

TITLE SIX – Zoning

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CHAPTER 1240 General Provisions and Definitions

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CROSS REFERENCES

Division of Municipal corporation into zones - see Ohio R.C. 713.06
Restrictions on location, bulk and height of buildings and structures - see Ohio R.C. 713.07

Restrictions on height of buildings and structures - see Ohio R.C. 713.08
Restrictions on bulk and location of buildings and structures, percentage of lot occupancy and set-back building lines - see Ohio R.C. 713.09

Basis of districting or zoning; classification of buildings or structures - see Ohio R.C. 713.10

Amendments - see P. & Z. Ch. 1244

1240.01 TITLE.

This Code is the "Zoning Code for the City of Strongsville, Ohio."
(Ord. 1978-165. Passed 10-16-78.)

1240.02 PURPOSE AND INTENT.

The purpose of this Zoning Code and the intent of the legislative authority in its adoption is to promote and protect to the fullest extent permissible under the powers of the Charter, the public health, safety, convenience, comfort, prosperity and the general welfare of the City, by regulating the use of buildings, other structures and land for residences, public facilities, business, services, industry or other purposes; by regulating and restricting the bulk, height, design, percent of lot coverage and location of buildings; by regulating and limiting population density; and, for the aforesaid purposes, to divide the land within the City into districts of such number and dimensions in accordance with the objectives of the Comprehensive Plan; and to provide procedures for the administration and amendment of such Zoning Code.

This Zoning Code is intended to achieve, among others, the following objectives:

- (a) To protect the character and values of residential, institutional, public, business, commercial and manufacturing uses, and to ensure their orderly and beneficial development;
- (b) To provide adequate open spaces for light, air and outdoor uses;
- (c) To prevent overcrowding of the land;
- (d) To prevent excessive concentration of population and, on the other hand, to prevent sparse and uncoordinated development;
- (e) To regulate and control the location and spacing of buildings on the lot and in relation to the surrounding property so as to carry out the objectives of the Comprehensive Plan of the City;
- (f) To regulate the location of buildings and intensity of uses in relation to streets according to plans so as to cause the least interference with traffic movements, and be damaged least by such movements, and hence result in lessened street congestion and improved public safety;
- (g) To establish zoning patterns that ensure economical extensions for sewers, water supply, waste disposal and other public utilities, as well as development of recreation, schools and other public facilities;

(h) To guide the future development of the City so as to bring about the gradual conformity of land and building uses in accordance with the objectives of the Comprehensive Plan of the City; and

(i) To accomplish the specific intents and goals set forth in the introduction to the respective chapters.

(Ord. 1978-165. Passed 10-16-78.)

1240.03 RELATION TO OTHER LAWS.

The provisions of this Zoning Code shall supplement any and all laws of the State, ordinances of the Municipality and any and all rules and regulations promulgated under authority of such laws or ordinances relating to the purpose and scope of such Zoning Code.

The provisions of this Zoning Code shall not annul or in any way interfere with existing deed or plat restrictions, easements or other agreements between persons, or codes, laws, rules, regulations or permits previously adopted or issued except those ordinances or sections thereof which are contrary to and in conflict with this Code.

Wherever this Zoning Code imposes greater restrictions upon the use of buildings or land or the height or bulk of buildings, or requires larger land or building areas, yards or other open spaces than are otherwise required or imposed by other deed or plat restrictions, codes, laws, ordinances, rules or regulations, this Zoning Code shall control. Conversely, other regulations shall control where they impose greater restrictions than this Code.

(Ord. 1978-165. Passed 10-16-78.)

1240.04 INTERPRETATION.

In interpreting and applying the provisions of this Zoning Code, they shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare and to accomplish the objectives set forth throughout this Code. Except as specifically provided herein, it is not intended by this Zoning Code to repeal, abrogate or annul any existing provision of any law or ordinance, or any rule or regulation previously adopted or issued pursuant to law, relating to the use of structures and land and the design, erection, alteration or maintenance of structures thereon.

(Ord. 1978-165. Passed 10-16-78.)

1240.05 VALIDITY.

Should any section or provision of this Zoning Code be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Code as a whole, or any part thereof other than the section or provision so declared to be invalid, nor shall the decision affect its application to different facts or circumstances.

(Ord. 1978-165. Passed 10-16-78.)

1240.06 FORM OF CODE.

This Zoning Code is subdivided into chapters. Each chapter is subdivided into sections which are numbered in sequence within the chapter, commencing with the first section of Chapter 1240 which shall be numbered 1240.01. The first four figures before

the decimal signify Chapter 1240 and the two figures "01" after the decimal signify the first section in Chapter 1240. The title and chapter headings herein have been inserted for convenience in reference and are not intended to define or limit the scope of any provision of this Zoning Code or otherwise affect the same.
(Ord. 1978-165. Passed 10-16-78.)

1240.07 INCONSISTENCIES.

If any of the requirements or regulatory provisions of this Zoning Code are found to be inconsistent one with another, the more restrictive or greater requirement shall be deemed in each case to be applicable.
(Ord. 1978-165. Passed 10-16-78.)

1240.08 DEFINITIONS.

(a) Interpretation. Words in this Zoning Code are normally defined according to their ordinary English usage. Certain terms are, however, defined in this chapter and wherever used in this Zoning Code, they shall have the meanings set forth herein, unless the context clearly indicates a different meaning.

(b) General Terms.

(1) The word "shall" is to be interpreted as mandatory and shall be complied with unless waived; "may" is to be interpreted as having permission or being allowed to carry out a provision; "should" is to be interpreted as expressing that the application of such criteria or standards is desired and essential unless commensurate criteria or standards are achieved.

(2) All words used in the singular shall include the plural, and all words used in the present tense shall include the future tense, unless the context clearly indicates the contrary.

(3) The phrase "used for" shall include "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

(4) "Regulation" means a rule, restriction or other mandatory provision in this Zoning Code intended to control, require or prohibit an act.

(5) "Standard" means a test, measure, model or example of quantity, extent or quality.

(6) "Criterion" means a principle by which the planning of a development area shall be guided.

(7) "City" means the city of Strongsville.

(8) "Commission" means the city Planning Commission.

(9) "Council" means the legislative body of the city.

(10) "Board" means the Board of Zoning Appeals.

(11) "Commissioner" means the Building Commissioner of the city.

(12) "County" means the County of Cuyahoga, Ohio.

(13) "Clerk" means the Clerk of Council.

(14) "Engineer" means the city Engineer.

(15) "Person" means an individual, firm, association, corporation, trust or other legal entity, including his or its agents.

(16) "Developer" means a person commencing proceedings under this Zoning Code to effect the development of land for himself or for another.

- (17) "Code" means the Zoning Code of the city.
- (18) "Review Board" means the Architectural Review Board of the city.

(c) Specific Terms.

(1) Areas, buildings and land.

A. "Area of buildings" means the area at the ground level of the main building and all accessory buildings, excluding unenclosed porches, terraces and steps, measured from the outside surface of exterior walls.

B. "Area of dwelling unit" means the sum of the gross floor areas above the basement level, including those rooms and closets having the minimum ceiling height, light, ventilation and other features as required by the Building Code and as further defined in Section 1252.04.

C. "Area of lot" means the total horizontal area within the lot boundary lines of a zoning lot.

(2) Automotive uses.

A. "Private garage" means an enclosed building with doors, accessory to a one-family, two-family or townhouse dwelling, used exclusively for the parking or temporary storage of passenger automobiles.

B. "Storage garage" means a main or accessory enclosed building with doors, other than a private garage, used for the parking or temporary storage of passenger automobiles, and in which no service shall be provided for remuneration.

C. "Repair garage" means a main or accessory building used or designed for repairing motor vehicles, or a service garage if accessory to an automobile salesroom.

D. "Accessory parking area" means an open or enclosed private area, other than a street, used for the free parking of passenger automobiles for occupants, their guests or customers, of a main building.

E. "Public parking area" means an open or enclosed publicly owned area used for passenger automobile parking, with or without a fee.

F. "Sales lot" means an open area used for the display, sale or rental of new or used motor vehicles, on which no repair, except minor work, is performed.

G. "Service station" means a building and land, including pumps, tanks and grease racks, used for the retail sale of gasoline, lubricants, batteries, tires and other automobile accessories, and in or on which minor services and repairs are performed.

(3) Buildings and structures.

A. "Structure" means that which is constructed on or under the ground or attached or connected thereto, including, but not limited to, buildings, barriers, bridges, bulkheads, chimneys, fences, garages, outdoor seating facilities, parking areas, platforms, pools, poles, streets, tanks, tents, towers, sheds, signs, walls and walks, but excluding trailers and other vehicles, whether on wheels or other supports.

B. "Building" means a structure which is permanently affixed to land, having one or more floors and a roof, bounded by either open space or lot lines and used as a shelter or enclosure for persons, animals or property. The word shall be

used synonymously with "structure," unless otherwise noted, and shall be construed as if followed by the words "part or parts thereof."

C. "Main building" means the building occupied by the main use or activity on or intended for the premises, all parts of which building are connected in a substantial manner by common walls and a continuous roof.

D. "Accessory building" means a subordinate building detached from, but located on the same lot as, the main building, the use of which is incidental and accessory to that of the main building or use.

E. "Building line" means a line established by this Zoning Code, generally parallel with and measured from the front lot line, defining the limits of a front yard in which no building or structure may be located above ground except as may be provided in this Code.

F. "Detached building" means a building surrounded by open space.

G. "Basement" means the space of a building where the floor level is more than three feet below the adjoining finished grade.

H. "Land coverage" means that percentage of a lot covered by the main and accessory buildings.

I. "Dish antenna" means a dish shaped, generally parabolic or spherical, structure and its appurtenances designed or used to receive or transmit direct broadcast satellite service, including, but not limited to, direct-to-home satellite services and video programming services via multi-point distribution services.

(4) Dwellings and other living accommodations.

A. "Dwelling unit" means space within a dwelling comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family.

B. "Dwelling" means a building designed or occupied exclusively for residential use and permitted accessory uses.

C. "One-family dwelling" means a building consisting of a single dwelling unit only, separated from other dwelling units by open spaces. It may be attached to another one-family dwelling by a common fireproof wall.

D. "Two-family dwelling" means a building consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having either a separate or combined entrance or entrances.

E. "One-family cluster dwelling" means a building consisting of a single dwelling unit only located in a planned arrangement of buildings and adjoining open space areas.

F. "Townhouse" means a multi-family building consisting of one family dwelling units attached by common fireproof walls, each unit having at least two separate exterior entrances.

G. "Apartment" means a multi-family building consisting of three or more dwelling units with varying arrangements of entrances and party walls, with dwelling units arranged one above the other and side by side, each unit having at least one entrance connected to a common interior hall leading to the exterior.

H. "Rooming house" means a building operated for compensation by a resident family, in which a room or rooms are provided for living and sleeping facilities to one or more persons.

I. "Motel" means a building or buildings providing overnight accommodations principally for automobile travelers in which access to each rental unit is provided directly through an exterior door or by an entrance connected to a common interior hall leading to the exterior, within which one unit or suite containing no more than 1,000 square feet of floor area may be used as a residence for a managerial employee.

J. "Community-based residential care facility" means a dwelling unit operated by persons other than the residents themselves that has been licensed or certified under the laws of the State of Ohio or Federal government, in which live three or more people, who need and receive personal assistance and/or supervision in order to live successfully in the community. "Community-based residential care facilities" include family homes and group homes.

K. "Family homes" means a community-based residential care facility in which at least three but not more than eight people who need personal assistance and/or supervision live.

L. "Group home" means a community-based residential care facility in which at least nine but not more than sixteen people who need personal assistance and/or supervision live.

(5) Family.

A. "Family" means either one individual, two or more persons related by blood, marriage or adoption, or not more than three persons not related by blood, marriage or adoption, who live together in one dwelling unit and maintain a common household.

B. "Roomer" means a person, other than a member of the family as defined above, who rents one or more rooms in a dwelling from the resident family.

(6) Game room or amusement arcade; mechanical amusement device.

A. "Game room or amusement arcade" means a place of business wherein a building or any part of a building has more than two mechanical amusement devices which are used for the purpose of public entertainment through the operation, use or play of any amusement device which is operated by placing therein any coin, plate, disc, plug, key or token of value, or by the payment of a fee.

B. "Mechanical amusement device" means a machine, device or instrument that upon the insertion of a coin, plate, disc, plug, key or token of value, or payment of money, operates or may be operated for use as a game, contest of skill or amusement of any description. Music devices (juke boxes), postage dispensing machines, kiddie ride machines and other penny operated machines are not included in this definition. Use of a building or any part of a building for a mechanical amusement device shall be an accessory use only to main uses permitted in Restaurant-Recreation Districts.

(7) Grades.

A. "Established street grade" means the elevation established by the City at the roadway, center line or curb in front of the lot.

B. "Natural grade" means the elevation of the undisturbed natural surface of the ground prior to any excavation or fill.

C. "Finished grade" means the elevation of the finished surface of the ground adjoining the building after final grading and normal settlement.

(8) Height of building. "Height of building" means the vertical distance measured from the highest point of the coping of a flat roof, or the vertical distance measured from the ridge of a pitched roof to the average finished grade across the face of the building containing its principal entrance.

(9) Home occupations and professional offices.

A. "Home occupation" means a gainful occupation enumerated in Section 1252.03 of this Zoning Code conducted by members of a resident family wholly within a dwelling or in a building accessory thereto.

B. "Home professional office" means a secondary office in a dwelling occupied by a person practicing a profession enumerated in Section 1252.03.

(10) Loading space. "Loading space" means an open or enclosed space, other than a street, used for temporary parking of a commercial vehicle while its goods are being loaded or offloaded.

(11) Lot, parcel and land.

A. "Lot" means a division of land separated from other divisions for purposes of sale, lease or separate use, described on a recorded subdivision plat, on a recorded survey map or by metes and bounds.

B. "Lot of record" means land designated as a separate parcel on a plat map or deed in the records of Cuyahoga County, Ohio.

C. "Zoning lot" means a parcel of land abutting a dedicated street, occupied or intended to be occupied by a main and/or accessory use or a main or accessory building, as a unit, together with such open spaces as required by this Zoning Code. Unless the context clearly indicates the contrary, the term "lot" is used synonymously with "zoning lot" in this Zoning Code and it may or may not coincide with a lot of record.

D. "Corner lot" means a lot abutting on two streets at their intersection, if the interior angle of intersection is not more than 135 degrees.

E. "Interior lot" means a lot other than a corner lot or through lot.

F. "Lot line" means the boundary of a lot separating it from adjoining public, common or private land, including a public street.

G. "Front lot line" means the lot line separating an interior lot from the street upon which it abuts, or the shortest lot line of a corner lot which abuts upon a street. Unless the context clearly indicates the contrary, it shall be construed as synonymous with "street line."

H. "Rear lot line" means a lot line parallel or within forty-five degrees of being parallel to the front lot line.

I. "Side lot line" means a lot line which is neither a front nor a rear lot line.

J. "Lot depth" means the mean horizontal distance of a lot measured between the front and rear lot lines.

K. "Lot width" means the horizontal distance of a lot measured along the building line at right angle to the mean lot depth line. Width at front lot line is measured along the street line.

L. "Private land" means land in a subdivision or development area which shall be adjoining, attached and assigned to a one family, two-family or townhouse dwelling, to be held as an open space in ownership with the dwelling in the subdivision or development area, and which shall be identified on subdivision and development plans submitted to the City.

M. "Common land" means land in a subdivision or development area not owned as private land or occupied by dwellings created for common usage by restrictions, easements, covenants or other conditions running with the land, and which is held for the use and enjoyment by or for the owners or occupants of the dwellings in a subdivision or development area.

N. "Homes association" means an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner of a development area is a member and through which each lot is subject to charges for a proportionate share of the expenses for the organization's activities, such as maintaining the common property.

(12) Maps, plans and plats.

A. "Map" means a drawing showing geographic, topographic or other physical features of the land.

B. "Plan" means a drawing of a proposed design or of work to be performed.

C. "Plat" means a map of a lot, parcel, subdivision or development area on which the lines of each element are shown by accurate distances and bearings.

D. "Comprehensive Plan" means the Plan and statement of the objectives and recommendations for the general location and extent of desirable future land development, community facilities and street plans for the city, duly adopted and officially accepted.

E. "Community Facilities Plan" means the Plan which shows the location and extent of existing and planned parks, playgrounds, public land and buildings and other public facilities for the city, duly adopted and officially accepted, separately or as a part of the Comprehensive Plan.

F. "Major Thoroughfare Plan" means the Plan which shows the general location and extent of existing and planned streets and other transportation facilities for the city, duly adopted and officially accepted separately or as a part of the Comprehensive Plan.

G. "Design plan" means a plan prepared by the city for implementing components of the Comprehensive Plan and may include, but is not limited to, the design, bulk, use, height, location and arrangements of buildings in respect to streets, open spaces, other structures and natural features.

H. "Development area" means the minimum area of land permitted by this Zoning Code to be developed by a single owner or a group of owners, acting jointly, which may consist of a parcel or assembled parcels, and includes a related

group of one-family dwellings, townhouses and apartment dwellings planned and developed as an entity under the planned development area procedures.

I. "Preliminary plan" means a drawing prepared by a developer, which may include explanatory exhibits and text, submitted to the designated authority for the purpose of study of a proposed development of land, or a preliminary plan of land use of a development area which, if approved by the designated authority, provides the basis for proceeding with the preparation of the final plan of development or development area.

J. "Final plan" means the final plan prepared by a developer based upon the approved preliminary plan of a proposed development or development area, which consists of detailed drawings, specifications, cost estimates and agreements for the construction of the site improvements and buildings for the proposed development or development area.

(13) Nonconforming building, lot and use.

A. "Nonconforming building" means a building existing lawfully at the time this Zoning Code, or an amendment thereto, became effective, but which does not conform to the area, height or bulk of building, yard or other regulations of the district in which it is located.

B. "Nonconforming lot" means a lot existing lawfully at the time this Zoning Code, or an amendment thereto, became effective, but which does not conform to the lot area, width, access or other requirements of the district in which it is located.

C. "Nonconforming use" means the use of a building or land, existing lawfully at the time this Zoning Code, or an amendment thereto, became effective, but which does not conform to the use regulations, off-street parking and loading requirements, performance standards or other use regulations of the district in which it is located.

(14) Occupancy certificate. "Occupancy certificate" means an official statement certifying that a building, other structure or parcel of land is in compliance with the provisions of all applicable codes, or is a lawfully existing nonconforming building or use and hence may be occupied and used lawfully for the purposes designated thereon.

(15) Performance standard. "Performance standard" means a criterion established to control the dust, smoke, fire and explosive hazards, glare and heat, noise, odor, toxic and noxious matter, vibrations and other conditions created by or inherent in uses of land or buildings.

(16) Sexually oriented business definitions.

A. "Adult arcade" means any place to which the public is permitted or invited where one or more "video booths" and/or "live viewing booths" are available to patrons where the images shown and/or live entertainment presented are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

B. "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in areas of the establishment open to patrons in a “state of nudity” or “state of semi-nudity” so as to expose to view “specified anatomical areas”; or
2. Any live entertainment, exhibition, performance, or dance by persons whose entertainment, exhibition, performance, or dance is characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities”; or
3. “Adult media”.

C. “Adult media” means magazines, books, photographic reproductions, videotapes, movies, slides, compact discs in any format (e.g., cd-rom, cd-r, cd-rw), digital video discs in any format (e.g., dvd), other devices used to reproduce or record computer images, or other print, video, film, electronic, computer-based, analog, or digital media characterized by an emphasis on matter depicting, describing or related to “specified sexual activities” or “specified anatomical areas”.

D. “Adult media store” means an establishment that rents and/or sells adult media as one of its “principal business purposes”.

E. “Adult motel” means a hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions, which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right of way which advertises the availability of this sex-oriented type of photographic reproductions; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

F. “Adult motion picture theater” means a commercial establishment occupying a building or portion of a building (including any portion of a building which contains more than 150 square feet) where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images are regularly shown, if such establishment as a prevailing practice excludes minors by virtue of age, regardless of whether the minor is accompanied by a parent or guardian, or if, as a prevailing practice, the films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images presented are characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

G. “Adult novelty store” means a business offering goods for sale or rent and that meets any of the following tests:

1. It offers for sale items from any two (2) of the following categories: “adult media”, “sexually-oriented novelties or toys”, “lingerie, leather goods marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than ten percent (10%) of the stock in trade of the business or occupies more than ten percent (10%) of the gross public floor area of the business; or

2. More than five percent (5%) of the stock in trade of the business consists of “sexually-oriented novelties or toys”; or

3. More than five percent (5%) of the gross public floor area of the business is devoted to the display of “sexually-oriented novelties or toys”; or

4. Which advertises or holds itself out in any forum as a sexually oriented business by use of such terms as “sex toys”, “marital aids”, “X-rated”, “XXX”, “adult”, “sex”, “nude” or otherwise advertises or holds itself out as a sexually oriented business.

H. “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or semi-nudity, live performances which are characterized by an emphasis on the depiction or description of “specified anatomical areas”, “specified sexual activities” or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment that is characterized by an emphasis on the depiction or description of “specified anatomical areas” or “specified sexual activities”.

I. “Establishment” means and includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;

2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

3. The addition of another sexually oriented business to any other existing sexually oriented business; or

4. The relocation of any sexually oriented business.

J. “Gross public floor area” means the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-computer areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabarets or similar shows (including stage areas), plus aisles, hallways, entryways serving such areas.

K. “Nude model studio” means any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Nude model studio shall not include:

1. A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.

2. A private college or university that offers educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or

3. An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.

L. “Nudity” or “state of nudity” or “nude” means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

M. “Principal business purpose” means that the material containing the depictions and descriptions specified in this subsection 1240.08(16) account for a substantial proportion of the sales, rental, or receipt volume at a commercial establishment and is also intentionally marketed as material of that character by the commercial establishment.

N. “Semi-nudity” or “seminude condition” or “semi-nude” means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other clothing, provided that the areola is not exposed in whole or in part.

O. “Sexual encounter center” means a commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.

P. “Sexually oriented business” means an adult arcade, adult media store, adult novelty store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center. “Sexually oriented business” does not include an adult motel as defined above.

Q. “Sexually oriented novelties or toys” means instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs or for use in connection with “specified sexual activities”.

R. “Specified anatomical areas” means:

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

S. “Specified sexual activities” means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
3. Excretory functions as part of or in connection with any of the activities set forth in 1. and 2. above.

T. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this ordinance takes effect.

(17) Streets. "Street" means a public way for purposes of vehicular travel, including the entire area within the rights of way. The term includes, but is not limited to, avenue, alley, boulevard, drive, highway, road and freeway. Streets shall be classified and further defined as follows:

A. "Freeway" means a divided arterial highway for through traffic to which access from the abutting properties is prohibited and all street crossings are made by grade-separated intersections.

B. "Major arterial street" means a public street which is primarily for moving fast or heavy traffic between large or intensively developed districts.

C. "Industrial street" means a street designed and constructed to serve both truck and bus movements within an industrial area. Abutting property will have free access. On-street parking and loading is prohibited.

D. "Collector street" means a street supplementary to and connecting the major street system to local collector streets, located outside or bounding neighborhoods.

E. "Local collector street" means a street which collects internal traffic movements within a large subdivision or neighborhood and connects such areas with the collector and/or major arterial street system.

F. "Local street" means a street primarily for access to abutting residential properties and to serve local needs.

1. "Cul-de-sac" means a street, one end of which connects with another street and the other end of which is a dead end which allows space for turning of vehicles.

2. "Marginal access street" means a local street providing access to lots which abut or are adjacent to a limited access highway or major street.

G. "Private street" means a street held in private ownership.

H. "Street line" means the street right-of-way line.

I. "Right of way" means all of the land included within an area which is dedicated, reserved by deed or granted by easement for street purposes.

1. "Roadway" means that portion of the right of way available for vehicular travel, including parking lanes.

2. "Tree lawn" means that portion of a right of way lying between the exterior line of the roadway and the outside right-of-way line.

J. "Other rights of way," as follows:

1. "Pedestrian way" means a public or private right of way solely for pedestrian circulation.

2. "Easement" means the right of a person to use common land or private land owned by another for a specific purpose.

(18) Use.

A. "Use" means any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied, or any activity conducted in a building or other structure or on the land.

B. "Main use" means the principal use of an activity conducted in a building or other structure or on the land.

C. "Accessory use" means a use located on the same zoning lot with the main use of the building, other structure or land, which is subordinate and related to that of a main building or main use.

D. "Conditional use" means an uncommon or infrequent use which may be permitted in specific districts subject to compliance with certain standards and explicit conditions set forth in this Zoning Code and the granting of a conditional use permit.

(19) Variance. "Variance" means a modification of the zoning regulations, permitted in instances where a literal application of the provisions of this Zoning Code would result in unnecessary hardship as a result of some peculiar or unique condition or circumstance pertaining only to the zoning lot in question, in accordance with procedures and standards set forth in Chapter 1248 of this Zoning Code.

(20) Yards.

A. "Yard" means that portion of the open area on a lot extending between a building and the nearest lot line, or between an accessory use of building and the nearest lot line as established in the Zoning Code.

B. "Front yard" means the yard extending from the front wall of the building to the front lot line across the full width of the lot.

C. "Rear yard" means the yard extending from the rear wall of the building to the rear lot line across the full width of the lot.

D. "Side yard" means the yard extending between a side lot line and the nearest wall of the building, and from the front yard to the rear yard; provided, that for a corner lot, the side yard extends from the front yard to the rear lot line on the street side.

E. "Required yard" means the minimum yard required between a lot line and building line or the line of any parking area or any other use requiring a yard in order to comply with the zoning regulations of the district in which the zoning lot is located. A required yard shall be open and unobstructed from the ground upward except for projections on buildings as permitted in the Zoning Code and except for walks, landscaping and other yard or site features.

Minimum yard distance as specified in various sections of this Code shall mean the distance between the nearest point of a building or parking area which intersects the adjacent lot line at a ninety degree angle.

F. "Court" means an open space other than a yard, bounded on two or more sides by exterior walls of the building, or bounded by exterior walls of a building and lot lines.

(21) Wireless telecommunications.

A. "Collection" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

B. "Lattice tower" means a support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

C. "Monopole" means a support structure constructed of a single, self-supporting metal tube securely anchored to a foundation.

D. "Telecommunications" means the technology which enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

E. "Wireless telecommunications antenna " means the physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

F. "Wireless telecommunications equipment shelter" means the structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

G. "Wireless telecommunications facility" means a facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

H. "Wireless telecommunications tower" means a structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.

(Ord. 2001-150. Passed 4-8-02.)

CHAPTER 1242

Administration, Enforcement and Penalty

1242.01	Intent.
1242.02	General procedures.
1242.03	Building permit required.
1242.04	Withholding permits.
1242.05	Required drawings.
1242.06	Applications for permits.
1242.07	Conditional use permits.
1242.08	Determination of similar uses.
1242.09	Certificate of occupancy.
1242.10	Enforcement.
1242.11	Injunction.
1242.12	Violation of regulations.
1242.13	Transfer of common land prohibited.
1242.99	Penalty.

CROSS REFERENCES

- Planning Commission - see CHTR. Art. IV, Sec. 6; P. & Z. Ch. 1210
- Administrative board; powers and duties - see Ohio R.C. 713.11
- Notice and hearing on Municipal zoning regulations - see Ohio R.C. 713.12
- Violation of zoning ordinances may be enjoined - see Ohio R.C. 713.13
- Amendments - see P. & Z. Ch. 1244
- Board of Zoning Appeals - see P. & Z. Ch. 1248

1242.01 INTENT.

Administrative procedures for administering, interpreting and enforcing this Zoning Code are herein established in order to achieve, among others, the following purposes:

- (a) To provide for the review of an application for a building permit;
- (b) To provide for the inclusion of necessary facilities, services and other uncommon uses through conditional use permits;
- (c) To provide for the inclusion of uses which are uncommon but which have characteristics similar to permitted main uses;
- (d) To assure that in the construction of new buildings, alterations or change of use, all required provisions have been complied with by requiring a certificate before occupancy;
- (e) To provide for the enforcement of this Zoning Code through measures where there is noncompliance and for the keeping of records of actions in regard to the enforcement of this Code; and
- (f) To provide supplementary administrative procedures in conformity with the objectives of the Comprehensive Plan and this Zoning Code.

In administering this Code, the provisions shall be regarded as establishing minimum requirements and shall be used specifically to further the underlying purposes, objectives and intent set forth in the preamble to each chapter.

The relationship of this Code to other laws, rules and regulations and the relationship if two or more specific provisions of this Code apply to the same subject are set forth in Section 1240.03.

(Ord. 1978-165. Passed 10-16-78.)

1242.02 GENERAL PROCEDURES.

(a) Administration. The administration of this Zoning Code is vested in the following officials, commissions and boards of the City of Strongsville:

- (1) Planning Commission;
- (2) Building Commissioner; and
- (3) Board of Zoning Appeals.

(b) Compliance. Compliance with the provisions of this Code shall be obtained by:

- (1) Applying for and the issuance of a building permit, including the following, if applicable:
 - A. Application for a conditional use permit;

- B. Application for determination of similar use;
- C. Application and approval of a development plan; and
- D. Appeals for an interpretation or a request for a variance.

(2) Application for a certificate of occupancy issued upon completion of the building or the land improvement.

(c) Enforcement. Enforcement of the provisions of this Zoning Code shall be obtained by inspection and order for removal of violations. Failure to comply with such order shall constitute an offense which may be followed with civil action.

(Ord. 1978- 165. Passed 10-16-78.)

1242.03 BUILDING PERMIT REQUIRED.

Excavations for buildings or site improvements shall not be started, and buildings or structures, or parts thereof, shall not be erected, altered or moved, until a building permit has been applied for and issued by the Building Commissioner.

(a) Approval of Development Plans. Whenever such a plan has been submitted by the developer as required by this Zoning Code, the preliminary plan and final plan of the development area shall have been approved by the Planning Commission and, in the case of a Planned Development Area, by Council, before a building permit may be issued by the Building Commissioner.

(b) Compliance With Zoning Regulations. Permits for the construction of a building or land improvement not requiring a development plan, or for a change in use, may be issued by the Building Commissioner only if the work described in an application clearly complies with all provisions of this Zoning and other codes of the City. If the proposed building or use does not clearly comply, the Building Commissioner shall refer the matter to the Planning Commission for final determination.

(c) Conditional Use Permit. Whenever a determination for a conditional use is required, a building permit for the building or use requiring a conditional use permit shall not be issued until such permit has been applied for and issued by the Planning Commission.

(d) Determination of Similar Use. Whenever a determination for a similar use is required, a building permit for the building or use shall not be issued until the inclusion of such use as a permitted use has been made by the Planning Commission and confirmed by Council.

(Ord. 1978-165. Passed 10-16-78.)

1242.04 WITHHOLDING PERMITS.

(a) Amendment Pending. No building permit or certificate of occupancy shall be issued during the period in which an amendment which would affect the building or use applied for has been recommended by the Planning Commission or introduced by Council. However, an application for a permit or certificate shall not be withheld for more than ninety days after the application was officially submitted.

(b) Nonconforming Lot. No building permit shall be issued for a one or two-family building unless the residential lot shall abut upon a public street; the utilities, pavement and all other required improvements have been constructed, or their

construction guaranteed; the lot is located in a duly recorded subdivision or approved by the Planning Commission with no plat required; or resubdivided in accordance with the provisions of Section 1252.20 so as to conform with the requirements of this Zoning Code.

(Ord. 1978-165. Passed 10-16-78.)

1242.05 REQUIRED DRAWINGS.

In addition to drawings required by the provisions of the Building Code, application for a building permit shall be accompanied by:

(a) Plat. A plat showing dimensions of the lot to be developed, lot number, a topographic survey or adequate topographic data, and evidence that the lot has been surveyed and certified by a registered surveyor or engineer;

(b) Site Plan. A site plan, prepared by a registered architect or engineer, drawn to scale, showing the location of proposed and existing buildings, driveway and parking areas, proposed finished grades and the location and use of buildings on adjoining lots within distances specified in other sections of this Zoning Code. For residential developments the size and location of a garage shall be shown.

(c) Other Drawings. Such other drawings and information as may be required by the provisions of Chapter 1252 - Residential Districts; Chapter 1254 Senior Residence Districts; Chapter 1256 - Public Facilities Districts; Chapter 1258 - Business Districts; Chapter 1260 - Office Building Districts; Chapter 1262 - Research-Development, Commercial Service, General Industrial and Aviation Field Districts; Chapter 1264 - Planned Recreation Development Areas (PRDA Districts); Chapters 1266 and 1268 - Planned Development Areas (PDA Districts); Chapter 1270 - Off-Street Parking and Loading; and Chapter 1272 - Signs.

(Ord. 1978-165. Passed 10-16-78.)

1242.06 APPLICATIONS FOR PERMITS.

(a) Application. Application for building permits and accompanying drawings shall be submitted to the Building Commissioner. After processing the same, as to general conformity to the Building Code, he shall submit to the Planning Commission those applications which require its approval, and to the Board of Zoning Appeals those applications that require an interpretation required by such Board.

(b) Approval. The Building Commissioner, having received reports of approval from Council, the Planning Commission and the Board, as may be applicable, and finding that the drawings, specifications and all documents comply with this Zoning Code and other relevant codes of the City, may issue, upon payment of required fees, a building permit.

(c) Disapproval. If Council, the Planning Commission, the Board or the Building Commissioner does not recommend approval of the application, they shall suggest changes in the drawings as may be necessary to accomplish the purpose of this Zoning Code. In such instances, conferences with applicants may be held and the application revised or resubmitted, as may be required.

(d) Revision and Lapse of Approval. The application may be revised by the developer and resubmitted through the same procedure required for the original application.

Failure to secure a building permit for all or a portion of the development covered in an approved application within one year after the application is approved shall make null and void such approval unless an extension of time is granted by the Planning Commission.

(Ord. 1978-165. Passed 10-16-78.)

1242.07 CONDITIONAL USE PERMITS.

Conditional use permits shall be required for certain types of main uses as defined in Section 1250.02, generally publicly operated or a facility which affects the public interest. Such use may be permitted and desirable in certain districts but not without consideration in each case of the effect of the use upon neighboring land and the public need for the particular location. The application of the planning standards for determining the location and extent of such use is a planning function and not in the nature of a variance or appeal.

Enumerated throughout this Zoning Code are certain uses and the districts in which conditional uses may be permitted, provided the following standards are fulfilled and a conditional use permit is granted by the Planning Commission.

(a) Application. The application for such permits received from the proponent shall be submitted by the Building Commissioner to the Planning Commission. The Commission shall hold a hearing thereon, notice of which may be published in a newspaper of general circulation, or mailed to the owners of property contiguous to and across the street from the parcel for which a conditional use permit is requested, at least fifteen days before the hearing. The Commission shall take action upon such application within sixty days from the date of receiving such application. Failure to act within such period shall be deemed approval.

(b) Standards for Evaluating Conditional Use Permits. An application for a conditional use permit shall not be approved unless the following conditions and standards are complied with as set forth for the following districts:

(1) Residential Districts.

A. The proposed use is properly located in relation to any adopted land use or street plan, particularly to the collector and local street systems and pedestrian circulation.

B. When located on a local street the proposed use will generate the least possible traffic through a residential neighborhood.

C. The proposed use is necessary to serve the surrounding residential areas which cannot be served satisfactorily if the same use is located in a nearby less restrictive district where it may be permitted by right.

D. The location, design and operation of such use will not discourage the appropriate development or impair the value of the surrounding Residential District.

E. For temporary structures every conditional use permit shall be re viewed every six months and may be renewed only while the construction operations are pursued diligently.

(2) Business, Research, Service and Industrial Districts.

A. The proposed use is necessary to serve the community needs, and existing similar facilities located in a less restrictive or more remote district in which the use may be permitted by right are inadequate.

B. The proposed use is not closer than appropriate in the particular situation to schools, churches and other places of assembly.

C. The location, extent and intensity of the proposed use shall be such that its operation will not be objectionable to nearby dwellings by reason of greater noise, smoke, dust, odors, fumes, vibrations or glare than is normal or is permitted by the performance standards of the district.

D. The proposed use will form a harmonious part of the Business, Research, Service and Industrial District, taking into account, among others, convenience of access to and relationship of the proposed use to other permitted uses in the district;

E. The proposed use will be permitted in the proposed district rather than one in which it is permitted by right, because the applicant has demonstrated in its application to the Planning Commission that the proposed use is of only such limited nature and extent as is required to serve the needs of the district, or, when determined applicable by the Planning Commission, the needs of the community; and

F. The hours of operation and concentration of vehicles in connection with proposed use will not be more hazardous or dangerous than the normal traffic of the district.

(3) Game room and amusement arcade standards. In addition to complying with the above general standards, in the use of all or part of a structure for a game room or amusement arcade, the location and arrangement of amusement devices shall comply with the following specific standards:

A. As a part of the application for a conditional use permit, the applicant shall submit a floor plan, drawn to scale, showing the size, location and arrangement of each mechanical amusement device. For the purposes of this subsection, depth is measured perpendicular to any player or user side of an amusement device, and width is measured perpendicular to any non-player side of the device.

B. Non-tabletop devices. In addition to the actual floor plan dimensions of the device, an open area of five feet in depth shall be provided on any player side and an open area of three feet in width shall be provided on any non-player side, except where such non-player side is positioned adjacent to a structural wall.

C. Tabletop devices.

1. Designed to be played in a seated position: In addition to the actual floor plan dimensions of the device, an open area of four feet in depth shall be provided on any player side, and an open area of three feet in width shall be provided on any non-player side, except where such non-player side is positioned adjacent to a structural wall.

2. Designed to be played in a standing position, e.g. billiard tables, air hockey tables, shuffleboard tables, bowling machines: In addition to the actual floor plan dimensions of the device, an open area of six feet in depth shall be provided on any

player side of the device, and an open area of four feet in width shall be provided on any non-player side, except where such non-player side is positioned adjacent to a structural wall.

D. The area and location requirements shall be met exclusive of any aisleways, corridors, passageways, or other circulation patterns necessary or required for applicant's business by the laws of the City or the State. The actual installation shall be in conformity with the plans submitted as the basis for issuance of the conditional use permit.

(4) Oil and gas well standards. In addition to complying with the standards in paragraphs (b) (1) and (2) hereof and with the Fire Prevention Code of the City, the use of land to drill a new oil and gas well, to drill an existing well deeper, to reopen a well or to convert a well to any use other than its original purpose shall comply with the following standards:

A. As part of the application for a conditional use permit, the applicant shall submit:

1. A copy of the application for a drilling permit to be filed with the State, including the information required by Ohio R.C. 1509.06(A) through (N);

2. A block map of the area within a 500-foot radius of the drill site, which map reflects the location of the proposed well and distances therefrom all existing structures, the location of all natural waterways therein and existing oil, gas or fresh water wells therein;

3. A statement of the proposed drilling schedule from its commencement to its completion;

4. A design plan showing the location and method of construction of the proposed drive or roadway to the drilling and storage sites, the location and method of construction of storage facilities and the fence and landscaping of the well and storage facilities, accompanied by a proposed schedule for the completion of each of the foregoing;

5. A sworn statement that the principal purpose of the use of the well is and will be for directly supplying fuel to the owner and his heirs, successors and assigns, for use on the premises where the well is located; and

6. A copy of the spill prevention control and countermeasure plan for storage facilities having a capacity in excess of 1,320 gallons or single containers having a capacity in excess of 660 gallons.

B. As a prerequisite to approval of this conditional use, the Planning Commission shall find that:

1. The proposed well location, and its maintenance and operation, will not impede or interfere with development of the land upon which it is situated in accordance with and for the purposes set forth in the Comprehensive Plan of the City and this Zoning Code.

2. The principal purpose of the use of the well is and will be for directly supplying fuel to the owner and his heirs, successors and assigns, for the use on the premises where the well is located.

3. The production, processing, storage, keeping, transportation, sale or use of the substances and gases produced by the well, and the

construction of the well and storage facilities, will comply with the performance standards set forth in Section 1262.10 (b) through (j) and the ordinances and regulations referenced therein. Such standards shall be applicable in a zoning district for all purposes of this conditional use, notwithstanding the district limitations set forth in Section 1262.10.

4. Vehicular access to the well and storage facilities will be provided from major arterial, industrial or collector streets and will not require the use of local collector or local streets for such access.

5. The location and the design plan and accompanying schedule provided for timely effective screening of such well, storage facilities and appurtenances from view from all surrounding structures and land use areas in one or a combination of the following manners:

a. Planting of landscaping, which shall include substantial dense all season plantings which grow to an average height of at least six feet within a three-year period.

b. Construction of a substantially solid wall or fence erected to a height of not less than six feet with complementary landscaping; or

c. The location of such well, storage facilities and appurtenances in relation to existing topography, structures and/or landscaping.

Upon making such findings, the Planning Commission shall forward the application and a report of its findings to Council for its confirmation and a determination as to whether or not the proposed use is consistent with the legislative purposes of this Zoning Code.

(5) Community-based residential care facility standards. In addition to complying with the standards in paragraph (b)(1) and (2), the use of land for a community-based residential care facility, family home or group home shall comply with the following standards and requirements:

A. Any family home and group home must be licensed by the Ohio Department of Mental Retardation and Developmental Disabilities.

B. Individual family homes and group homes shall not be located closer than 2,000 feet to one another.

C. The operator of each family home and group home shall register with the Building Department prior to the commencement of any operation and annually thereafter. To register, the operator, or the operator's designee, shall provide to the Building Department:

1. The name, address, and telephone number of the owner and operator of the property upon which the community-based residential care facility is located;

2. The name under which the facility shall operate;

3. The location, site and floor plan of the proposed facility;

4. A copy of the facility's current license and/or certificate from the Ohio Department of Mental Retardation and Developmental Disabilities;

5. A statement as to the maximum number of residents to reside in the facility, the general nature of their needs, and the type of assistance, support and supervision to be provided;

6. A statement outlining admission procedures and policies of the facility;

7. A copy of the residency rules of the community-based residential care facility and the rules for the storing and administering of medication;

8. Approval of the Fire Prevention office after inspection of the facility's compliance with the Fire Prevention Code as applicable to such facility (all family homes and group homes shall be fully sprinkled and include an interconnected smoke detection system); and

9. Approval of the Building Commissioner issued after inspection for compliance with the Building Code.

D. If the community-based residential facility is found to be in compliance with all of the aforementioned standards and requirements by the Building Commissioner, he shall issue an occupancy permit for the facility for a period of one year. Prior to the expiration of such one-year period, the facility shall be reinspected by the Commissioner and Fire Prevention Officer. If the Commissioner finds that the facility is operating in compliance with all applicable provisions of Section 1242.07, he shall renew the facility's permit for a period of one year.

E. The occupancy permit of any community-based residential care facility may be revoked by the Building Commissioner at any time if such facility is found in violation of any of the standards and requirements of Section 1242.10. In the event the license is revoked, the community-based residential care facility shall cease its operation immediately.

(6) In addition to complying with the requirements and standards in paragraphs (a) and (b)(1) of Section 1242.07, the sale of religious materials as an accessory use to a main use of land for church or other religious facility purposes shall comply with the following standards and requirements:

A. The accessory use of the sale of religious materials shall be conducted by or under the direction and control of the religious institution or organization occupying the main use on the zoning lot.

B. The materials offered for sale shall be substantially related to the furtherance and advancement of the worship or other religious purposes of the religious institution or organization occupying the main use on the zoning lot.

C. Such accessory use shall be conducted within the main building or an accessory building which has been approved by the Planning Commission.

D. The building area designated for such accessory use shall in no event exceed 2,500 square feet.

E. The main use and all accessory uses shall meet the off-street parking requirements of Chapter 1270 of the Zoning Code and in particular, where applicable, the mixed use standards as set forth in C.O. Section 1270.06(b).

F. The main use and all accessory uses shall meet the requirements and standards of Chapter 1256 of the Zoning Code.

(7) Wireless Telecommunication Facilities. In addition to complying with the standards in paragraphs (B)(1) and (2), the use of land for a wireless telecommunication facility shall comply with the procedures, standards and requirements set forth in C.O. Chapter 1273.

(8) Safeguards and conditions, In addition to complying with the above general standards set forth in this section, conditions appropriate to each particular application may also be set forth in the permit.

(9) Approval. The approval of a conditional use permit shall become null and void if the construction of the building or site improvements are not started within a six-month period after date of approval.

(Ord. 1998-71. Passed 7-27-98.)

1242.08 DETERMINATION OF SIMILAR USES.

The determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of the use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be included in the enumeration of uses permitted by right.

All applications for permits for a building or use not specifically listed in any of the permitted building or use classifications in any of the districts shall be submitted to the Planning Commission and, after approval by it, confirmed by Council in compliance with the following standards:

(a) Such use is not listed in any other classification of permitted buildings or uses;

(b) Such use is more appropriate and conforms to the basic characteristics of the classification to which it is to be added than to any other classification;

(c) Such use does not create dangers to health and safety and does not create offensive noise, vibration, dust, heat, smoke, odor, glare or other objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it is to be added; and

(d) Such use does not create traffic to a greater extent than the other uses listed in the classification to which it is to be added.

(Ord. 1978-165. Passed 10-16-78.)

1242.09 CERTIFICATE OF OCCUPANCY.

(a) Application and Use. A certificate of occupancy shall be applied for by the owner or his agent and shall be issued by the Building Commissioner as a condition precedent to the occupancy and/or uses of a building and land as follows:

(1) Occupancy of a building erected or altered. A certificate of occupancy shall be required before occupancy of a new building, or before occupancy of an existing building which has been altered, moved, changed in use or increased in off-street parking requirements. Such certificate shall only be issued after the erection or alteration of such building, or a component thereof, or after a required accessory use has been completed and found by inspection to be in conformity with the provisions of this Zoning Code and the Building Code.

(2) Change in use of conforming building or land. A certificate of occupancy shall be required before occupancy of a conforming building or land where

the use has been changed, provided the use is different than the prior use, and shall be issued, when found by inspection to be in conformity with provisions of this Zoning Code.

(3) Change in use of nonconforming building or land. A certificate of occupancy shall be required whenever a nonconforming building or land is changed, and shall not be issued until the Planning Commission has approved the change in accordance with the provisions of Chapter 1274.

(4) Temporary certificate of occupancy. Pending the issuance of a regular certificate, a temporary certificate may be issued by the Building Commissioner to be valid for a period not to exceed six months from its date provided that the Building Commissioner finds and determines that all of the following conditions exist:

A. All parts of buildings or structures to be temporarily occupied for any purpose are completed and found by inspection to be in compliance with this Zoning Code and the Building Code; and

B. The conditions and circumstances created by the incompleting work are not and will not be a nuisance, or a threat to the health or safety of the person or property of the occupants or others; and

C. The owner has deposited with the city cash in an amount estimated by the city Engineer and Building Commissioner to be equal to the actual cost of completing the improvements in accordance with plans and specifications and in compliance with this Zoning Code and the Building Code; and

D. Full completion of all work with respect to the site and buildings and structures thereon is being diligently prosecuted in conformance with the plans, data and information submitted.

If the Building Commissioner determines any of the requirements of subsection (a)(4) hereof cease to exist, he may terminate the temporary occupancy certificate upon ten days written notice to the owner.

(b) Record of Existing Building and Land Use. Upon application by the owner, or his agent, the Building Commissioner shall inspect a building or tract of land existing on the effective date of this Zoning Code and shall issue a certificate of occupancy therefor, certifying:

- (1) The present use of the building or land;
- (2) If such use conforms to all the provisions of this Code; and
- (3) If it is a lawfully existing nonconforming use.

(c) Application for Certificate.

(1) Applications for a certificate of occupancy may be submitted separately or may accompany an application for a building permit. Accurate information shall be furnished by the owner or his agent, as to size and location of the lot, buildings or structures occupying the lot, the dimensions of all yards and open spaces, the use of land or building and all such information as may be included on a form to be furnished by the city.

(2) A record of all applications and certificates issued shall be kept on file in the office of the Building Commissioner and copies shall be furnished, upon

request, to any person having a proprietary or tenancy interest in the building or land affected.

(Ord. 1981-40. Passed 7-6-81.)

1242.10 ENFORCEMENT.

(a) Authority of Building Commissioner. The duty of administering and enforcing this Zoning Code is hereby conferred upon the Building Commissioner. The Building Commissioner may promulgate such rules and regulations as he determines necessary to supplement the administration of this Zoning Code. After certification by Council, such rules and regulations shall have the same force and effect as the provisions of this Zoning Code.

(b) Right of Entry; Order for Removal of Violation. The Building Commissioner is hereby authorized to enter any premises at a reasonable time to inspect a reported violation of this Zoning Code, to examine such premises and to order, in writing, the remedying of any condition found to exist in violation of this Zoning Code. After such order is served or posted on the premises, no work, except to correct such violation in compliance with such order, shall proceed on any building or tract of land until such violation is corrected.

(c) Records. The Building Commissioner shall keep, or cause to be kept, a record of his department in regard to any decision, determination or conclusion reached by him in connection with the enforcement of this Zoning Code. Such record shall be open to public inspection during regular business hours.

(Ord. 1985-18. Passed 6-3-85.)

1242.11 INJUNCTION.

No person shall erect, construct, alter, repair or maintain any building or structure, or use any land, in violation of this Zoning Code or the regulations enacted pursuant thereto. In the event of any such violation, or imminent threat thereof, upon the request of the Mayor or Council, the Law Director, on behalf of the Municipality, shall institute a suit for injunction to prevent or terminate such violation.

(Ord. 1978-165. Passed 10-16-78.)

1242.12 VIOLATION OF REGULATIONS.

Whoever willfully violates any rule or regulation adopted by Council or the Planning Commission shall forfeit and pay not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), to be recovered with costs in a civil action brought by the Law Director in the name of the City for the use thereof. Each day such violation continues shall constitute a separate forfeiture.

(Ord. 1978-165. Passed 10-16-78.)

1242.13 TRANSFER OF COMMON LAND PROHIBITED.

When common land, a street, recreation area, park or other open land has been set aside, with the approval of the Planning Commission, for the exclusive use, in common by abutting or other owners or occupants of land, the sale, transfer or change of use of

such land or any part thereof is prohibited, unless the Planning Commission has given its prior consent thereto, which shall be confirmed by action of Council. Whoever willfully violates this section shall forfeit and pay to the City not more than five hundred dollars (\$500.00) as determined by Council. Such sum shall be recovered, with costs, in an action brought by the Law Director in the name of the City and for the use thereof. (Ord. 1978-165. Passed 10-16-78.)

1242.99 PENALTY.

Whoever shall:

(a) Use or occupy any land or place, build, erect, alter, remodel, restore or rebuild thereon any building or structure, or permit any building or structure to remain on such land or use, occupy or operate such building or structure, in any way or for any use or purpose which is not permitted by the provisions of this Zoning Code; or

(b) Aid, assist or participate with any person in placing, building, erecting, altering, remodeling, restoring or rebuilding any building or structure which is not permitted by the provisions of this Zoning Code; or

(c) Violate or fail to perform any condition, stipulation or safeguard set forth in any permit issued pursuant to this Zoning Code, or continue to use or occupy the premises or building as previously authorized by such permit beyond the duration limit therein stated; or

(d) Refuse to permit the Building Commissioner or his assistant to enter any premises in the Municipality to investigate a reported violation of the provisions of this Zoning Code; or

(e) Knowingly make any materially false statement of fact in an application to the Building Commissioner or his assistants for a permit or in any plans or specifications submitted in relation to any application under this Zoning Code; or

(f) Being an owner or lessee of any premises, knowingly suffer or permit a violation of this Zoning Code to occur or exist on such premises; shall be guilty of a minor misdemeanor by each such action or omission and upon conviction thereof shall be fined not more than one hundred dollars (\$100.00) for each offense. Each day during which such act, violation or omission shall be done, committed, omitted or continued, shall constitute a separate offense.

(Ord. 1981-72. Passed 9-8-81.)

**CHAPTER 1244
Amendments**

- 1244.01 Initiation of zoning amendments.
- 1244.02 Planning Commission action.
- 1244.03 Public hearing.
- 1244.04 Action by Council.

CROSS REFERENCES

Division of Municipal corporation into zones - see Ohio R.C. 713.06
Restrictions on location, bulk and height of buildings and structures - see Ohio R.C. 713.07

Restrictions on height of buildings and structures - see Ohio R.C. 713.08
Restrictions on bulk and location of buildings and structures, percentage of lot occupancy and set-back building lines - see Ohio R.C. 713.09

Basis of districting or zoning; classification of buildings or structures - see Ohio R.C. 713.10

1244.01 INITIATION OF ZONING AMENDMENTS.

(a) Council, either upon petition of a property owner, upon recommendation of the Planning Commission or upon its own initiative, may amend or change the number, shape, area or regulations of or within any zone or district, but no such amendment or change shall become effective unless the proposed amendment or change is first submitted to or considered by the Planning Commission for its approval, disapproval or recommendation. The Commission shall be allowed a reasonable time, to be not less than sixty days after referral or submittal, for consideration and report.

(b) A petition by a property owner for a zoning amendment shall be filed with the Clerk of Council on forms provided by the Clerk and shall include:

- (1) The zoning district applicable to the property on the date the petition is filed and the zoning district which the petitioner requests;
- (2) The proposed use of the property;
- (3) A statement of the petitioner setting forth the reason(s) that the change in zoning requested is necessary for the preservation and enjoyment of a substantial property right; and
- (4) A statement of the petitioner setting forth the reason(s) that the change in zoning requested will not be materially detrimental to the public welfare nor to the property of other persons located in the vicinity.

(c) A petition for rezoning shall be accompanied by the following:

- (1) A completed property description on a form provided by the Clerk of Council, which shall include permanent parcel number(s), acreage, address and such other information regarding the property which is the subject of the petition as requested on the form;
- (2) A legal description and a map or plat of the property which is the subject of the petition prepared by a registered surveyor;
- (3) Evidence of ownership of the property which is the subject of the petition;
- (4) A certified list of the property owners of record, and their mailing addresses in all directions from the subject property for a distance of 500 feet, prepared by a title insurance company as defined in Ohio R.C. 3953.01(C) dated no more than fifteen days prior to filing of the petition with the Clerk of Council;

(5) Such other documentation or evidence supporting the petitioner's reasons for the requested rezoning which the petitioner desires the Council and the Planning Commission to consider; and

(6) A non-refundable fee in the sum of one hundred dollars (\$100.00) plus an amount equal to the current cost of regular mail postage times the number of owners on the certified list filed with the petition plus an amount equal to the Clerk's estimate of the cost of publication as required by Section 1244.03.

(d) Copies of the petition and the accompanying documentation shall be filed in sufficient number to provide each member of the Planning Commission and the Council and each official and employee of the City reviewing the petition with a copy. (Ord. 1998-46. Passed 7-27-98.)

1244.02 PLANNING COMMISSION ACTION.

It shall be the duty of the Secretary of the Planning Commission to forthwith file with the Clerk of Council a report of the action and recommendation of the Commission with respect to any referral or submittal. Failure to file such report within sixty days after referral or within the time otherwise provided shall be accepted as and be deemed an approval of the proposed changed or amendment submitted. (Ord. 1978-165. Passed 10-16-78.)

1244.03 PUBLIC HEARING.

(a) Before any ordinance, measure or regulation amending or changing the number, shape, area or regulations of or within any zone or district may be passed, Council shall hold a public hearing thereon. It shall publish notice of such hearing in one newspaper of general circulation within the City, adequately describing the nature of the pending legislation, once a week for two consecutive weeks on the same day of the week, the first of such publications to take place not less than thirty days prior to the public hearing. During such thirty days, the text or copy of the text of such ordinance, measure, regulation or proposed change, together with the maps or plans or copies thereof forming part of or referred to in such ordinance, measure, regulation or proposed change, and the maps, plans and reports submitted by the Planning Commission, shall be on file for public examination in the office of the Clerk of Council.

(b) In addition to publication as set forth in subsection (a) hereof, notification shall be given to all owners of real property within 500 feet of each lot line of the property proposed to be rezoned by regular first class mail.

(c) If an application to rezone property is made by someone other than the owner or his agent, a notice of the application for rezoning shall be sent by regular first class mail to the real property owner or owners whose property is to be rezoned. (Ord. 1978-165. Passed 10-16-78.)

1244.04 ACTION BY COUNCIL.

No such ordinance, measure, regulation or proposed change, which violates, differs from or departs from the plans or report submitted by the Planning Commission,

shall take effect unless passed or approved by not less than two-thirds of the membership of Council.

Any such ordinance, measure or proposed change may be amended by majority vote, prior to the voting thereon by Council, without further notice or postponement, if such amendment is germane to the subject matter and does not violate, differ from or depart from the report of the Planning Commission.

(Ord. 1978-165. Passed 10-16-78.)