity Status**

The burden of establishing that a nonconformity lawfully exists shall be on the owner of the land on which the purported nonconformity is located.

#### **(E) Exception Due to Variance**

The requirements of this Section shall not apply to a development standard or feature that is the subject of an approved variance. Where a variance has been granted for a development standard or feature that

does not otherwise conform to the requirements of this Code, that development standard or feature shall be deemed conforming. L

**(3) Minor Repairs and Normal Maintenance**

Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, and lots of record in a safe condition are permitted, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconforming use, structure or, lot of record. For the purposes of this Section, "minor repair or normal maintenance" shall mean:

1.) Maintenance of Safe Condition

Repairs necessary to maintain a nonconforming use, structure, and lot of record in a safe condition;

2.) Correction of Damage or Deterioration

Repairs necessary to correct any damage or deterioration to the structural soundness or interior appearance of a structure without altering the structure; and/or

3.) Maintenance of Land for Safety

Maintenance of land areas to protect against health hazards and to promote the safety of surrounding uses. L

**(B) Change of Tenancy or Ownership**

Changes of tenancy or ownership of an existing nonconformity are permitted but shall continue to be subject to the requirements of this Section.

**(4) Substitution of Nonconforming Uses**

If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification, as determined by the BZA. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

**(5) Continuation of Nonconforming Uses**

Where, at the time of adoption of this Code, lawful uses of land exist which would not be permitted by the regulations imposed by this Code, the uses may be continued so long as they remain otherwise lawful, provided that:

- (A) Any structure existing on or before the effective date of this Code which does not conform to the provisions of this Code for the district in which it is located, and which has been or may hereafter be damaged by fire or other causes to the extent of less than 60 percent of its replacement value at the time of destruction or damage, may be restored or reconstructed, L

provided that such structure, when completed, will not differ in location or size from the previously existing structure. However, when the damage or destruction to said structure is to the extent of 60 percent or more of its replacement value at the time of destruction or damage, it shall not be restored except in conformity with the regulations of the district in which the structure is situated.

- (B) In the event that a nonconforming use of any dwelling, building, or structure, or of any land or premises, is voluntarily discontinued for a period of six months or more, any future use of said dwelling, building, structure, land or premises shall be in conformity with the provisions of this Code.
- (C) Any partially completed building, the actual construction of which has commenced on or before the effective date of this Code, which building or its intended use, when completed, would not conform to the provisions of this Code for the district in which it is located, may be completed and used as a nonconforming use only for the purpose for which it was originally designed, provided that the building is completed and/or put to use within two years after the adoption of this Code.
- (D) Any dwelling existing in a residential district at the time such district becomes a Business or Industrial District, shall have the same right that it had before the zone change without having to apply to the BZA, until it ceases to be used as a dwelling.

**(6) Continuation of Nonconforming Sexually Oriented Business Uses**

Any sexually oriented business lawfully operating on the effective date of this ordinance that is in violation of this Code shall be deemed a nonconforming use. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a church, public or private elementary or secondary school, public park or library within 1,000 feet, or a residential district within 500 feet, of the sexually oriented business. When a nonconforming sexually oriented business use of a structure or premises is voluntarily discontinued or abandoned for more than six months, the structure, building or premises shall not thereafter be used except in conformity with the requirements of the zoning district in which it is located.

**(7) Nonconformity Due to Site Conditions**

Where a dwelling is nonconforming only because the front yard setback does not meet the requirements of this Code, the Zoning Division shall issue a Zoning Permit for the extension, enlargement, or alteration of said dwelling without requiring an appeal to the BZA provided that no other requirement of this Code is violated and that the extent of the nonconformity is not increased.

**(8) Variance of the Provisions of this Chapter**

- (A) Any dwelling, building or other structure, or any land or premises, the use of which does not conform to the provisions of this Code or any amendment thereto, for the district in which it is located, may not be extended, enlarged or altered for the purpose of any nonconforming use as carried on in such structure or on such land.
- (B) The property owner or applicant may apply for a variance with the BZA to allow for the extension, enlargement, or alteration of a nonconforming use if, in the BZA's opinion, such variance will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Code will result in unnecessary hardship and so that the spirit of this Code shall be observed and substantial justice done.

**(9) Modifications for Lots of Record**

Any lot of record or lot for which a land contract has been issued, or any parcel within an unrecorded allotment of which at least one-half of the lots are of record or have been sold on land contract before the effective date of this Code, shall be subject to all of the requirements of this Code, except that:

- (A) For any lot having a width less than the minimum dimension specified in Chapter 1227, Site Development Standards, each side yard may be 10 percent of the width of the lot at the building line, but no less than ten feet wide.
- (B) For any lot having an area less than the minimum dimension specified in Chapter 1227, Site Development Standards, the rear yard shall be at least 20 percent of the average depth of the lot, but no less than 40 feet deep.

**SECTION SEVEN:**

City Council adopts the following provisions and designates them as Chapter 1227 of Green's Codified Ordinances:

**1227.01 Measurements, Computations, and Exceptions**

**(1) Distance Measurements**

Unless otherwise expressly stated, distances specified in this Code are to be measured as the length of an imaginary straight line joining those points.

**(2) Lot-Area Measurements**

**(A) Lot-Area Measurements**

The area of a lot includes the total area within the lot lines of a lot, excluding any street right-of-way or other legal public dedication. For nonconforming lots, see Section 1226.05: Nonconforming Uses.

**(B) Reductions in Lot Area Prohibited**

No lot shall be reduced in area so that lot area per dwelling unit, lot width, yards, building area, or other requirements of this Code are not maintained.

**(3) Lot-Width Measurements**

Lot width is the horizontal distance between the side lot lines measured at the required front setback or at the building line for any irregularly shaped lot.

**(4) Setbacks and Yards**

**(A) Measurements**

Setbacks refer to the unobstructed, unoccupied open area between the foundation of the structure to the nearest lot line on which the structure is located. Any projection of the structure that extends more than two feet from the foundation shall meet the minimum setback requirements.

**(B) Yards Required for Buildings**

A yard or other open space required about a building shall not be included as part of a yard or other open space for another building.

**(C) Front-Yard Setback**

1.) Measurement

The front-yard setback shall extend the full width of the lot and shall be measured from the street right-of-way line to the structure.

2.) Double-Frontage Lot

A double-frontage lot shall provide a front-yard setback on both streets. The remaining yards shall meet the side-yard setback requirements.

3.) Corner Lot

A corner lot shall provide a front-yard setback on all streets. The remaining yards shall meet the side-yard setback requirements.

4.) Cul-de-Sac or Curved-Street Lot

For a cul-de-sac lot or a lot abutting a curved street, the front-yard setback shall follow the curve of the front property line.

**(D) Architectural Projections**

Open structures, such as porches, canopies, balconies, platforms, carports, covered patios and similar architectural projections, shall be considered parts of the building to which such open structures are attached and shall not project into the required minimum front, side or rear yards.

**(5) Height Measurements and Requirements**

**(A) Height Measurement**

- 1.) Building height shall be measured at the finished grade at front of building for any elevation fronting on a public street, including attics, half-stories, mezzanines, and at-grade structured parking, but excluding features that are completely below grade, such as basements, cellars, crawl spaces, subbasements, and underground parking structures.
- 2.) Where specified in feet, building height shall be measured as follows:
  - a.) To the tallest point of the roof for flat roofs;
  - b.) To the deck line of mansard roofs; and
  - c.) To one-half the distance between the eaves and ridge for gable, hip, and gambrel roofs.

**(B) Height Limit Exceptions**

Height limits shall not apply to belfries, chimneys, church roof structures not intended for human occupancy, church spires, clock towers, cupolas, domes, flagpoles, monuments, water towers, or similar structures or appurtenances, provided, however, the following:

- 1.) The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;
- 2.) The appurtenance does not extend more than 15 feet above the maximum permitted building height, except as allowed in this Code;
- 3.) The appurtenance is not constructed for the purpose of providing additional floor area in the building; and
- 4.) The appurtenance complies with the screening requirements for mechanical equipment and appurtenances in Sections 1229.07, 1229.08, and 1229.10.
- 5.) **Alternative Energy Systems provided they meet requirements of the applicable code regulating their use.**

**(C) Additional Height Allowance for Appurtenances**

All appurtenances, as referenced in Subsection 1227.01(5)(B) that exceed 15 feet above the maximum permitted building height shall be permitted only upon approval by the PZC.

**1227.02 Site Development Standards for Residential Districts**

**(1) Site Development Standards for Permitted Uses**

**Chapter 1227: Site Development Standards**  
**Section 1227.02: Site Development Standards for Residential Districts**

Development shall be subject to the dimensional standards in Table 1227-1 unless otherwise modified in the use-specific standards or if specific site development standards exist for the conditional use in Section 1227.04.

<b>R-R</b>					
<b>Site development standards for open space residential subdivisions are located in Section 1227.03.</b>					
<b>Minimum Lot Area (Square Feet)</b>					
Minimum Lot Area	Single-Family Dwelling	55,000	43,560	21,780	21,780
	Two-Family Dwellings	N/A	65,340	43,560	30,000
	Multi-Family Dwellings	N/A	N/A	N/A	130,680
<b>Maximum Density</b>					
Maximum Density of Multi-Family Dwellings		N/A	N/A	N/A	8.5 units per acre
<b>Minimum Lot Width (Feet)</b>					
Minimum Lot Width at the Building Line	Single-Family Dwellings	120	120	85	85
	Two-Family Dwellings	N/A	150	120	100
	Multi-Family Dwellings	N/A	N/A	N/A	120
Minimum Lot Frontage [1]		85	85	85	85
<b>Minimum Setbacks (Feet)</b>					
Front [2]		50	50	40	40
Side (One Side)		15	15	10	10
Side (Total of Both Sides)		40	40	20	20
Rear		60	60	50	50
<b>Maximum Overall Building Height (Feet)</b>					
Maximum Height of Principal Buildings		36	36	36	48
<b>Notes</b>					
[1] The continuous frontage element of this standard may be reduced to 50 feet by the Planning and Zoning Commission for lots fronting on a permanent cul-de-sac or other curved street fronts (e.g., knuckles), provided that the width of any such lot shall increase from the front lot line to the required width at the building line.					
[2] The minimum front yard setback shall be equal to the depth of existing front yards on the developed lots adjacent to or the subject lot if the developed lots are within 300 feet on the same block when fifty percent of such lots have a uniform building setback which is greater or less than required.					

**(2) Minimum Floor Area Requirements**

Unit Type	Minimum Square Feet in the R-R District	Minimum Square Feet in all Other Districts

*Chapter 1227: Site Development Standards*  
*Section 1227.02: Site Development Standards for Residential Districts*

Use Type	Minimum Square Feet in the R-2 District	Minimum Square Feet in all Other Districts
One-Story Single-Family Dwellings	1,500	900
Multiple Story Single-Family Dwellings	900 on the First Floor	750 on the First Floor
Multi-Family Dwelling Units or Apartments in a Mixed-Use Building	N/A	500 plus 150 for each bedroom

**(3) Maximum Lot Coverage/Maximum Accessory Use Square Footage**

(A) Table 1227-3 defines the maximum lot coverage by principal structures and accessory structures in residential districts.

Lot Size	Maximum Lot Coverage by Principal Structures	Maximum Lot Coverage by Accessory Uses and Structures [1]
Up to 12,000 square feet	60%	10%
12,001 to 20,000 square feet	50%	10%
20,001 or more square feet	45%	15% with a maximum of 2,500 square feet.

NOTES  
 [1] This coverage does not include the lot area covered by the principal structure. Accessory uses and structures that count toward this lot coverage are identified in Section 1226.03: Accessory Uses.

(B) In no case shall the total footprint of all accessory structures and buildings exceed the total footprint of the principal structure.

**(4) Number of Principal Uses per Lot**

Only one principally permitted use may be permitted on a single lot with the exception of multi-family dwellings in the R-2 District where multiple dwellings may be located on a single lot. For the purposes of this provision, a two-family dwelling and a multi-family dwelling shall each be considered a single principal use. A secondary living unit may be considered as a conditionally permitted use (mother-in-law suite).

**(5) Centralized Water/Sewer Requirement**

All development in the R-2 District shall be connected to an approved centralized sewer system and public water system.