

**CHAPTER 150: ZONING CODE**  
**City of Bowling Green, Ohio**

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### 150.01 INTENT

For the purpose of promoting the public health, safety, morals, comfort, and general welfare; conserving the values of property; facilitating the provision of public utilities, schools, and other public requirements; and lessening or avoiding congestion on public streets and highways, it is provided as follows.

### 150.02 TITLE

This chapter shall be known and may be cited as the City of Bowling Green Zoning Code.

### 150.03 DEFINITIONS

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

**"ACCESSORY BUILDING" or "ACCESSORY STRUCTURE"**: Any building or structure in which activities are carried out which are accessory to or supportive of those activities in the primary structure. An accessory building may not contain other primary activities or those activities carried out in the primary structure itself. The terms "accessory building" and "accessory structure" are interchangeable. An accessory building must be located on the same lot as the primary structure to which it is accessory, unless a variance is granted by the board of zoning appeals pursuant to 150.132 et seq. Any accessory building or accessory structure must be located a minimum of ten feet (10') from the primary structure.

**"ADJACENT"**: As it applies to structures, adjacent means touching or so close that it functions as attached.

**"ADULT BOOK STORE"**: An establishment which utilizes twenty-five percent (25%) or more of its retail selling area for the purpose of retail sale or rental, or for the purpose of display by coin or slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices, or both; books, magazines, other periodicals, films, tapes and cassettes which are distinguished by their emphasis on adult materials as defined in this section.

**"ADULT DRIVE-IN MOVIE THEATRE"**: An open air drive-in theatre which is regularly used or utilized fifteen percent (15%) or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section.

**"ADULT ENTERTAINMENT BUSINESS" or "ADULT ENTERTAINMENT BUSINESS"**: An adult bookstore, adult motion picture theater, adult drive-in motion picture theatre, or an adult-only entertainment establishment as further defined in this section.

**"ADULT FAMILY HOME"**: A residence or facility, licensed by an agency of the State of Ohio, that provides accommodations from three (3) to five (5) unrelated adults and also provides supervision and personal care for at least three (3) persons.

**"ADULT GROUP HOME"**: A residence or facility licensed by an agency of the State of Ohio, that accommodates from six (6) to sixteen (16) unrelated adults and also provides supervision and personal care for at least three (3) persons.

**"ADULT MATERIAL"**: Any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, video tape, figure, image, description, motion picture film, phonographic record, or tape, other tangible thing, or any service, capable of arousing interest through sight, sound, or touch, and

- (1) Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, of human bodily functions of elimination, or
- (2) Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination

**"ADULT MOVIE THEATER"**: An enclosed motion picture theater which is regularly used or utilized fifteen percent (15%) or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this section.

**"ADULT ONLY ENTERTAINMENT ESTABLISHMENT"**: An establishment where the patron directly or indirectly is charged a fee where the establishment features entertainment or services which constitute adult material as defined in this section, or which features exhibitions, dance routines, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services which constitute adult material.

**"AGRICULTURAL ANIMALS"**: Animals normally associated with agriculture including, but not limited to, cattle, goats, horses, poultry, rabbits, sheep, and swine. Agricultural animals are only permitted in the A-1 Agricultural District. Domestic dogs and cats are not agricultural animals, but household pets.

**"AGRICULTURE"**: Farming, dairying, pasturage, apiculture, horticulture, viticulture, animal and poultry husbandry, sod farming, and furbearing animal production.

**"ALLEY"**: A public right-of-way which yields secondary access to a lot.

**"ALTERATION"**: Any change in the supporting members of a building such as, but not limited to, bearing walls, columns, beams, girders, and roofs.

**"ANIMAL HOSPITALS"**: Activities for housing, training, exercising, and providing a medical service for large and small animals, including any outside runs, kennels, or training areas.

**"AREA OF A SIGN"**:

- (1) For the computation of the allowable area of a sign using freestanding letters or cutout letters see Figures 1.1e, 1.2a, 1.2c, 1.4a, 1.6 and 1.7.
- (2) For signs other than in (1) above see Figures 1.1, 1.2b, 1.4c and 1.5.
- (3) Computation of allowable sign area includes all existing signs on the premises whether such signs be conforming or nonconforming under the terms of this chapter.

**"AUTOMOTIVE REPAIR GARAGE"**: A facility used for repairing and servicing of motor vehicles. The sale of gasoline and supplies is incidental to the repair and servicing function.

**"AUTOMOTIVE SALES"**: A structure and lot devoted to display and retail sales of automobiles and motor vehicles, including repair or servicing of motor vehicles.

**"AUTOMOTIVE WRECKING"**: The storage of motor vehicles or motor vehicle parts and the disassembly thereof. This activity shall not include the assembly, processing, or smelting of auto vehicles or other parts or products.

**"AWNING"**: Any structure made of cloth, wood, or metal having a metal or wooden frame, being attached to a building and carried by a frame supported by the ground or sidewalk.

**"BAR" or "TAVERN"**: An establishment devoted primarily to the sales of alcoholic beverages. Food service may be provided, but is secondary to the sale of alcoholic beverages. Entertainment may also occur on the premises.

**“BARBER SHOP” or “BEAUTY SHOP”**: Any commercial establishment that offers to the public barbering or cosmetology services performed by persons licensed by the State of Ohio.

**“BED AND BREAKFAST”**: An owner-occupied single-family dwelling in which rooms are rented to paying transients or travelers on an overnight basis, with only breakfast being served. The cost of the breakfast is included in the room rate. No room may be rented to any person for a period of more than fourteen (14) consecutive days or twenty-four (24) days in any calendar year.

**“BEDROOM”**: An above-ground conditioned space located on the exterior wall of a dwelling containing a built-in, enclosed clothes closet, mattress and bedroom furniture, which is a minimum of 70 square feet, measured not including closet space. A **BEDROOM** is not a hall, bathroom, kitchen, living room, dining room, family room, laundry room, attic, or closet or dressing room opening off a bedroom. A **BEDROOM** is used primarily for sleeping purposes.

**“BERM”**: A raised form of earth to provide screening or to improve the aesthetic character.

**“BOTTOMLESS”**: Less than full opaque covering of male or female genitals, pubic area or buttocks.

**“BUILDING”**: Any structure including a roof supported by walls, designed or built for the support, enclosure, shelter, or protection of persons, animals, or property.

**“BUILDING FACE”**: The outside flat surface of a building or structure. A building face does not include awnings, canopies, sills, and other projections of a similar nature.

**“BUILDING HEIGHT OF”**: The vertical distance from the grade to the highest point of the roof.

**“BUILDING SETBACK”**: A line parallel to the exterior lot lines specifying a portion of the lot located between the exterior lot line and the building in which distance no structure may be placed. Front yard shall be the setback from the public right-of-way adjoining the lot. In the case of a lot located at the intersection of two (2) streets, the setback adjoining each public right-of-way shall be considered a front yard.

**“CAMPUS MINISTRY”**: A facility used by a group affiliated with a church or denomination using a structure for promotion of religious views on the university campus.

**“CANOPY”**: Any structure made of cloth, wood, or metal having a metal or wood frame attached to a building and carried by a frame supported by the ground or sidewalk.

**“CANOPY SIGN”**: A structure that is attached to the building face that contains outdoor advertising. Such structure must be secured from the top only, be a minimum of 8 feet above grade, and project no more than 3 feet above the exterior, flat surface of the building. Such sign is considered flush-mounted. (See Figure 1.3c)

**“CENTRAL BUSINESS DISTRICT COMMERCIAL”**: The sale of general goods and services in the downtown core area of the community.

**“CHANGEABLE COPY SIGN OR ELECTRONIC MESSAGE BOARD”**: An outdoor sign, either manual or electronic, that does not convey, in intervals of 10 seconds or less, the visual sensation or appearance of motion, or does not present a non-constant visual image to the eye of an observer in intervals of 10 seconds or less.

**“CHILD DAY-CARE CENTER”**: Any place in which child day-care is provided, with or without compensation, for thirteen (13) or more children at any one time, or any place that is not the permanent residence of the licensee or administrator in which child day-care is provided, with or without compensation, for seven (7) to twelve (12) children at any one time. In counting children for purposes of this definition, any children under six (6) years of age who are related to a licensee,

administrator, or employee and who are on the premises shall be counted.

**"CITY COUNCIL"**: The city council of the City of Bowling Green.

**"CLINIC"**: A structure containing offices for medical, dental, optometry, and paramedical services. Such structure may contain a pharmacy, which sells only prescription drugs and medicines, but may not contain a drugstore.

**"COMBINED PARK-CAMP"**: Any tract of land upon which a combination of five (5) or more self-contained recreational vehicles or portable camping units are placed and includes any roadway, building, structure, vehicle or enclosure used or intended for use as part of the park facilities. A tract of land that is subdivided for lease or other contract of the individual lots is a combined park-camp if a combination of five (5) or more recreational vehicles or portable camping units are placed on it for recreation, vacation or business purposes.

**"CONDITIONAL USE"**: A use, which, because of the special nature of its activities or potential adverse effect on surrounding and adjoining properties, requires additional restrictions to those provided for other uses in the same district.

**"CONDOMINIUM"**: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

**"CONDOMINIUM PROPERTY"**: The land, together with all buildings, improvements, and structures thereon, all easements, rights, and appurtenances belonging thereon, and all articles of personal property which have been submitted to the provisions of R.C. Ch. 5311.

**"CONSERVATION EASEMENT"**: A voluntary restriction placed by the property owner on a piece of property to protect the resources, both natural and man-made, associated with the parcel. The restriction is either voluntarily sold or donated by the landowner and constitutes a legally binding agreement concerning land use taking place on the property.

**"CONSTRUCTION SIGN"**: A temporary sign, which designates the contractor or subcontractor, engaged in the construction or repair of the building or buildings on each lot or parcel of property.

**"CORNER LOT"**: A lot at the junction of and abutting two (2) or more intersecting streets.

**"DAY CARE CENTER" or "CHILD DAY-CARE CENTER"**: Any place in which child day-care is provided for five (5) or more infants, pre-school children and/or school age children, in average daily attendance, other than the children of the owner or administrator of the center, with or without compensation.

**"DAY SPA"**: Any commercial establishment that offers to the public barbering or cosmetology services and massage therapy performed by persons licensed by the State of Ohio.

**"DECORATIVE FENCING"**: A fence constructed of wood or masonry of specified height designed for pleasing appearance and which is not necessarily totally opaque. Wire mesh or chain link fences do not meet these criteria.

**"DETACHED GARAGE, PRIVATE"**: An accessory building. Located on the same lot as the dwelling or portion of the dwelling, that is designed for the storage of motor-driven vehicles owned and/or used by the occupants of the dwelling unit, and other normal household accessories of the dwelling unit, with no facilities for mechanical service or repair of a commercial or public nature.

**"DETENTION POND (RETENTION POND)"**: An area where storm water is either detained or held. The only water which is held or detained is storm water from buildings and/or driveways and off-street parking lots and loading

areas. Limited recreational use is made of the area.

**"DEVELOPMENT SIGN"**: A temporary sign used to indicate or to identify a proposed future development upon real property.

**"DISABLED VEHICLE"**: A motor vehicle that, by condition of disrepair or accident, is unable to be moved and maneuvered under its own power but is subject to repair.

**"DRIVER TRAINING SCHOOL"**: A business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons to operate or drive motor vehicles, that uses public streets or highways to provide training, and that charges a consideration or tuition for such services. The Driver Training School is licensed by the State of Ohio and inspected by the Ohio Highway Patrol.

**"DWELLING"**: Any building or any portion thereof intended or designed to be built, used, rented, leased, let, or hired out to be occupied, or which is occupied for sleeping, living, cooking, or dining purposes, having its own permanently installed cooking and sanitary facilities and shall include one (1) or more dwelling units.

**"DWELLING UNIT"**: A dwelling unit is a suite of one (1) or more rooms within a dwelling forming a single habitable unit with facilities which are used for sleeping, living, cooking, and dining, whether or not such unit is occupied or vacant.

**"EASEMENTS"**: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**"EFFICIENCY APARTMENT"**: Any room having cooking facilities and a water closet, used for combined living, dining, and sleeping purposes by not more than two (2) persons.

**"ENTRANCEWAY SIGN"**: A sign indicating an entrance or exit to a commercial, industrial, or institutional site; provided such signs shall not exceed 2 square feet, be located not closer than 5 feet to any right-of-way, be limited to one per driveway, and be internally illuminated. Any entranceway sign shall require a zoning certificate but not count toward the total number of outdoor advertising structures. An entranceway sign is not a traffic-control device.

**"EVERGREEN"**: Any tree that retains its green living foliage the entire year.

**"EXPIRED TEMPORARY SIGN"**: A temporary sign the message on which has, in the judgment of the Planning Director, been rendered no longer operative, valid, or timely by events or the passage of time. Examples include, but are not exclusive to, yard sale sign displayed after the end of the sale, a campaign sign displayed after the date of the applicable election, a real estate sign displayed after the consumption of the sale, a construction sign displayed after the completion of construction.

**"FAMILY"**: An individual or married couple and natural or adopted children thereof, or foster children placed by a duly constituted state or county agency, occupying a dwelling for purposes of habitation, and including other persons related directly to the individual or married couple by blood or marriage.

**"FARM RESIDENCE"**: The single-family residence of a family which works in agriculture, on the same parcel or on an adjacent parcel.

**"FENCE"**: Includes all structures used as barriers or to demarcate a boundary, but shall not include ornamental structures of less than one foot (1') in height.

**"FIFTH WHEEL TRAILER"**: A vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred (400) square feet or less, that is constructed with a raised forward

section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth wheel hitch originally installed in the bed of a truck.

**"FLASHING LIGHTS" or "MOVING LIGHTS":** Any light or lights which oscillate in intensity with a period of less than 10 seconds or that oscillate in intensity in a manner that gives an appearance of motion or the visual sensation or appearance of motion, or does not present a non-constant visual image to the eye of an observer in a continuous time frame of less than 10 seconds.

**"FRANCHISE":** A business or businesses which is located within another business, but is owned by another, unrelated person, firm, and/or corporation than the business in which it is located.

**"FRATERNITY HOUSE":** A building which is occupied only by a group who are associated together in a fraternity which is chartered by a national/international fraternity or recognized by Bowling Green State University, and receive from the fraternity or its agents lodging and/or meals on the premises. Occupants may also include employees and pledges of the fraternity or its agents, and non-members not to exceed ten percent (10%) of the occupancy of the building.

**"FREESTANDING SIGN":** A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles, or braces placed in or upon the ground. For visual reference see Figures 1.1, 1.4c and 1.5

- (1) **"MONUMENT OR GROUND SIGN":** a freestanding sign, supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles, or braces placed in or upon the ground, that does not exceed eight (8) feet in height. For visual reference see Figures 1.1d and 1.1e.
- (2) **"POLE, PYLON OR BLADE SIGN":** a freestanding sign, supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles, or braces placed in or upon the ground, that exceeds eight (8) feet in height, but does not exceed twenty-five (25) feet in height, for visual reference see Figures 1.1a, 1.1b, 1.1c and 1.5.

**"GASOLINE STATIONS" or "FILLING STATIONS":** Any building and accessory uses devoted to the sales of gasoline and other automotive products and with not more than three (3) stalls or bays devoted to the repair or servicing of motor vehicles.

**"GENERAL COMMERCIAL":** The sale of products or services designed to attract persons from a wide area or to be convenient to persons traveling along major streets and highways within the community.

**"GENERAL INDUSTRY":** The manufacture or assembly of products and the storage and movement of goods associated with it.

**"GRADE":** The sidewalk elevation as determined by the City Engineer.

**"GROUP HOME" or "COMMUNITY RESIDENCE":** A dwelling occupied by unrelated individuals which is licensed or administered by the federal, state, county, or city government, or a contracted entity thereof. A group home or community residence is not a rooming house, boarding house, or dormitory as defined in this section.

**"HOME OCCUPATION":** Any occupational activity carried on by a member or members of an immediate family residing on the premises; provided there is no commodity sold or offered for sale except such as are produced by members of the immediate family residing thereon, and provided that such occupation shall not occupy more than 1/2 of the building area. No display or indication shall be allowed that would indicate from the exterior of the building or the land that any uses are being made of such building or land than that of a dwelling with the exception that one (1) commercial sign that does not exceed one (1) square foot in total area may be affixed to the exterior of the building.

**"HOTEL":** A dwelling containing sleeping rooms devoted to temporary occupancy by individuals or families. Eat-

ing facilities may be provided in rooms or in a restaurant located on the premises. Entry to the rooms is through a central lobby managed by a clerk.

**"INDOOR SPORTS TRAINING FACILITY":** A wholly enclosed facility devoted exclusively to advanced and/or professional instruction and training relating to specific physical sports activities including, but not limited to, baseball, basketball, batting cages, boxing, cheerleading, dance and yoga classes, gymnastics, health and fitness clubs, martial arts, soccer, and volleyball courts. The term "sports training facility" does not include uses catering to the general public, including ice and roller skating rinks, bowling alleys, racquet and tennis clubs, paintball arenas, billiard halls, archery, and shooting ranges.

**"ILLEGAL SIGN":** Shall be identified as all signs except the following:

- (1) Signs allowed by this chapter and not requiring a permit.
- (2) Signs allowed by this chapter requiring a permit and carrying a valid permit.
- (3) Signs not allowed by this chapter but which have been legalized by variance and proper permit.
- (4) Nonconforming signs as defined in this chapter.

**"IN-GROUND SWIMMING POOL":** A swimming pool where at least 10 percent (10%) of the tank of water is below grade.

**"INDUSTRIALIZED HOME" or "INDUSTRIALIZED UNIT":** A building of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. Industrialized unit includes units installed on the site as independent units, as a part of a group of units, or incorporated with standard construction methods to form a completed structural entity. Industrialized unit does not include a manufactured home as defined by division (C) (4) of 3781.06 of the Revised Code or a mobile home defined by division (O) of Section 4501.01 of the Revised Code.

**"JUVENILES/HARMFUL TO JUVENILES":** A juvenile is an unmarried person under the age of eighteen. Any sexually-oriented material or performance is "harmful to juveniles" if it is offensive to prevailing standards in the adult community with respect to what is suitable for juveniles, and if any of the following apply:

- (1) It tends to appeal to the prurient interest of juveniles;
- (2) It contains a display, description, or representative of specified anatomical areas or specified sexual activities;
- (3) It makes repeated use of foul language;
- (4) It contains a display, description, or representation in lurid detail of the violent physical torture, dismemberment, destruction, or death of a human being;
- (5) It contains a display, description, or representation of criminal activity that tends to glorify or glamorize the activity, and that, with respect to juveniles, has a dominant tendency to corrupt.

**"LIGHT INDUSTRY":** The manufacture, assembly, processing, storage, or movement of goods in a manner that is not associated with the generation of noise, smoke, odors, outside storage, or assembly of materials or having large volumes of truck or rail traffic.

**"LIMITED COMMERCIAL":** The sale of goods and services which are geared toward either residents living within a specific area or a larger marketing area.

**"LOT":** A parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one (1) main building together with its accessory buildings, the open space and parking spaces required by this chapter, and having its principal frontage upon a street open to the public.

**"LOT COVERAGE":** The proportion of the total lot area that is covered by primary structures and auxiliary structures.

**"LOT FRONTAGE"**: The width of a lot measured at the right-of-way line. In the case of a cul-de-sac lot or a lot on a curve, the frontage is measured at the front yard setback line.

**"MAINTENANCE"**: The replacing or repairing of a part or portion of a sign made unusable or unsafe by ordinary wear, tear, or damage beyond the control of the owner; or the reprinting of existing copy without changing the wording, composition, or color of sign.

**"MAJOR STREET"**: Such street shall be those streets designated as such in the master plan as approved by the city council. Major streets in the city shall include the following: Bishop Road, Brim Road, Conneaut Avenue, Dunbridge Road, Gypsy Lane Road, Haskins Road, Main Street, Manville Avenue, Mercer Road, Mitchell Road, Napoleon Road, Newton Road, North College Drive, Poe Road, South College Drive, Thurstin Avenue, Van Camp Road, Wintergarden Road, and Wooster Street.

**"MANSARD ROOF"**: A roof having two (2) slopes on all sides with the lower slope steeper than the upper one.

**"MANUFACTURED HOME"**: A building or unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the "Manufacturing Housing Construction and Safety Standards Act of 1974," 88 stat. 700, 42 U.S.C.A. 5401, 5403 and that has a permanent label or tag affixed to it, as specified in 42 5415, certifying compliance with all applicable federal construction and safety standards.

**"MANUFACTURED HOME PARK", "MOBILE HOME PARK", or "TRAILER PARK"**: Any tract of land upon which three (3) or more manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park. Manufactured Home Park does not include any of the following:

- (1) A tract of land used solely for the storage or display for sale of manufactured or mobile homes or solely as a temporary park-camp.
- (2) A tract of land that is subdivided and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes used for habitation and the roadways are dedicated to the local government authority.
- (3) A tract of land within an area that is subject to local zoning authority and subdivision requirements and is subdivided, and the individual lots are for sale or sold for the purpose of installation of manufactured or mobile homes for habitation.

**"MOBILE HOME" or "TRAILER"**: A building or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five (35) body feet in length or, when erected on site, is three hundred twenty (320) or more square feet, is built on a permanent chassis, is transportable in one (1) or more sections, and does not qualify as a manufactured home as defined in division (C) (4) of 3781.06 of the Revised Code or as an industrialized unit as defined in division (C) (3) of Section 3781.06 of the Revised Code.

**"MOBILE HOME PARK"**: A lot designed exclusively for the occupancy by mobile homes. Such park shall have designated spaces for sites and trailer pads, interior drives, recreation and community areas, landscaping, and fencing. Pads or sites will not be sold but will be owned and maintained by a central management.

**"MODEL HOME"**: A house constructed to serve as a temporary sales office and as an example of the style home that can be built in a given subdivision. Only one (1) model home shall be permitted in a residential subdivision, regardless of the number of plats, and the subdivision must consist of a minimum of fifteen (15) lots.

**"MOTEL" or "TOURIST HOME"**: A structure with rooms devoted to the temporary occupancy of individuals or families under the control of a central management and designed for occupancy primarily by travelers. Eating facilities may be provided in rooms or in a restaurant or eating room located on the premises.

**"MOTOR HOME"**: A self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming food, and for sleeping.

**"MORTUARY or FUNERAL HOME"**: A building or part thereof used for human funeral services. Such building may contain space and facilities for the embalming and the performance of other services used in preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage and/or sale of caskets, funeral urns, and other funeral related supplies; the storage of funeral vehicles; and a funeral chapel, but shall not include facilities for cremation unless approved by the Environmental Protection Agency.

**"MULTIPLE-FAMILY DWELLING"**: A building containing three (3) or more dwelling units designed for occupancy by families or unrelated individuals.

**"NONCONFORMING USE"**: The occupancy of any residence, the use of any residence, building, or other structure and of any land or premises which does not conform to the use regulations contained in this chapter for the district in which it is situated. Nonconforming use includes the location on premises of structures, which do not conform to setback requirements, and includes any other failure to comply with the regulations contained in this chapter.

**"NUDE" or "NUDITY"**: The showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

**"NURSING HOME"**: A nursing home is any home or structure used for the residence and care of three (3) or more persons who, by reason of illness, physical, or mental impairment, require skilled nursing care. A nursing home is licensed to provide such personal assistance as required and skilled nursing care.

**"OBSCENE"**: Any material or performance that when considered as a whole and judged with reference to ordinary adults or, if it is designed for sexual deviates or other specially susceptible group, is judged with reference to that group, is "obscene" if it contains a series of displays or descriptions of specified sexual anatomical or specified sexual activities, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake, or in a way that inspires disgust or revulsion in persons with ordinary sensibilities, or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.

**"OFF-STREET PARKING"**: Any parking space for a motor vehicle located wholly off any public street, alley, or right-of-way and which is constructed of a hard, dustless surface and drained according to sound engineering practice.

**"OUTDOOR ADVERTISING"**: Any outdoor sign shall be considered outdoor advertising for purposes of this Chapter.

**"PARK TRAILER"**: A vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute A 119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred (400) square feet or less when set up, is designed for seasonal or temporary quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

**"PARKING LOT"**: A tract of land devoted to the temporary storage of motor vehicles and not accessory to another use on the same or any other lot. The lot shall contain designated parking spaces, which will be made available by rental, hourly, daily, or monthly.

**"PARKING STRUCTURE" or "STORAGE STRUCTURE"**: Any structure which is designed for the temporary storage or parking of motor vehicles. Such structure may be the sole use of a lot or may be in conjunction with another structure or use. The structure contains designated parking spaces available for rental by the hour, day, or month.

**"PARTY IN INTEREST"**: An owner of record or tenant under a lease of one (1) year or more of record of any real property included in a proposed rezoning or for which a zoning application, conditional use, exception, or variance has been requested. Also any owner of record or tenant under a lease of one (1) year or more of record of any real property adjacent to, across the street from, or within two hundred feet (200') of any property included in a proposed rezoning or for which a zoning application, conditional use, exception, or variance has been requested.

**"PERMANENT SIGN"**: Any sign which is intended to be so constructed as to be of a lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear), and position.

**"PERMANENTLY SITED MANUFACTURED HOME"**: A manufactured home that meets all of the following criteria:

- (1) The structure is affixed to a permanent foundation and is connected to appropriate facilities;
- (2) The structure, excluding any addition, has a width of at least twenty-two feet (22') at one point, a length of at least twenty-two feet (22') at one point, and a total living area, excluding garages, porches or attachments or at least nine hundred (900) square feet;
- (3) The structure has a minimum 3:12 residential roof pitch, conventional siding, and six inch (6") minimum eave overhang, including appropriate guttering;
- (4) The structure was manufactured after January 1, 1995; and
- (5) the structure is not located in a manufactured home park as defined by Section 3733.01 of the Ohio Revised Code.

**"PERSON"**: Any person, firm, partnership, association, corporation, company, or organization of any kind.

**"PLANNING COMMISSION"**: The planning commission of the city.

**"PLANT CULTIVATION"**: The cultivation of crops, horticulture, floriculture, viticulture, including fruit trees, nursery stock, truck garden products, and similar plant materials.

**"PRIMARY STRUCTURE"**: A building in which the main occupation or habitation occurring on the premises is carried out. A primary structure shall consist of a building and all structural attachment thereto as well as any structure adjacent to the building.

**"PROFESSIONAL OFFICES"**: The use of offices and related space for professional services such as provided by doctors, dentists, lawyers, accountants, engineers, etc.

**"PUBLIC DISPLAY"**: The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and material other than sexually-oriented materials are on display to the public.

**"PUBLIC TREES"**: All shade and ornamental trees now or hereafter growing on any tree lawn or any public place.

**"RACEWAY"**: An enclosed metal structure for the electrical components of an illuminated sign display or a metal enclosure to contain wiring and/or other electrical components exclusive of transformers

**"RAIN GARDEN"**: A man-made depression that is used as a landscaped bioretention area, collection storm water runoff and storing it, permitting it to be filtered and slowly absorbed by the soil. A rain garden is strategically placed to intercept storm water runoff from down spouts, roofs, sump pumps, etc. Organic material (20%) is blended into sandy soil (50%) and top soil (30%) and planted with species that tolerate extremes, general riparian species.

**"REAR YARD"**: The portion of the lot between the lot line opposite the public right-of-way and the rear yard setback line. In corner lots only one (1) rear yard need be maintained.

**"RECREATIONAL CAMP"**: Any tract of land upon which five (5) or more portable camping units are placed and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the camp. A tract of land that is subdivided for lease or other contract of the individual lots is a recreational camp if five (5) or more portable camping units are placed on it for recreation, vacation, or business purposes.

**"RECREATIONAL VEHICLE"**: A vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreation, and vacation uses and is classed as follows: travel trailer, motor home, truck camper, park trailer, or fifth wheel trailer.

**"RECREATIONAL VEHICLE PARK"**: Any tract of land used for parking five (5) or more self-contained recreational vehicles and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the park facilities and any tract of land that is subdivided for lease or other contact of the individual lots for the express or implied purpose of placing self-contained recreational vehicles for recreation, vacation or business purposes.

**"REST HOME" or "HOME FOR THE AGED"**: A homelike structure for the residence and care of three (3) or more individuals who are dependent upon the care of others for reasons of physical or mental illness or aging, but who still do not require the services of specialized or certified nursing care.

**"RESTAURANTS"**: A structure used for the sale of prepared food products to the general public. Alcoholic beverages may be sold when in conjunction with the sale of prepared food. Entertainment may occur on the premises.

**"RETAIL CENTER"**: One or more commercial establishments located in a single structure of a minimum size of 100,000 square feet.

**"RETAIL SALES"**: The sale of products from the premises to the general public.

**"RETAIL SERVICES"**: The sale of services to the general public, such as repair services, barber or beauty shops, accounting services, etc.

**"RETAIL WAREHOUSE"**: The storage and transfer of goods for sale.

**"RETENTION POND (DETENTION POND)"**: An area where storm water is either detained or held. The only water which is held or detained is storm water from buildings and/or driveways and off-street parking lots and loading areas. Limited recreational use is made of the area.

**"RIGHT-OF-WAY"**: Any strip or area of land, including surface, overhead, or underground, granted by a deed, plat, or easement, for public use, such as for roadways, sidewalks, drainage and ditches, electric power, telephone lines, gas, water, sewer and other pipe lines, and those uses the city by ordinance will grant or allow.

**"ROOMING HOUSE." "BOARDING HOUSE." or "DORMITORY"**: A multi-family dwelling providing sleeping rooms for individuals or groups; and when eating facilities are provided, they are group kitchens and eating facilities.

**"SCRAP YARDS" or "JUNK YARDS"**: Premises used for the storage, disassembly, and movement of scrap or junk materials.

**"SCREEN FENCE"**: A fence which, by its construction, is opaque and screens from view.

**"SCREEN PLANTING":** A continuous planting of evergreen plant material providing a visual barrier and maintained at a height of between three and seven feet (3'-7').

**"SEAT":** For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units, or each twenty-four (24) lineal inches of benches, pews, or space for loose chairs.

**"SEXUAL ACTIVITY":** Sexual conduct or sexual contact, or both.

**"SEXUAL CONTACT":** Any touching of an erogenous zone of another, including without limitation, the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

**"SEXUAL EXCITEMENT":** The condition of the human male or female genitals when in the state of sexual stimulation or arousal.

**"SEXUALLY-ORIENTED BUSINESS":** An establishment where a substantial portion of the use is distinguished or characterized by its emphasis on sexually-oriented materials. Sexually-oriented businesses include sexually-oriented cabarets/theatres, sexually-oriented media stores, and sexually-oriented motels, more specifically defined hereunder this regulation. Sexually-oriented business shall not include nude model studios, sexual encounter centers, sexually-oriented escort agencies, sexually-oriented spas, or sexually-oriented viewing booth or arcade booth facilities each more specifically defined by this regulation and prohibited as land uses, secondary uses, or accessory uses in the City pursuant to Section 150.29(C)(4).

- (1) **Sexually-Oriented Cabaret/Theatre:** A sexually-oriented auditorium, bar, concert hall, movie house, nightclub, restaurant, theatre, or similar business establishment which for any form of consideration displays or depicts sexually-oriented materials to patrons in a seating area exceeding 600 square feet as a substantial portion of its entertainment or presentation time, including: on-site live performances on a stage that features horizontal and/or physical barriers to prevent contact between the performers and the audience, including exhibitions, dance routines, gyrational choreography, strippers (male or female), female impersonators, lingerie modeling, or lingerie dancers; or other media, including films, motion pictures, computer files or software, laser discs, video cassettes, DVD's, slides, and similar photographic reproductions.
- (2) **Sexually-Oriented Media Store:** A sexually-oriented business establishment which offers sexually-oriented materials for retail sale or rental for any form of consideration as a substantial portion of its stock in trade, including books, magazines, periodicals, or other printed matter, visual representations, instruments, devices or paraphernalia.
- (3) **Sexually-Oriented Motel:** A sexually-oriented hotel, motel, or similar business establishment that offers accommodations to the public for any form of consideration and provides patrons with close-circuit television transmissions, films, motion pictures, laser discs, videocassettes, DVD's, slides, or other photographic reproductions that are characterized by the depiction or description of sexually-oriented material which is harmful to juveniles or obscene, and:
  - (a) Has a sign visible from the public right-of-way that advertises the availability of adult and/or sexually explicit materials along with room rentals; or
  - (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours, or
  - (c) 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.
- (4) **Nude Model Studio:** An establishment where a person who exhibits specified sexual anatomical areas to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for any form of consideration. A Nude Model Studio shall not include a proprietary school licensed by the State of Ohio or a College, Junior College, or University supported entirely or in part by public taxation, a private college or university that maintains and operates educational programs in which cred

its are transferable to a College, Junior College, or University supported entirely or partly by taxation, or in a structure, provided such institution meets all the following criteria:

- (a) There is no sign visible from the exterior of the structure and no other advertising that indicates a person exhibiting specified sexual anatomical areas is available for viewing; and
  - (b) In order to participate in a class a student must enroll at least three days in advance of the class; and
  - (c) No more than one person exhibiting specified sexual anatomical areas is on the premises at any one time.
- (5) **Sexual Encounter Center:** An establishment that for any form of consideration, offers facilities for physical touching activities, including wrestling or tumbling, lap dancing, or body painting, between male and female persons and/or persons of the same sex in a private or semiprivate area 600 square feet or less and where one or more of the persons, displays of exhibits specified sexual anatomical areas or performs specified sexual activities.
- (6) **Sexually-Oriented Escort Agency:** An establishment which for any form of consideration advertises, offers, or furnishes a companion, guide, or date for a service which includes the exposure of specified sexual anatomical areas or specified sexual activities, the modeling of lingerie, or private striptease performances in a private or semi-private area of 600 square feet or less.
- (7) **Sexually-Oriented Spa:** An establishment which for any form of consideration provides massages by persons who are not medical professionals or certified massage therapists, or provides patrons with bathing, sauna, shower, or hot tub services in a private or semi-private area of 600 square feet or less, and which provides sexually-oriented materials or engages in or offers to engage patrons in specified sexual activities, or activities commonly associated with a sexual encounter center.
- (8) **Sexually-Oriented Viewing Booth or Arcade Booth Facility:** An establishment which for any form of consideration provides a booth, cubicle, stall, or compartment less than or equal to 600 square feet in area that is primarily designed, constructed, or used to hold or seat patrons to view sexually-oriented materials, including live entertainment or any photographic, electronic, magnetic, digital, or other means or media (including, but not limited to, film, video or magnetic tape, laser disc, cd-rom, books, magazines, or periodicals.)

**"SEXUALLY-ORIENTED MATERIALS":** Media, matter, visual representations, performances, or services distinguished or characterized by the emphasis on specified sexual anatomical areas or specified sexual activities or which are otherwise harmful to juveniles or obscene. Sexually-oriented materials may include any one or more of the following: books, magazines, newspapers, periodicals, pamphlets, posters, prints, pictures, photographs, slides, transparencies, figures, images, descriptions, motion picture films, previews, trailers, video cassettes, compact discs, laser discs, DVDs, computer files or software, phonographic records, tapes, or other printed matter, visual representations, tangible devices or paraphernalia designed for use in connection with specified sexual activities, plays, shows, skits, dances, exhibitions, or any service capable of arousing prurient or scatological interests through sight, sound or touch.

**"SHRUB":** A plant that at the time of planting, is at least eighteen inches (18") tall above the highest root, or of a size requiring a two (2) gallon pot.

**"SIDE YARD":** The portion of the lot between the lot line perpendicular to the public right-of-way and the side yard setback line.

**"SIGN":** Any device for visual communication that is used for the purpose of bringing the subject thereon to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency, or of any civic, charitable, religious, patriotic, fraternal, or similar organization, and further, not including any item of merchandise normally displayed within a show window of a merchant except as specified under 150.65 (C). The term "SIGN" shall mean and include any display of any letter, numeral, figure, emblem, picture, outline, character, announcement, or anything in part or in combination by any means whereby the same are made visible to the eye for the purposes of attracting attention outdoors to make anything known, whether the display be made on, attached to, or as a part of any other structure, surface, or thing, including but not limited to, the ground or any rock, tree, or other natural object, which display is visible beyond the boundaries of the lot or parcel of

property on or over which the same is made.

**"SINGLE-FAMILY DWELLING":** A building designed for occupancy by one (1) family for living purposes and including not more than two (2) lodgers or boarders.

**"SITE PLAN":** A scaled drawing of a proposed project showing grade, property lines, building locations, drives, walkways, parking areas, fencing, screening, setbacks, and signs.

**"SOCIAL SERVICE AGENCY":** A public or nonprofit organization serving to meet needs of the student population.

**"SOLID FENCE":** A fence which has no gap greater than four (4) inches.

**"SORORITY HOUSE":** A building which is occupied only by a group who are associated together in a sorority which is chartered by a national/international sorority or recognized by Bowling Green State University and receive from the sorority or its agents lodging or meals on the premises. Occupants may also include employees and pledges of the sorority or its agents, and non-members not to exceed ten percent (10%) of the occupancy of the building.

**"SPECIFIED SEXUAL ACTIVITIES":** Includes the display or depiction of any of the following activities as part or in connection with any of the uses of an establishment set forth in this ordinance:

- (1) The fondling, rubbing, or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts by any bodily part of another person or stimulating device under the control of another person, including lap-dancing, friction dancing, table dancing, straddle dancing, face dancing, or any other method of erotic touching, but not including casual touching;
- (2) Human male genitals in a discernible turgid state even if completely and opaquely covered;
- (3) Sexual activity, normal or perverted, actual or stimulated, including intercourse, oral copulation, sodomy, bestiality, sadomasochistic activities, or other extreme or bizarre violence, cruelty, or brutality used to arouse lust;
- (4) Actual or simulated masturbation, or the penetration of an orifice with a sex toy;
- (5) Excretory functions, actual or simulated, including urination, defecation, male ejaculation, or the aftermath of male ejaculation.

**"STREET":** A public right-of-way which offers the primary means of access to abutting lots.

**"SUBSTANTIAL PORTION":** A measurement, count, or ratio used in the determination whether an establishment is a sexually-oriented business computed as follows"

- (1) For retail sales or rental of sexually-oriented materials in displays visible or self-accessible to the public – more than ten (10) percent of the content, stock-in-trade, shelf space, or the inventory of the establishment;
- (2) For retail sales or rental of sexually-oriented materials of a media nature only (i.e., not including sexually-oriented toys or novelties, lingerie which reveals specified sexual anatomical areas, or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices) displayed in separate rooms or areas with access controls which isolate the room or area from other parts of the store and prevents patrons from viewing sexually-oriented material from the rest of the establishment – more than forty (40) percent of the gross floor area of the establishment.
- (3) For performance activities or the showing of films, motion pictures, video cassette, slides, or similar visual or photographic reproductions – more than ten (10) percent of the presentations or performances within any ninety (90) day period in the establishment are characterized by the depiction or description of:
  - (a) Presentations emphasizing specified sexual activities, specified sexual anatomical areas, or material that is harmful to juveniles or obscene; or

- (b) The showing of movies where the Motion Picture Association of America Movie Rating System or a rating system using similarly constitutionally acceptable standards would apply an "adults only" rating, including, but not limited to; "NC-17," "X," or "XXX," or unrated films with comparable content.

**"SWIMMING POOL"**: Any structure designed to contain at least 1.5 feet of water, erected above or below grade, which is accessory to residential uses, but not including lakes or ponds created primarily for retention or detention purposes.

**"TEMPORARY PARK-CAMP"**: Any tract of land used for a period not to exceed a total of 21 days per calendar year for the purpose of parking five or more recreational vehicles, dependent recreational vehicles, or portable camping units, or any combination thereof, for one or more periods of time that do not exceed seven consecutive days or parts thereof.

**"TEMPORARY SIGN"**: Any sign, banner, pennant, or advertising display constructed of cloth, canvas, light fabric, cardboard, plastic, wallboard, or other like materials intended to be displayed for a short period of time only, not to exceed 30 days.

**"TEMPORARY STORAGE"**: The storage of a vehicle or recreational vehicle in an authorized facility in a district where such facilities are a permitted use. Temporary storage is limited to a maximum period of ninety (90) days. Recreational vehicles stored in an authorized facility for the months of November to April shall not be considered temporary storage.

**"TOPLESS"**: The showing of a female breast with less than a full opaque covering any portion thereof below the top of the nipple.

**"TRAFFIC-CONTROL DEVICE"**: Any sign, signal, or marking placed by a public body having jurisdiction, for the purpose of regulating, warning, or guiding traffic, including signs denoting names of streets and highways.

**"TRAVEL TRAILER"**: A self-propelled recreational vehicle that does not exceed an overall length of thirty-five feet (35'), exclusive of bumper and tongue or coupling, and contains less than three hundred twenty (320) square feet of space when erected on site. "Travel trailer" includes a tent-type foldout camping trailer as defined in Section 4717.01 of the Revised Code.

**"TREE or SHADE TREE"**: A tall growing woody plant with one or more perennial main stems or trunk which develops branches from the aerial section of the stem rather than the base, capable of being pruned to provide at least six feet of clear, branchless trunk below the crown within five years of planting.

**"TREELAWN"**: The unpaved portion of street right-of-way.

**"TRUCK CAMPER"**: A nonself-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck Camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

**"TWO-FAMILY DWELLING"**: A building containing two (2) dwelling units each designed for occupancy by one (1) family for living purposes and including not more than two (2) lodgers or boarders.

**"TYPE A FAMILY DAY-CARE HOME"**: A permanent residence of the administrator in which child day-care is provided for four (4) to twelve (12) children at one time, if four (4) or more children are under two (2) years of age. In counting children for purposes of this definition, any children under six (6) years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted. The term "Type A Family Day Care Home" does not include a residence in which the needs of children are administered to, if all such children are siblings or the same immediate family and the residence is their home.

**"TYPE B FAMILY DAY-CARE HOME"**: A permanent resident of the provider in which child day-care or child day-care services are provided for one (1) to six (6) children at one time and in which no more than three (3) children may be under two (2) years of age at any one time. In counting children for the purposes of this definition, any children under six (6) years of age that are related to the provider and are on the premises of the Type B Home shall be counted. The term "Type B Family Day-Care Home" does not include a residence in which the needs of children are administered to, if all such children are siblings or the same immediate family and the residence is their home.

**"UNIVERSITY RELATED RESIDENTIAL"**: An area bounded on the north by a 2.87 acre parcel north of Frazee Avenue and south of the Columbia Gas property, immediately south of Poe Road, the east by Thurstin Avenue, the south by Court Street, and the west by the CONRAIL, contiguous to the main campus of Bowling Green State University, whose permitted uses serve the University and the student population.

**"UNRELATED INDIVIDUAL"**: One (1) or more persons who are not related by blood, marriage, or adoption occupying a dwelling unit for purposes of habitation.

**"VEHICLE"**: Every device, including a motorized bicycle, in, upon, or by which any person or property may be transported or drawn upon a highway, except devices moved by power collected from overhead electric trolley wires, or used exclusively upon stationary rails or tracks, and except devices other than bicycles moved by human power.

**"WAREHOUSE"**: A structure designed for the storage and redistribution of materials. Sales from the site are not an activity, nor are assembly or manufacturing of goods or products.

**"WHOLESALE WAREHOUSE"**: The storage and transfer of goods, generally in bulk, only for the purpose of resale.

**"WIDTH"**: The width of a parcel is measured at the right-of-way line. In the case of a cul-de-sac lot or a lot on a curve, the frontage is measured at the front yard setback line.

**"YARD"**: An open space at grade lying between a structure and the adjoining lot lines.

**"YOUTH HOSTEL HOUSE PARENTS"**: Two (2) or less related or unrelated individuals, enrolled in the Health, Physical Education and Recreation Department of Bowling Green State University residing in the Youth Hostel Facility for purposes of habitation, and approved by the Board of Parks and Recreation.

**"ZONING CERTIFICATE" or "ZONING PERMIT"**: A document issued by the zoning inspector authorizing initial use of land or buildings or changes in use of the same and certifying conformance with provisions of this chapter.

**"ZONING DISTRICT MAP"**: A map or maps of the city containing the location of all zones as designated in this chapter or amendments thereto, and which shall be a part of this chapter.

**"ZONING INSPECTOR"**: Planning Director or a duly designated deputy.

## **150.04      COMPLIANCE WITH REGULATIONS**

The regulations set forth by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.

- (A). No building, structure, or land shall hereafter be used or occupied, and no building or structure or part hereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
- (B). No building or other structure shall hereafter be erected or altered as follows, or in any other manner contrary to the provisions of this chapter:
  - (2) To exceed the height.
  - (3) To accommodate or house a greater number of families.
  - (4) To occupy a greater percentage of lot area.
  - (5) To have narrower or smaller rear yards, front yards, side yards, or other open space.
- (C). No part of a yard or other open space, or off- street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- (D). No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirement set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
- (E). No building will be constructed except on a lot as defined in 150.03.
- (F). No primary structure or accessory building greater than one hundred sixty (160) square feet shall be located in any utility or ditch easement.

## **150.05      TRAFFIC VISIBILITY AT INTERSECTIONS**

Irrespective of any other provision of this chapter, no building or other structure or fence or planting, of greater than two feet (2') in height, shall be erected or maintained in any district within the triangle, two (2) sides of which shall commence at the corner of the corner lot and extend twenty five feet (25') away from the corner along each lot line, and extend diagonally from the twenty-five foot (25') point on one (1) lot line to the twenty-five foot (25') point on the other, except that this provision is not applicable at intersections within the Central Business District controlled by traffic lights.

## **150.06      PENDING APPLICATION FOR BUILDING PERMITS**

Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any development, building, structure, or part thereof, for which official approvals and required building permits have been granted before the enactment of this chapter, and the construction of which, conforming with such plans, shall have been started prior to the effective date of this chapter, or within thirty (30) days thereafter, and completion thereof carried on in a normal manner within the subsequent twelve (12) month period and not discontinued until completion except for reasons beyond the builder's control. Extension of permit may be granted as set forth in 150.101C.

## **150.07      AUTHORITY TO EXECUTE INJUNCTION BONDS**

The mayor and city auditor are authorized and directed to execute injunction bonds when the same are necessary to obtain temporary restraining orders or injunctions in connection with violations of any of the provisions of city zoning, building, or subdivision ordinances.

## **150.08      CONVERSION TO METRIC**

As all numbers in this chapter are exact numbers, multiply the number of feet by .3048 to determine the exact distance in meters. For example, twenty-five foot (25') setback is a 7.63 meter setback.

## DISTRICTS AND MAP

### 150.10 DISTRICTS

The incorporated area of the city shall be divided into districts as follows:

- (A). R-1 Single-Family Residential
- (B). R-2 Single-Family Residential
- (C). R-3 Multiple-Family Residential, moderate density
- (D). R-4 Multiple-Family Residential, high density
- (E). R-5 University Related Residential
- (F). B-1 Limited Commercial
- (G). B-2 General Commercial
- (H). B-3 Central Business
- (I). B-4 Office District
- (J). B-5 Transitional Central Business District
- (K). R-C Recreational-Conservation.
- (L). A-1 Agricultural
- (M). I-1 Institutional
- (N). M-1 Light Industrial
- (O). M-2 General Industrial
- (P). M-3 Business Park
- (Q). S-1 Planned Residential - General
- (R). S-2 Planned Commercial
- (S). S-3 Planned Institutional.
- (T). S-4 Planned Business Park
- (U). S-5 Planned Residential - Limited

### 150.11 DISTRICT MAP

The boundaries of the districts are shown upon the map, which is made a part of this chapter, which map is designated as the district map. The district map and all the notations, references, and other information shown thereon are a part of this chapter and have the same force and effect as if the district map and all the notations, references, and other information shown thereon were all fully set forth or described therein. The original district map is properly attested and is on file with the clerk of council.

- (A). No amendments to this chapter which involve material portrayed on the official district map shall become effective until after such change and entry has been made on the map.
- (B). No change of any nature shall be made in the official district map or matter shown thereon except in conformity with the procedures set forth in this chapter.
- (C). A copy of the district map, including all notations, references, and other information, shall be made a part of and attached to this chapter. Such copy shall be for the purpose of ready and general public information. The copy shall conform to the official district map upon adoption of this chapter and shall be updated and corrected at least annually thereafter.
- (D). Regardless of the existence of purported copies of the official district map which may from time to time be made or published, the official district map, which shall be located in the office of the clerk of council, shall be the final authority as to the current zoning status of land and water areas, buildings, and structures.
- (E). In the event that the official district map becomes damaged, destroyed, or lost, the city council may, by resolution, adopt a new official district map which shall supersede the prior official district map. The new official district map may correct drafting or other errors or omissions in the prior official map, but no such corrections shall have the effect of amending the original chapter or subsequent amendments thereof.

## 150.12 INTERPRETATION OF DISTRICT MAP

Where the street or lot layout actually on the ground or as recorded differs from the street or lot layout on the district map, the board of appeals shall, after notice to property owners affected, and after public hearing, interpret the map in such a way as to carry out the intent and purpose of this chapter.

## 150.13 DISTRICT BOUNDARIES

- (A). The district boundary lines on the map are intended to follow either center lines of streets or alleys or lot lines; and where the districts designated on the map are bounded approximately by such street, alley, or lot lines, the street or alley or lot shall be construed to be the boundary of the district, unless such boundary is otherwise indicated on the map. In the case of unsubdivided property, the district boundary lines shall be determined by the use of the scale appearing on the zoning district map or by dimensions.
- (B). Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of the railroad line.
- (C). Whenever any street, alley or other public way is vacated by official action of city council, the zoning district boundary line shall remain unchanged by such vacation.

## DISTRICT REGULATIONS

### 150.15 GENERAL

The permitted uses, bulk regulations, and density regulations are contained in 150.20 through 150.39. The interpretation of uses in categorical terms is defined in 150.03. Uses not specifically listed or interpreted by the zoning inspector to be included in 150.03 or 150.20 through 150.40 shall not be permitted except by amendment of this chapter.

### 150.16 BULK AND DENSITY REGULATIONS

The following for each district are the required minimum residential lot sizes, the required building setbacks, the required minimum lot frontage, the maximum building height, and the maximum lot coverage. Terms are defined in 150.03.

DISTRICT	USE	MIN LOT PER FAMILY	FR YD	SD YD	RR YD	MIN LOT FRTG	MAX FL	MAX Height (Feet)	MAX LOT COV
R-1	Single-Family	10,000	35	10	30	75	4	35	—
R-2	Single-Family	7,200 (1F) 4,200(2F)	25 **E	10	30	60	4	35	—
R-3	Multiple-Family	850 per unit, efficiency units	25	10*	20	60	4	35	40%
		1,000 per unit, 1-bedroom units	25	10*	20	60	4	35	40%
		1,500 per unit, 1-bedroom units	25	10*	20	60	4	35	40%
		2,000 per unit, 3 or more bedroom units	25	10*	20	60	4	35	40%
		3,000 per unit (2f)	25	10*	20	60	4	35	—
R-4	Multiple-	650 per unit,	25	10	20	60	4	45	40%

	family	efficiency units							
		1,000 per unit, for all other units	25	10*	20	60	6	70	40%
		3,000 (2f)	25	10*	20	60	4	40	40%
R-5	University- related Residential	650 per efficiency units; 1,000 per unit for all others	25	10*	20	60	4	40	40%
B-1	Limited Commercial	(No res)	25	X	20		2	25	-
B-2	General Commercial	(No res)	25	X	20		4	60	-
B-3	Central Business	800X	***	***	***		4	60	FAR4
B-4	Office	(No res)	25	10	20		3	25	-
B-5	Transitional- Central Business	800X	-	-	-		2	30	FAR4
R-C	Recreational- Conservation	(No res) #	25+++	25+++	25+++		4	35	
A-1	Agricultural	20,000	50	10	20	100	3	35	-
I-1	Institutional	(No res)	50	10	20		4	60	40%
M-1	Light Industrial	(No res)	35	20	40		2	35XX	50%
M-2	General Industrial	(No res)	35	50	40		XX	35XX	-
M-3	Business Park	(No res)	35	20	40		XX	35XX	-
S-1	Planned Residential	**XXX	35	10	20		6	70++	30%
S-2	Planned Commercial	**XXX	25	10	20		6	60++	40%
S-3	Planned Institutional	**XXX	50	10	20		4	60	40%
S-4	Planned Business Park	**XXX	50	10	20		6	60++	40%
S-5	Planned Residential- Limited	**XXX	35	10	20		3	35++	30%

In S-districts, the Planning Commission may waive or modify minimum yards and lot coverage areas.

### LEGEND FOR CHART

- \* When abutting an R-1 or R-2 Residence District, the side yard shall be increased 1/2 foot for each foot the structure exceeds twenty feet (20') in height.
- x When abutting any Residence District, a minimum side yard setback of 10 feet shall apply. This shall be increased by 1/2 foot for each foot the structure exceeds twenty feet (20') in height.
- xx A maximum height of eighty feet (80') is imposed. Structures in excess of the stated maximum height must provide increased side and rear yard setbacks equal to 1/2 foot for each additional foot of building height in excess of the stated maximum height, up to the eighty foot (80') maximum height.
- \*\* Net resident densities in areas devoted to living quarters shall not exceed the following limits:
  - (A). S-1 Planned Residential District
    - Single-family structures, seven thousand two hundred (7,200) square feet of the land minimum per dwelling unit.

- Two-family structures, three thousand two hundred (3,200) square feet of the land minimum per dwelling unit.
  - Multiple-family structures, one thousand (1,000) square feet of land minimum per dwelling unit.
- (B). S-2 Planned Commercial District Multiple-family structures, one thousand (1,000) square feet of land minimum per dwelling unit.
- (C). S-4 Planned Business Park District.
- (D). Where dwelling units are included in structures with other portions devoted to commercial use, the minimum land required per dwelling unit for residences shall be in addition to the land and setbacks required for commercial purposes.
- (E). Where dwelling units are to be located on a cul-de-sac, the front yard setback will be thirty-five feet (35').

FAR Floor area ratio is the ratio of the gross floor area of a structure to the gross lot area. The gross lot area shall include all occupied floors at, below, or above grade.

++ No maximum height is imposed. When building height exceeds the stated limit, all applicable building setbacks shall be increased by 1/2 foot for each foot the building exceeds the stated limit.

() Does not apply to existing lots of record.

xxx All setbacks, screening, and bulk-density requirements may be modified if approved by the Planning Commission.

\*\*\* While there are no minimum setbacks, no door(s) may swing out onto or over a public sidewalk. As the Building Code requires a door to open outward for rooms with occupancy of 50 or more, outside doors must be placed in an alcove so that the door(s) do not open onto a public sidewalk or cross any property line or right-of-way line when opened.

+++ When abutting a Residential District, the front, side and rear yards shall be increased to 50 feet.

# A minimum lot area of 5 acres is required unless the parkland is a long, linear trail.

## **150.17 USES BY RIGHT**

The following uses or structures are considered incidental to the proper use and function of all activities and are allowed in any district unless otherwise specified:

- (A). Utilities. The placement of utility lines above or below ground and including all necessary pumps, transformers, distribution structure or terminal, and any generation, exchange, or treatment facility. Not included are utility function administrative offices.
- (B). Accessory buildings and uses. All structures or activities incidental to the primary use of the land or structure. Included are garages, patios (open porches), storage buildings, sheds, swimming pools, porches, and walks when designed for use by the primary occupants of the land or structure.
- (C). Home occupation in R Districts.
- (D). Moving related storage of household goods in a single container or portable on-demand storage (POD) unit, of 160 square feet or less, which can only be located upon a legal driveway for a period not exceeding seven (7) calendar days per year within any R, S-1, or S-5 district.
- (E). Rain Gardens. Storm water (rain, melted snow and ice) from roofs, gutters, or downspouts from individual structures is directed to man-made depressions in primarily Residential Districts. A rain garden supplements storm water drainage, but does not replace retention ponds, detention ponds, or storm sewers.

## **150.18 PRIMARY STRUCTURE**

A lot within any district shall be occupied only by one (1) primary structure unless waived by specific provisions of a district. Allowed also are uses by right as in 150.17.

## **150.19 R-1 SINGLE-FAMILY RESIDENTIAL**

- (A). Purpose. This district is to create living areas of low population density for single-family dwellings.
- (B). Permitted uses. A building or lot within the R-1 District may be used only for the following purposes:
  - 1. Single-family dwellings.
  - 2. Church or other place of worship.
  - 3. Plant cultivation.
  - 4. Adult family homes.
  - 5. Model Homes.
  - 6. Group Home or Community Residence
- (C). Conditional uses. The following conditional uses are permitted upon compliance with the conditions herein set forth:
  - 1. Cemeteries. The required site plan shall show the location of all drives, structures, and parking. The zoning inspector shall insure that adequate ingress, egress, and parking is provided. The minimum site occupied by any cemetery shall be ten (10) acres.
  - 2. Type B Day-Care Homes. There shall be no unrelated, non-resident employees.
  - 3. A Subdivision Sales Trailer, subject to the following conditions:
    - (a) The required site plan, complying with Section 150.103 (D), shall also show the certification that the unit meets the State Building Code.
    - (b) No more than five (5) off-street parking spaces, not encroaching in the required side]yard setback(s), shall be placed between the unit and the required front yard set- back(s).
    - (c) The unit shall comply with all setback requirements.
    - (d) The unit shall be secured in accordance with the Building Code and the carriage/frame shall be totally screened from view.
    - (e) The unit shall be located a minimum of two hundred fifty feet (250') from the entrance to the subdivision, from adjoining subdivisions, or un-platted property.
    - (f) Only one (1) sign shall be allowed, either flush mounted or ground mounted – the top of the sign

- cannot be more than four feet (4') above sidewalk elevation.
- (g) The unit shall remain in place no longer than five (5) years from the date of recording of the first plat in the subdivision.
  - (h) Upon removal of the unit from the lot, all foundation, off-street parking, driveways, etc. shall be removed, curb cut(s) abandoned, and the lot shall be graded and seeded to the City's satisfaction.

## **150.20      R-2 SINGLE-FAMILY RESIDENTIAL**

- (A). Purpose. This district is to create living areas of moderate population density for single-family dwellings.
- (B). Permitted uses. A building or lot within the R-2 District may be used only for any use permitted in the R-1 District.
- (C). Conditional uses.
  - 1. Bed and Breakfast, subject to the following conditions:
    - (a) The Bed and Breakfast must be owner-occupied and owner-operated; it must be the principal residence of the owner, and occupied by the owner. The Bed and Breakfast must be subordinate to the principle use of the home as a residence.
    - (b) The lot shall have a minimum of eighty feet (80') of frontage on a major street.
    - (c) A minimum of one (1) off-street parking space for each rented room be provided in addition to the off-street parking required for the use in which the Bed and Breakfast is located. A six-foot (6') high live, evergreen screen from all adjoining properties shall screen the off-street parking spaces.
    - (d) Each rented room shall contain a minimum of one hundred twenty (120) square feet. No rented room shall have an independent outside entrance. An emergency exit shall be permitted provided such exit is only capable of opening from the inside.
    - (e) A maximum of three (3) such rooms are permitted and all such rooms shall be located in the primary structure.
    - (f) No nonresident, nonrelated employees are permitted.
    - (g) No change to the outside appearance of the dwelling shall occur other than a single sign, not exceeding two (2) square feet, may be flush mounted at the entrance to the dwelling. If emergency exits are installed, they shall not be visible from any right-of-way.
    - (h) No cooking facilities of any type are allowed in any rented room, nor is there to be direct access to the cooking facility from any rented room.
    - (i) The Bed and Breakfast shall only serve breakfast and the charge for breakfast shall be included in the cost of the room.
    - (j) Rented rooms may only be used by transient visitors and travelers. No person, other than the owner and his/her resident, related family may stay in the Bed and Breakfast for a period exceeding fourteen (14) consecutive days or twenty-four (24) days in any calendar year.
    - (k) A guest register for each calendar year shall be maintained and written in ink and shall be available for inspection upon request.
    - (l) All applications for Bed and Breakfast use will be reviewed by the Fire Chief or his designee to insure that all appropriate safety regulations are met.
    - (m) The rented rooms shall be let on a daily basis.
  - 2. All conditional uses permitted in an R-1 District subject to the same conditions.

## 150.21

### **R-3 MULTIPLE-FAMILY RESIDENTIAL, MODERATE DENSITY**

- (A) Purpose. This district is to create living areas of moderate population density in two-family and multiple-family dwellings.
- (B) Permitted uses. A building or lot within the R-3 District may be used only for the following purposes:
1. Any use in an R-2 District.
  2. Multiple-family dwellings.
  3. Vehicular storage buildings accessory to multiple-family structures.
  4. Community or recreational buildings accessory to multiple-family structures.
  5. Churches.
  6. Condominium units.
  7. Type A Day-Care Homes.
- (C) Conditional uses. The following conditional uses are permitted in an R-3 District subject to compliance with the conditions hereinafter set forth:
1. Cemetery subject to same conditions as set forth for the R-1 District.
  2. Golf or country club, lodge, or private recreation club. A four-foot (4') high screened fence shall be required on all property lines adjoining an R Residential District. The required plan shall show the location of all buildings, drives, parking areas, and fencing or screened planting. No sale of alcoholic beverages shall be allowed with such conditional use.
  3. Mortuary. The minimum lot size shall be twenty four thousand (24,000) square feet. The required plan shall show location of all buildings, drives, parking, screening or screened planting, and interior location and size of any parlors or service rooms. A four-foot (4') high screen fence shall be provided for any parking area adjoining a residential district or a residential use in a planned district. Single non-illuminated or indirectly illuminated exterior sign containing a maximum of twenty-four (24) square feet shall be permitted. The zoning inspector shall insure that adequate ingress, egress, and parking is provided.
  4. Nursing homes, day-care centers, nursery schools, rest homes, or homes for the aged. The minimum lot size shall be twelve thousand (12,000) square feet for the first ten (10) beds and one thousand (1,000) square feet for the first ten (10) occupants and 1,000 square feet for each additional occupant. An enclosed recreation area, open or partially under roof, containing a minimum of fifty (50) square feet per bed shall be provided. There shall be a minimum of sixty feet (60') frontage on a major street which frontage shall contain at least one (1) entry drive to the site. The required site plan shall show all drives, parking areas, building locations, recreation areas and screening or screened planting. The zoning inspector shall insure that adequate ingress, egress, parking, and protection of adjacent property is provided.
  5. Adult group homes. The architectural design and layout of the home and the location nature, height of walls, screens, and fences must be compatible with the adjoining land uses and the residential character of the area.

## 150.22

### **R-4 MULTIPLE-FAMILY RESIDENTIAL, HIGH DENSITY**

- (A) Purpose. This district is to create areas of higher population density in multiple-family dwellings and of moderate density in two-family dwellings.
- (B) Permitted uses. A building or lot within the R-4 District may be used only for the following purposes:
1. Any use permitted in the R-3 District.
  2. Fraternity or sorority houses.
  3. Rooming houses, boarding houses, and dormitories.
- (C) Conditional uses. The following conditional uses are permitted provided that the conditions set forth are complied with:
1. Cemetery subject to the same conditions set forth in an R-1 District.
  2. Golf or country club, lodge, or private recreation club subject to the same conditions set forth in the R-3 District; however, no sale of alcoholic beverages shall be allowed with such conditional use.

3. Mortuaries subject to same conditions set forth in the R-3 District.
4. Nursing homes, day-care centers, nursery schools, rest homes, or homes for the aged. The minimum lot size shall be twelve thousand (12,000) square feet for the first ten (10) occupants and one thousand (1,000) square feet for each additional occupant. An enclosed recreation area, open or partially under roof, containing a minimum of fifty (50) square feet per occupant shall be provided. There shall be a minimum of sixty feet (60') frontage on a major street which frontage shall contain at least one (1) entry drive to the site. The required site plan shall show all drives, parking areas, building locations, building locations, recreation areas and screening or screened planting. The zoning inspector shall insure that adequate ingress, egress, parking, and protection of adjacent property is provided.
5. Mobile home parks. The minimum site shall contain five (5) acres unless the development is an extension of an existing park. The park must have a minimum frontage, measured at the right-of-way line, on a major street for at least two hundred feet (200'). All interior drives and parking areas shall be asphalt or concrete and the drive approach to the public street must be a minimum of twenty-six feet (26') wide, with straight curb and gutter. A four foot (4') wide sidewalk, built to the City Engineer's specifications, shall be built in the right-of-way of the public street. The utility plan, including storm drainage, shall meet the approval of the City Engineer. The City Engineer and Public Works director shall approve ingress and Egress. The Fire Chief shall approve the locations and types of fire hydrant and all interior drives shall be designed to accommodate the City's fire trucks.

## **150.23      R-5 UNIVERSITY RELATED RESIDENTIAL**

- (A) Purpose. The boundaries of this district are the 2.87 acre parcel north of Frazee Avenue and south of Columbia Gas property on the north, Thurstin Avenue on the east, Court Street on the south, and the CONRAIL on the west. The district must be, by the nature of the permitted uses, contiguous to the main campus of the Bowling Green State University. It provides for uses necessary to serve the University and the student population.
- (B) Permitted uses. A building or lot within the R-5 District may be used only for the following uses:
  - (1) Fraternity or sorority houses.
  - (2) Multiple-family dwellings of three (3) units or more.
  - (3) Day care centers and nursery schools.
  - (4) Churches and campus ministries.
  - (5) University offices in structures of five thousand (5,000) sq. ft. or less devoted exclusively to non-residential use.
  - (6) Social service agencies.
  - (7) Off-street parking facilities.
- (C) Conditional uses: None.

## **150.28      B-1 LIMITED COMMERCIAL**

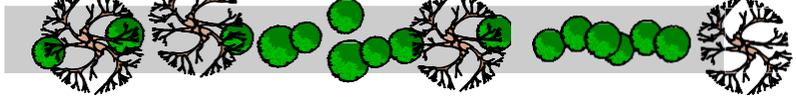
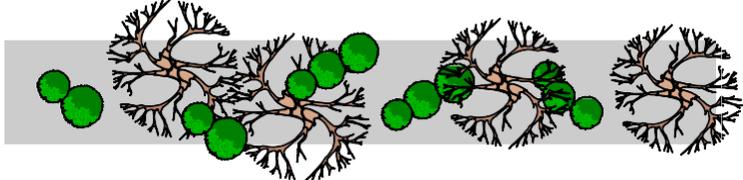
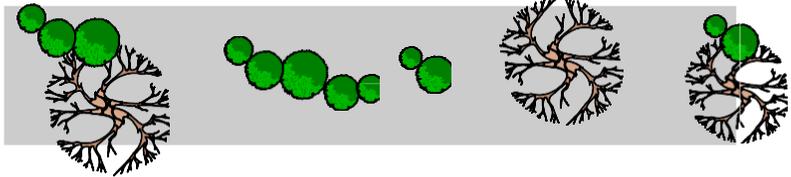
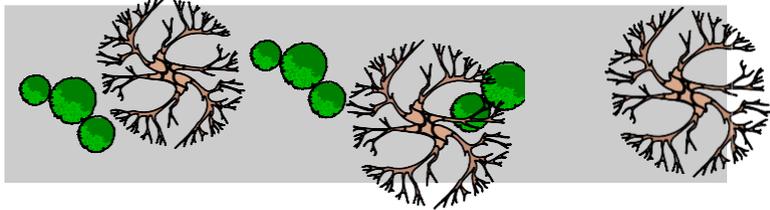
- A. Purpose. This district allows retail sales, service, and allied activities, which are not dependent on high traffic volumes, so not necessarily located on major streets. Permitted activities may or may not attract from the entire city or major portions thereof.
- B. Permitted uses. A building or lot within the B-1 District may be used only for the following uses:
  1. Retail sales in structures of less than ten thousand (10,000) gross square feet per business whose primary clientele is area residents. Acceptable sales activities include drug, food, clothing, and variety goods.
  2. Restaurants and food service establishments provided that service is not made to parked automobiles.
  3. Professional, medical, dental offices or clinics and business offices in structures of less than ten thousand (10,000) gross square feet.
  4. Parking lots and automobile parking or storage structures.

5. Banks and financial institutions.
  6. Retail services in structures of less than ten thousand (10,000) gross square feet.
  7. Churches.
- C. Specifically prohibited in this district are automobile sales and service, gasoline or filling stations, mobile homes, marine sales and service, travel trailers, camper trailers, self-propelled camping vehicles, and other vehicles intended for temporary or recreational occupancy, sales and service services. Also specifically prohibited are bars, taverns, dance halls, bowling alleys, and similar commercial recreation activities.
- D. Conditional use: Mortuaries subject to the same conditions set forth in the R-3 District, except that the minimum lot size shall be twelve thousand (12,000) square feet and the primary structure may contain a single dwelling unit for the exclusive use by the person(s) on call for the mortuary.

## **150.29      B-2 GENERAL COMMERCIAL**

- A. Purpose. This district allows general business or commercial activities in areas of high accessibility and serving the general public. No B-2 District shall be established that does not have frontage on a major street.
- B. Permitted uses. A building or lot within the B-2 District may be used only for the following purposes:
1. All uses allowed within the B-1 District and without building size limitations.
  2. Automotive oriented retail sales or service, financial institutions, or restaurants and others providing service to persons in automobiles.
  3. Automobile sales and service.
  4. Automobile repair garages.
  5. Department and full line discount stores.
  6. Motion picture theaters, indoor or outdoor, except adult movie theatres or adult drive-in movies theatres.
  7. Animal hospitals or clinics provided that any outside runs are more than two hundred feet (200') from the nearest residence district.
  8. Bars, taverns, dance halls, bowling alleys, and similar commercial recreation activities.
  9. Wholesale sales and display so long as there is no more than incidental storage on the premises.
  10. Repair services.
  11. Radio and television broadcasting studios and offices.
  12. Public transport offices and terminals.
  13. Hotels, motels, and tourist homes.
  14. Manufacturing activities incidental to the above listed activities, so long as manufacturing does not occupy fifty percent (50%) of all floor space nor does it produce any objectionable noise, smoke, odor, or dust.
  15. Other commercial uses of a similar nature to those listed herein.
  16. Lodge or private recreation club.
- C. Conditional uses. The following conditional uses shall be permitted if the conditions hereinafter set forth are met:
1. Gasoline or service station. The required site plan drawing shall include the location of buildings, drives, pumps, underground storage tanks, signs, and screening or fences. A boundary buffer, as illustrated by Figure 150.29A shall be provided on all lot lines adjoining an R District. A streetscape buffer shall be provided in order to provide a transition between the public right-of-way and the proposed development. Figure 150.41-B shall be used to determine the required streetscape buffer. The figure identifying minimum requirements; additional plant material or other screening devices may be included. The required streetscape buffer may be located within the peripheral setback. A minimum of 20-foot side yard setback shall be maintained. No permanent storage of disabled vehicles shall be made on site. A traffic impact study shall be prepared and reviewed, in accordance with the Access Management Policies and Guidelines, to determine access points. No pumps shall be located within 100 feet of any R Residential District.

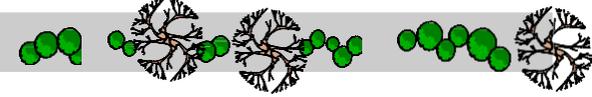
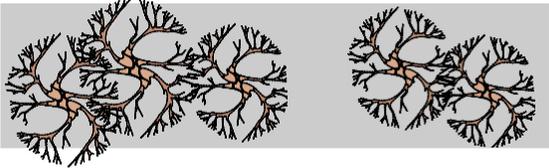
Figure 150.29-A Boundary Buffer Yard

Minimum Width of buffer	100 Linear Feet	Landscape Material Requirements	
		Canopy Trees	Shrubs
10 ft.		4	15
15 ft.		3.5	12.5
20 ft.		3	10
25 ft.		2.5	8

- a. Landscape screening shall be of a height and density so that it provides the full desired effect within three years growing time.
- b. The required buffer yard may be located within the required peripheral setback. No buildings or parking or vehicular use areas may be located within the required bufferyard.
- c. A buffer yard is not required between adjacent single-family developments.
- d. 1.5 understory trees or one (1) evergreen tree may be substituted for one (1) canopy tree for up to fifty percent (50%) of the required canopy trees. A canopy trees is a deciduous tree which at maturity will shed its leaves annually, and provide shade, and shall have a minimum of twelve feet (12') overall height or a minimum caliper of 2 1/2 inches when installed, and have an expected height of at least thirty-five feet (35') at maturity. An evergreen tree is a coniferous tree with needles or a broadleaf tree which retains its leaves throughout the year and shall be a minimum of five feet (5') in height when installed. An understory tree is a lower growing tree which screens, flowers, defines space and provides seasonal interest and shall be a minimum of five feet (5') in height in clump form or 1-1/2" caliper in single stem form when installed. Shrubs shall be at least eighteen inches (18") in height or twenty-four inches (24") in spread when installed.
- e. A solid fence, wall, or berm 4 feet to 6 feet (4'-6') in height may be used and can substitute for shrub requirements.

- f. All landscape material required for the buffer shall be confined to within the required landscape strip.

Figure 150.41-B Streetscape Buffer Yard

Minimum Width of Buffer	100 Linear Feet	Landscape Requirement Materials	
		Canopy Trees	Shrubs
Option 1 10 Feet		2.5	20
Option 2 20 Feet Average (Range 10-30 ft.)		5 (or existing woodland area)	

**Notes:**

1. Berms shall be a minimum 3 ft.
2. A fence or wall 3 ft. to 4 ft. in height with 50% or less of it's structure open or a minimum 3 ft. open grade drop from the right-of-way to the vehicular use area may be used and can be substituted for 50% of the shrub requirements.
3. All landscape material required by the buffer shall be confined to within the required landscape strip.

2. Mortuaries subject to the same conditions set forth in the B-1 District.
3. Nursing homes, day care centers, nursery schools, rest homes, or homes for the aged subject to the set forth in the R-3 District.
4. Sexually-Oriented Businesses:

(a) Purpose for Regulation of Sexually-Oriented Business.

1. Additional regulations are imposed upon sexually-oriented businesses to: protect juveniles from harm or exposure to sexually-oriented materials; prevent the spread of communicable or sexually transmitted diseases; reduce and eliminate the negative impact that adult uses may have on property values and the character and quality of residential neighborhoods; prevent sexually-oriented businesses from diminishing or destroying the use of public facilities, particularly facilities expected to be used by children or used for religious purposes, etc. These regulations are not adopted for the purpose of restricting or prohibiting any protected speech associated with sexually oriented business land uses. The Supreme Court and lower federal courts have recognized a number of possible secondary effects of sexually-oriented businesses, including:

- a. Decline of character of a community's neighborhoods and quality of life.
- b. Increase of crime (e.g., prostitution, drug sales).
- c. Spread of disease, particularly sexually transmitted diseases.
- d. Degeneration of the social and moral order.
- e. Harm to children.

2. Given the documented harmful secondary effects of sexually oriented businesses on adjacent neighborhoods and specific land uses, the following specific, reasonable and uniform regulations have been developed to protect the public health and safety of the residents of the City.

(b) Accessory Use. A sexually-oriented business use may not be an accessory use. No two sexually-oriented business uses may be located in the same premises or on the same lot.

(c) Prohibited Sexually-Oriented Business Land Uses and Activities.

1. The following establishments or accessory uses of an establishment shall be prohibited within the City: nude model studios, sexual encounter centers, sexually-oriented escort agencies, sexually-oriented spa, or sexually-oriented viewing booth or arcade booth facilities, each more specifically defined by this regulation.

2. Sexual conduct. No employee, patron, or any other person at a sexually-oriented business establishment shall perform or conduct any specified sexual activity with or for any other employee, patron, or any other person on the premises.

3. Gambling. No sexually-oriented business establishment games, machines, tables, or implements shall be used for gambling.

4. Tips. No sexually-oriented business establishment employee or other person shall accept any form of a tip or gratuity offered directly or personally by a patron or other person for entertainment performances. Any such tips or gratuities must be placed into a receptacle provided by management for receipt of such tips and gratuities or shall be placed on the stage on which the employee or other person is performing.

5. Age Restrictions.

a. No person under the age of 18 years shall be admitted to or employed by a sexually-oriented cabaret or theatre.

b. No person under the age of 18 years shall be allowed or permitted to purchase or receive, whether for consideration or not, any sexually-oriented material or other goods or services at or from any sexually-oriented business establishment.

c. No person under the age of 21 years shall be permitted to a sexually-oriented business establishment that serves or otherwise provides alcoholic liquor pursuant to a liquor license.

(d) Separation Requirement.

1. Sexually-oriented uses shall not be located within 300 feet of any land zoned or used for residential purposes, libraries, educational institutions, training facilities for persons with mental or physical disabilities, museums, religious places of worship, child day care facilities, parks, playgrounds, swimming pools, pool and billiard halls, video arcades, pinball arcades, or other gathering places, family-oriented uses, or recreational uses established for the activities of juveniles.

2. For the purpose of the section, measurement shall be made in a straight line without regard to the intervening structures or objects, from the nearest point of the property line of a sexually-oriented business, to the nearest property line of the protected district or premise listed above. The presence of a municipal, county, or other political subdivision boundary shall be irrelevant for the purpose of calculating and applying the distance requirements of this section.

3. Sexually-oriented uses shall not be located within a 1,000 foot radius of any other sexually-oriented business, or within a 1,000 foot radius of any bar, tavern, or other establishment regulated by the Ohio Division of Liquor Control offering the sale of beer or intoxicating liquor for consumption on the premises in combination with live entertainment.

(e) Separating Requirements for Live Performers. No person shall engage in a live performance of sexually-oriented material except upon a stage elevated at least 18 inches above the floor level.

1. All parts of the stage, or a clearly designated area thereof within which a person engages in a live performance of sexually-oriented material, shall be a distance of at least six feet from all parts of a clearly designated area in which patrons may be present.

2. The stage or designated area thereof shall be separated from the area in which patrons may be located by a barrier or railing the top of which is at least three feet above floor level.

3. No person engaging in such live performances or patron may extend any part of his or her body over or beyond the barrier or railing. This requirement shall be noted in a sign affixed to the stage, barrier, or railing in such a manner to be easily visible and legible to patrons.

(f) External Visual and Audio Impact.

1. No sexually-oriented materials, or displays, promotions, or advertisement which display specified sexual anatomical areas specified sexual activities, shall be displayed, distributed or exhibited so as to be visible from the public right-of-way, or from any adjacent public or privately owned property, or by juveniles permitted within the establishment.

2. All building opening, entries, windows, and doors of sexually-oriented businesses shall be located, covered or serviced in such a manner as to prevent a view into the interior from the public right-of-way, or from adjacent public or privately owned property. For new construction, the building shall be oriented so as to minimize any possibility of viewing from any public right-of-way or any public or private property.

3. No screens, loudspeakers, or sound equipment used in sexually-oriented motion picture theatres (enclosed or drive-in) or other sexually-oriented businesses shall be operated in such a manner as to be seen or discerned from the public right-of-way or any public or privately owned property.

(g) Signage Requirements. Exterior identification signage of sexually-oriented businesses is permitted subject to the other applicable provisions of these regulations. However, no exterior signage shall include verbal or written messages, graphics, drawings, or other illustrations which publicly display specified sexual anatomical areas or specified sexual activities.

(h) Animals. No animals, except seeing eye dogs required to assist the blind, shall be permitted at any time or in any sexually-oriented business establishment.

(i) Restrooms. All restrooms in a sexually-oriented business establishment shall be equipped with standard toilets, sinks, and other traditional lavatory facilities. No sexually-oriented materials or live performances shall be provided or allowed at any time in the restrooms of a sexually-oriented business establishment. Separate male and female restrooms shall be provided for and used by sexually-oriented business establishment employees and patrons.

(j) Parking Requirements. Off-street parking shall be provided in accordance with Section 150.59 and Table 150.59(A).

(k) Permits and Review. A conditional use zoning permit to operate a sexually-oriented business shall be required before engaging in the use. The City shall reserve the right to review facilities established under this section after it has been in operation for a period of one (1) year.

### **150.30      B-3 CENTRAL BUSINESS**

(A) Purpose. This district encompasses the functional center of Bowling Green. It provides for commercial, governmental, and institutional activities serving the entire community. To encourage convenient access to Central Business District activities, multiple-family structures are also allowed within this district.

(B) Permitted uses. A building or lot within the B-3 District may be used only for the following purposes:

1. All uses allowed within the B-2 District with the exception of:
  - a. Drive-in theaters or drive-in restaurants.
  - b. Animal hospitals or clinics.
2. Printing and publishing plants.
3. Commercial, business, or technical schools.
4. Multiple-family structures provided that any structure also containing nonresidential uses provide a separate passageway from the building entrance and parking areas to dwelling units.
5. Warehouses.
6. Wholesale sales.
7. Churches, auditoriums, libraries, public and institutional uses.

(C) Conditional use: Mortuaries subject to the same conditions set forth in the B-1 District.

(D) Prohibited Uses: Notwithstanding any other provision herein, no ground floor area of structures located within the B-3 District shall be used for residential purposes, as all residential uses shall be restricted to the second floor and above in this District.

### **150.31      B-4 OFFICE DISTRICT**

(A) Intent. The purpose of the B-4 District is to create an environment conducive to well-located and designed office building sites and to accommodate professional offices, non-profit organizations and similar activities. This District shall act as a buffer zone to Residential Districts, thus providing protection from more intense business uses or major thoroughfares. In order to maintain a residential appearance, all new buildings shall have only a gable, hip, intersecting, or gambrel roofs. The exterior finishes shall be brick or siding. The maximum height of a building shall be the lesser of the following: either the average of the existing structures along the frontage of an adjoining street or the maximum height for the District.

A ten (10) foot buffer, as illustrated by Section 150.41-B, is required as a minimum landscape buffer and a ten (10) foot streetscape buffer, as illustrated by Section 150.41-B, is required when a B-4 District is located adjacent to any R or S District. No pole signs are allowed: signage shall be limited to either a monument sign or signs flush-mounted to the building face.

- (B) Permitted Uses. No building, structure, or land shall be erected, altered or used which is arranged or designated for any use other than one or more of the following specific uses:
1. Accountants, advertising agencies, appraisers, attorneys, business and management consultants, economists, and public relations consultants;
  2. Architects, landscape architects, planners, engineers, surveyors, geologists, industrial designers, graphic designers, and interior designers;
  3. Educational institution;
  4. Financial institution;
  5. Insurance brokers and services, investment brokers, real estate brokers and offices, and title and escrow companies;
  6. Medical, dental, and health-related services of all types for humans;
  7. Ophthalmologists, optometrists, and opticians;
  8. Public or Private school; special school;
  9. Public and private libraries, art galleries, and museums;
  10. Churches and religious places of assembly or offices;
  11. Municipal or government center;
  12. Administrative and business offices not carrying on retail trade with the public and having no stock of goods maintained for sale to customers, including:
    - a. Banks, credit and other financial institutions having no drive-thru facilities;
    - b. Brokers and dealers in securities, investments and commodities and associated services;
    - c. Insurance agents and brokers, and associated services;
    - d. Real estate sales and associated services;
  13. Professional offices engaged in providing services to the general public, including:
    - e. Medical and medical-related activities, but not including veterinary offices or animal hospitals;
    - f. Other health and allied medical facilities;
    - g. Legal, engineering, and architectural services;
    - h. Accounting, auditing and other bookkeeping services;
    - i. Other professional services not specifically listed as permitted uses in other Districts;
  14. Institutions providing social, cultural, educational, and health services to member agencies, organizations and individuals, or to the general public, including:
    - a. Religious organizations;
    - b. State-certified/licensed pre-schools and child-care centers.
- (C) Conditional Uses.
- (1) Funeral homes, mortuary, and related facilities;
    - (a) Minimum front yard: 50 feet; 40 feet for structures on lots fronting major streets as designated by the Section 150.03 and the Transportation Section. Pavement areas shall be at least ten feet from the right-of-way.
    - (b) Minimum side yard: For structures, 20 feet. For pavement areas, 10 feet.
    - (c) A buffer area, being a minimum of fifteen (15) feet wide shall be provided when adjacent to any R or S District. The buffer shall contain a minimum of four (4) canopy trees and fifteen (15) shrubs per one hundred (100) lineal feet and a six (6) foot high solid fence. See Figure 150.41- A for illustration of the live landscaping requirement.
    - (d) Shade trees shall be provided as in Section 150.55 (D) (5) (c), except that double the number of shade trees shall be provided.
  - (2) Nursing homes, senior and disabled housing, Senior and disabled independent housing;
    - (a) Minimum front yard: 30 feet; 40 feet for structures on lots fronting major streets as designated by the Section 150.03 and the Transportation Section. Pavement areas

- shall be at least ten feet from the right-of-way.
  - (b) Minimum side yard: For structures, 15 feet. For pavement areas, 10 feet.
  - (c) Minimum lot area calculated on the basis of 1,450 square feet for nursing homes.
  - (d) A buffer area, being a minimum of fifteen (15) feet wide shall be provided when adjacent to any R or S District. The buffer shall contain a minimum of four (4) canopy trees and fifteen (15) shrubs per one hundred (100) lineal feet and a six (6) foot high solid fence.
  - (e) Shade trees shall be provided as in Section 150.55 (D) (5) (c), except that double the number of shade trees shall be provided.
  - (3) Banks, credit and other financial agencies with drive-thru facilities;
    - (a) Minimum lot area: Uses with drive-thru facilities shall have a minimum lot area to accommodate building, required yards, landscaping, parking and circulation requirements.
    - (b) Setbacks and screening: Drive-thru windows or lanes shall be located at least 50 feet from any residential property. A twenty (20) foot buffer shall be provided, with a minimum of six (6) canopy trees and twenty (20) shrubs, per 100 lineal feet, and a six (6) foot high solid fence.
    - (c) Off-street parking and circulation: Stacking space shall be provided for every drive-thru facility, on a basis of five (5) cars per window. Required stacking spaces shall not block or otherwise interfere with site circulation patterns. Customer/employee parking shall be separated from driving activities and customer parking shall be located near the area with the highest accessibility to the principal building. The circulation system shall provide continuous traffic flow with efficient movement throughout the site. Conflict between major pedestrian movement and vehicular circulation shall be minimized.
  - (4) Barber/Beauty Shop/Day Spa;
    - (a) Located only within a professional office building containing multiple users and the building has a minimum gross square footage of 5,000 square feet;
    - (b) Parcel must have frontage on a major street;
    - (c) Retail sales of personal care products are allowed provided gross revenue from sale of personal care products do not exceed five (5) percent of net revenue for the business.
- (D) Prohibited Uses.
- (a) Dwellings and residences of any kind.
  - (b) Retail and/or wholesale sales of any type.
  - (c) Freestanding drive-up or walk up ATM machines.
  - (d) Bars, taverns, dance halls, rental halls, or similar commercial recreational activities.
  - (e) Any use not specifically listed as a permitted use above.

## **150.32 R-C RECREATIONAL-CONSERVATION**

- (A) Purpose. This district is to provide a classification for parks and public recreation areas and their accessory uses in a district which will be apart from other classifications and permitted land uses. The R-C District is designed to be applied to dedicated public parks and similar recreational areas to protect and perpetuate a system of permanent parks and recreational areas for residents.
- (B) Permitted uses. A building or lot within the R-C District may be used only for the following purposes:
  1. Public parks.
  2. Public recreational areas, including but not limited to playgrounds, athletic fields and courts, golf courses, aquatic facilities, skating parks, in-line skating rinks, and ice skating rinks.
  3. Public community centers and recreation buildings.
  4. Public wildlife management areas.
  5. Public conservation areas.

6. Public nature preserves.
  7. Public forests.
  8. Public gardens and arboreta.
  9. Public restrooms and shelters.
  10. Public observation stations and interpretive displays.
  11. Public bicycle, jogging, running, walking and exercise paths.
- (C) Conditional use. The following conditional uses are permitted provided that the conditions set forth are complied with:
1. Museums and cultural or civic theaters.
  2. Administrative and entrance structures.
  3. Recreational and meeting rental facilities.
  4. Non-municipally owned public utility facilities and distribution systems shall be buried to avoid disruption of scenic and natural views. Municipally-owned public utility facilities and distribution systems shall be buried or landscaped, unless permitted by the Municipal Administrator or designee, to avoid disruption of scenic and natural views. All public utilities shall be designed to minimize the impact on parkland areas during and after construction.
  5. Restaurants, snack bars and vending machine areas when such facilities are designed primarily to serve public park uses.
  6. Festivals, fairs, parades and expositions.
  7. A single-family residence for a caretaker.
- (D) Land and structures shall be developed and maintained in accordance with the following standards:
1. The preservation and appropriate management of timber, wildlife and wildlife habitats shall be encouraged in Wildlife, Conservation, Forest and Nature Preserve areas.
  2. The planting of trees, shrubs and aids for the protection of natural wildlife and for erosion control shall be encouraged.
  3. Land management to reduce non-native plants and animals shall be undertaken in wildlife conservation areas and nature preserves
  4. Buildings or structures shall be constructed and situated so as to minimize their effect on scenic views or vistas, prevent the threat of pollution or siltation of waterways and the filling of wetlands and floodplains, and to complement the topography of the land in order to utilize natural contours and reduce required grading.
  5. A public review process will be followed for all new structures located within the R-C District, according to guidelines established by the Parks and Recreation Board or any other governing authority, if applicable.
  6. Public Access may be restricted in R-C areas to protect sensitive flora and fauna or for public safety.
  7. Lands in the R-C District are considered permanent recreational areas.
- (E) Prohibited uses:
1. Telecommunication towers and facilities, except when approved by the Municipal Administrator and Parks & Recreation Director or any other governing authority, if applicable.
  2. Any use not specifically listed as a permitted or conditional use above.

## **150.33      A-1 AGRICULTURAL**

- (A) Purpose. This district allows an agricultural use.
- (B) Permitted uses. A building or lot within the A-1 District may be used only for the following purposes:
1. Farm residence and farm buildings.
  2. Any agricultural use. Agricultural use includes general farming, livestock and poultry raising, riding stables and academies, dairying, agricultural animals, but does not include animal processing or any manufacturing process.
  3. County fairgrounds.
- (C) Conditional use. The following conditional use is permitted subject to the conditions hereinafter

set forth: airports located partly within and partly without the city limits shall be subject to county airport zoning. Airports located entirely within the corporate limits shall be subject to this section. The required site plan shall show the location of all landing strips, runways, taxiways, and aircraft parking areas; all buildings, hangars, and terminals; all drives and parking areas and screening and planting; clear zones and transition zones shall also be shown. The zoning inspector shall not grant a permit for the construction or operation of an airport or landing field until he has received evidence that the proposed traffic patterns would not conflict with traffic patterns of existing airports or interfere with FAA approved instrument landing procedures. The zoning inspector shall insure that adequate ingress and egress, parking, and protection of adjacent property are provided.

a. **I-1 INSTITUTIONAL**

(A) Permitted uses:

1. Public and semipublic activities such as churches, public and private schools and universities, nonprofit institutions, social service agencies, libraries, public and governmental offices and buildings, youth hostel facilities including youth hostel house parents.
2. Hospitals, clinics and extended care facilities, nursing homes, day care centers, nursery schools, rest homes, or homes for the aged.

(B) Conditional uses:

1. Airports and landing fields subject to the conditions set forth in the M-1 District.
2. Cemeteries subject to the conditions set forth in the R-1 District.
3. Golf or country club, lodge, or private recreational club subject to the conditions set forth in the R-1

b. **M-1 LIGHT INDUSTRIAL**

(A) Purpose. This district permits manufacture, assembly, storage, or transfer activities whose nature of operation produces a minimum of noise, odor, dust, and smoke. They are also associated with little outside storage or assembly, and typically are of a low-density usage.

(B) Permitted uses. A building or lot within the M-1 District may be used only for the following purposes.

1. Manufacturing or assembly processes which by the nature of the materials, equipment, and process used are to a considerable measure clean, quiet, and free of objectionable or hazardous elements.

Manufacturing activities shall consist of the following activities:

- a. Jewelry.
- b. Drugs.
- c. Musical instruments.
- d. Sporting goods.
- e. Clothing.
- f. Small household appliances.
- g. Electronic components or equipment.
- h. Research and testing laboratories.
- i. Bakery, potato chip manufacturing.
2. Lumber storage and dealers.
3. Contractors' yards and offices.
4. Warehouses, including wholesale warehouses.
5. Printing and publishing plants.
6. Monument works and sales.
7. Carting or hauling.
8. Grain and feed dealers.
9. Railroad yards and terminal facilities.
10. Veterinarians, kennels, animal hospitals and burial grounds, provided that any outside runs or kennels are more than 200 feet (200') from a residential district.

11. Nurseries, greenhouses, truck gardens, or plant cultivation.
  12. Automotive and other repair and temporary storage.
- (C) Compliance with the state environmental protection agency with respect to discharges into the atmosphere and into any drainage system shall be a requirement for any light industry.
- (D) Conditional uses:
1. Airports and landing fields subject to the conditions set forth in the A-1 District.
  2. Driver Training School subject to the following conditions:
    - (a) The classroom accommodates no more than thirty-five (35) students.
    - (b) The number of vehicles used for training cannot exceed fifteen (15).
    - (c) The training school be licensed by the State of Ohio and proof of such license be filed with the City annually.
    - (d) The training school be inspected by the Ohio Highway Patrol annually.
    - (e) The building in which the training school is located be within three hundred feet (300') of a Residential District.
  3. Day Care Centers subject to the following conditions:
    - (a) The frontage for the parcel shall be on a major street;
    - (b) The entry drive shall be in compliance with The Access Management Policies and Guidelines;
    - (c) A four foot (minimum) solid fence shall be installed to screen adjacent uses from view of the play areas. However, this fencing shall not be installed within the front yard setback.
    - (d) A screen of evergreen plantings shall be placed inside the lot line to screen any adjacent off-street parking or loading areas from the day care and to help reduce noise. These evergreen plantings shall be outside the required screen fence. A four-foot tall earthen mound can be substituted for the evergreen plantings, but the required solid fence cannot be placed on the mound.
  4. Indoor Sports Training Facility, which may include an accessory retail shop for the sale of related equipment, subject to the following conditions:
    - (a) The construction required to accommodate the facility shall not permanently alter the building so that it cannot be reused for industrial, office or business purposes.
    - (b) The applicant must submit a report as part of the zoning permit application from an architect, engineer or contractor indicating the building is suitable for use as an Indoor Sports Training Facility and any building modifications required would not preclude the building's reuse for industrial, office or business purposes.
    - (c) Buildings and use subject to City inspections for zoning compliance.
    - (d) A change-in-use permit is required and approval based on compliance with City ordinances.
- (E) No bars, taverns, dance halls, rental halls, bowling alleys, or similar commercial recreational activities shall be permitted in an M-1, Light Industrial zone.

c.

## **M-2 GENERAL INDUSTRIAL**

- (A) Purpose. This district permits general manufacturing and assembly activities.
- (B) Permitted uses. A building or lot within the M-2 District may be used only for the following purposes:
  - 1. Any use permitted in the M-1 District.
  - 2. Any manufacturing, assembly, or extracting process not otherwise prohibited or not otherwise limited by this article.
- (C) Compliance with the state environmental protection agency with respect to discharges into the atmosphere and in- to any drainage system shall be a requirement for any general industry.
- (D) Conditional uses:
  - 1. Airports subject to the conditions set forth in the A-1 District.
  - 2. Automobile wrecking, scrap, and junkyards, including refining or reprocessing of automobile scrap or junk. A six foot (6') screened fence shall be required on all setback lines including the site activities. No open burning, cutting, or processing is permitted.
  - 3. Day Care Centers subject to the same conditions spelled out in the M-1 District.
- (E) Prohibited uses:
  - 1. Fertilizer manufacture and animal rendering.
  - 2. Stockyards.
  - 3. Petroleum refineries and storage areas.
  - 4. Nuclear power plants.
  - 5. Paper mills.
  - 6. Hay mills.

d.

## **M-3 BUSINESS PARK**

- (A) Purpose. This district is intended to provide for office and industrial uses having a minimal impact upon the surrounding environment in areas that are suitable for office and industrial development by reason of their location and the availability of adequate utility and transportation systems. Uses established in this district will be developed in a business park setting.
- (B) Permitted uses. A building or lot within the M-3 District may be used only for the following purposes:
  - 1. Bakeries and bottling plants.
  - 2. Contractor's yards or offices.
  - 3. Truck and motor freight terminals.
  - 4. Moving and storage companies.
  - 5. Compounding, processing, and packaging of meat, dairy and food products, exclusive of slaughtering.
  - 6. Manufacturing and/or assembling of electrical and electronic products, components, and equipment.
  - 7. Machine shops and tool die shops.
  - 8. Electric substations, equipment buildings, electric transmission lines, and electric towers.
  - 9. Gas regulator and gas meter stations.
  - 10. Water filtration and pumping stations.
  - 11. Sanitary sewer treatment plants and pumping stations.
  - 12. Research and engineering laboratories.
  - 13. Printing, binding, and typesetting plants.
  - 14. Commercial radio and television transmitting stations and antenna towers.
  - 15. Sign painting and manufacturing.
  - 16. Stamping plants.
  - 17. Manufacture of computers and manufacture, duplication, and/or shipping of computer software.
  - 18. Manufacture of plastics.
  - 19. Manufacture of cosmetics.
  - 20. Other manufacturing, processing, assembling, or compounding operations possessing characteristics similar to those uses listed in this section.

21. Offices and corporate headquarters of five thousand (5,000) square feet or more.
22. Warehouses and wholesale warehouses.
23. Such manufacturing uses may have a retail outlet provided the products offered for sale are manufactured on site. For example, a manufacturer of furniture may offer retail sales of tables manufactured on site, but not chairs manufactured at another site.

(C) Conditional Uses:

1. Day Care Centers subject to the same conditions spelled out in the M-1 District.
2. Indoor Sports Training Facility, which may include an accessory retail shop for the sale of related equipment, subject to the following conditions:
  - a. The construction required to accommodate the facility shall not permanently alter the building so that it cannot be reused for industrial, officer or business purposes.
  - b. The applicant must submit a report as part of the zoning permit application from an architect, engineer or contractor indicating the building is suitable for use as an Indoor Sports Training Facility and any building modifications required would not preclude the building's reuse for industrial, office or business purposes.
  - c. Buildings and use subject to City inspections for zoning compliance.
  - d. A change-in-use permit is required and approval based on compliance with City ordinances.

(D) Prohibited uses: All the following uses are expressly prohibited in the M-3 District:

- (1) Fertilizer manufacture and animal rendering.
- (2) Stockyards.
- (3) Petroleum refineries and storage areas.
- (4) Nuclear power plants.
- (5) Paper mills.
- (6) Hay mills.
- (7) All retail sales unless such sales are of products manufactured on site.
- (8) All residential uses.

(E) Compliance with the state environmental protection agency with respect to discharges into the atmosphere and into any drainage system shall be a requirement for any permitted use.

## 150.40

## **S-1, S-2, S-3, S-4, AND S-5 PLANNED DEVELOPMENT**

- A. Purpose. Special districts shall be used to preserve or to create areas with specific functional needs. These functional needs shall include:
1. Residential areas designed for special population groups or housing types. Flexibility in design to create a sound living environment in districts containing multiple- family housing, housing for the elderly, student housing, public housing, etc., is encouraged. Commercial and institutional services may be incorporated into the district.
  2. Commercial areas, whose individual activities can be designed to relate functionally to each other, to provide adequate parking and circulation, and to provide adequate points of ingress and egress while protecting adjacent activities from adverse effects of the district. Such areas may incorporate commercial activities and residential activities.
  3. Public and institutional activities which can, by orderly location and arrangement of facilities, be more efficient, more accessible to the public, and can promote higher quality of visual and functional design.
  4. Industrial and technical center activities which can, by orderly location and arrangement of facilities, be more efficient and promote a higher quality of visual and functional design and can in an imaginative way include sections devoted to commercial activities and residential activities, all designed to provide adequate points of ingress and egress and to protect each part of the area from adverse effects of the other parts.
- B. Plan required. Any authorized agency of the municipal, county, state, or federal government, or the owner or owners of any tract of land may submit an application to the planning commission for establishment of a district contained in this section the uses and purposes set forth. The application may be accompanied by the site plan set forth in this provision and may be approved at the same time as the zoning change to establish the district. The procedure for zone change shall be the same as for any other district, but either at the time the zone change is requested from the planning commission or at such later time. Before a zoning certificate is issued for new construction, alterations, or change of use, the site plan must be approved as set forth in this section.
- C. The S-District Site Plan submitted shall be composed of the following elements and subject to the following conditions:
1. The site plan shall consist of the location and design of all buildings, drives, and parking areas. Shown on the plan shall be all building heights, setbacks, and screening as proposed.
  2. A traffic and circulation plan shall show the location and design of all entrances and exits to the site, circulation drives, and parking areas, showing the number of proposed parking spaces. Counts of traffic on all streets adjoining the site shall be listed and a forecast of traffic volumes generated by the site shall be made by competent experts.
  3. All setback, screening, and bulk-density requirements may be modified if approved by the Planning Commission.
  4. Within the limits of the site, buildings may be placed anywhere and not subject to the limitations of the number of buildings stated in 150.18.
  5. The site shall have adequate access from public thoroughfares and shall provide interior circulation and access to buildings and parking areas. The design and location of driveways, access points, building locations, and parking spaces shall be subject to the review and approval of the zoning inspector and city engineer.
  6. The site shall drain surface water to an approved watercourse or pipe enclosure as reviewed and approved by the director of public works and the director of utilities.
- D. Fees. In order to partially defray the costs of processing an S-District site plan a fee of \$300.00 must accompany the site plan. This fee is nonrefundable and will be deposited in the general fund.
- E. S-District Site Plan Requirements:
1. Site bench mark. This shall meet the requirements of Section 12.02 of the Codified Ordinances of the city.
  2. Existing elevations on site and on adjacent properties. This information shall be sufficient to indicate directions of drainage flow.
  3. Proposed elevations.

- a. Finished grade at the proposed building(s).
  - b. Parking areas, drives, and street or alley improvements.
  - c. Finished elevation and location of all grade changes of public sidewalks.
4. Locations and sizes of all existing utilities (electric, natural gas, water lines, storm sewers, and sanitary or combination sewers, and the like) and appurtenances thereto.
  5. Locations and sizes of any existing water and sewer service connections.
  6. Locations and sizes, types of material, and elevations of proposed sewers and water lines.
  7. Locations of the proposed tie to the electric system, electric service, and electric load.
  8. Locations of proposed natural gas and communication lines.
  9. Drawings shall show all right-of-way lines, property lines, and easements.
  10. All drawings shall be prepared on reproducible paper.
  11. All plans shall be drawn to engineer's scale, not to exceed 1:100.
  12. The drawing shall be prepared by a registered engineer or architect. The name of the engineer or architect shall be included on the drawing. The name of the surveyor shall also be included.
  13. All parcels of land intended to be dedicated or temporarily reserved for public use, or reserved in the deeds for the common use of property owners shall be indicated.
  14. The layout of proposed streets, alleys, and easements as well as the location and accurate dimensions of proposed lots shall be included.
  15. All drawings must include a north arrow and legend that indicates existing and proposed sewers, waterlines, and elevations.
  16. A note shall indicate that all construction and materials shall meet the requirements of the City of Bowling Green.
  17. The project plan set submitted in an electronic format compatible with the city's computer assisted drawing program. The electronic copy shall be provided on a CD or other media acceptable to the city.
  18. Completed Stormwater Pollution Prevention Plan forms as required by the Storm Design requirements of the city.
  19. Plans and calculations addressing storm detention, water quality volume and storm sewers.
  20. Submission of the site plan shall be made to the Planning Department. Once approved by the Planning Department, the completed site plan shall be forwarded to the Planning Commission.
  21. After final approval by the city, the developer must supply the city with six (6) prints of the final drawing. Two (2) approved sets of plans will be returned to the applicant and the applicant shall keep one set of approved plans on-site during construction.

## **150.41 REVIEW AND APPROVAL OF SITE DEVELOPMENT PLAN**

- A. Application for establishment of a special district zone shall be in accordance with the procedures set forth in 150.110 through 150.112.
- B. Once a plan is deemed compliant by the Planning Department, the Planning Commission shall schedule a public hearing on the site plan at its next meeting, with notice of the hearing mailed by first class mail at least 20 days before the date of the public hearing to the owners of the property within, contiguous to, and directly across the street from such parcel or parcels to the address of such owners appearing on the County Auditor's current tax list or Treasurer's mailing list. Planning Commission may request modifications to the site plan, although such requests are not binding. The Planning Commission shall approve the site plan at the conclusion of the public hearing.
- C. Even though special district zoning has been approved for a site, no zoning certificate shall be issued for improvements or construction until approval of the site development plan by the Planning Commission.

## **150.42      S-1 PLANNED RESIDENTIAL - GENERAL**

- A. Permitted uses:
  - 1. Single-family dwellings.
  - 2. Uses allowed in the R-3 District.
  - 3. Neighborhood or convenience goods retail sales and services whose location and uses are designed to serve immediate neighborhood residents. Other uses include those activities allowed in a B-1 District. Off- street parking for on-site activities shall be provided as in 150.55 through 150.59. Commercial activities must be located in such a way that primary access is not through residential areas and that commercial activities are screened from living areas.
- B. Conditional uses:
  - 1. Cemeteries subject to the conditions set forth in the R-1 District.
  - 2. Golf or country club, lodge, or private recreation club. A four-foot (4') high screen fence shall be required on all property lines adjoining an R Residential District. A four-foot (4') high decorative fence, screen planting, or earthen mound shall enclose all parking areas when located in an S Planned District. The required plan shall show the location of all buildings, drives, parking areas, and fencing or screen planting;
  - 3. Mobile home parks subject to the same conditions set forth in the R-4 District.
  - 4. Nursing homes, day-care centers, nursery schools, rest homes, or homes for the aged subject to the conditions set forth in the R-3 District.
  - 5. Fraternity or sorority houses, subject to one (1) parking space per bed and sixty feet (60') frontage on a major street.

## **150.43      S-2 PLANNED COMMERCIAL**

- A. Permitted uses:
  - 1. All uses allowed in the B-2 District.
  - 2. Multiple-family dwellings, provided that primary access to commercial areas is not through residential areas and that commercial activities are suitably screened from living areas. However, commercial buildings may have residential units located in them on a different story or level from the commercial activities.
  - 3. Warehouses, including wholesale warehouses and retail warehouses.
- B. Conditional uses:
  - 1. Mobile home parks subject to the conditions set forth in the R-4 District.
  - 2. Mortuaries subject to the conditions set forth in the B-1 District.
  - 3. Golf or country club, lodge, or private recreation club subject to the conditions set forth in the S-1 District.

## **150.44      S-3 PLANNED INSTITUTIONAL**

- A. Permitted uses:
  - 1. Public and semipublic activities such as churches, public and private schools and universities, nonprofit institutions, social service agencies, libraries, public and governmental offices and buildings, youth hostel facilities including youth hostel house parents.
  - 2. Hospitals, clinics and extended care facilities, nursing homes, day-care centers, nursery schools, rest homes, or homes for the aged.
- B. Conditional uses:
  - 1. Airports and landing fields subject to the conditions set forth in the M-1 District.
  - 2. Cemeteries subject to the conditions set forth in the R-1 District.
  - 3. Golf or country club, lodge, or private recreation club subject to the conditions set forth in the R-1 District.

## 150.45 **S-4 PLANNED BUSINESS PARK**

- A. Purpose: This district is intended to provide for office and industrial uses having a minimal impact upon the surrounding environment in areas that are suitable for office and industrial development by reason of their location and the availability of adequate utility and transportation systems. Uses established in this district will be developed in a business park setting.
- B. Permitted uses:
1. Bakeries and bottling plants.
  2. Truck and motor freight terminals.
  3. Moving and storage companies.
  4. Compounding, processing, and packaging of meat, dairy and food products, exclusive of slaughtering.
  5. Manufacturing and/or assembling of electrical and electronic products, components, and equipment.
  6. Machine shops and tool die shops.
  7. Electric substations, equipment buildings, electric transmission lines, and electric towers.
  8. Gas regulator and gas meter stations.
  9. Water filtration and pumping stations.
  10. Sanitary sewer treatment plants and pumping stations.
  11. Printing, binding, and typesetting plants.
  12. Research and engineering laboratories.
  13. Commercial radio and television transmitting stations and antenna towers.
  14. Sign painting and manufacturing.
  15. Stamping plants.
  16. Manufacture of computers and manufacture, duplication, and/or shipping of computer software.
  17. Manufacture of plastics.
  18. Manufacture of cosmetics.
  19. Other manufacturing, processing, assembling, or compounding operations processing characteristics similar to those uses listed in this section.
  20. Offices and corporate headquarters.
  21. Warehouses and wholesale warehouses.
  22. Such manufacturing uses may have a retail outlet provided the products offered for sale are manufactured on site. For example, a manufacturer of furniture may offer retail sales of tables manufactured on site, but not chairs manufactured at another site.
- C. Conditional uses:
1. Indoor Sports Training Facility, which may include an accessory retail shop for the sale of related equipment, subject to the following conditions:
    - (a) The construction required to accommodate the facility shall not permanently alter the building so that it cannot be reused for industrial, office or business purposes.
    - (b) The applicant must submit a report as part of the zoning permit application from an architect, engineer or contractor indicating the building is suitable for use as an Indoor Sports Training Facility and any building modifications required would not preclude the building's reuse for industrial, office or business purposes.
    - (c) Buildings and use subject to City inspections for zoning compliance.
    - (d) A change-in-use permit is required and approval based on compliance with City ordinances.
- D. Prohibited uses: All the following uses are expressly prohibited in the S-4 District:

1. Fertilizer manufacture and animal rendering.
  2. Stockyards.
  3. Petroleum refineries and storage areas.
  4. Nuclear power plants.
  5. Paper mills.
  6. Hay mills.
  7. All retail sales unless such sales are of products manufactured on site.
  8. All residential uses.
- E. Compliance with the state environmental protection agency with respect to discharges into the atmosphere and into any drainage system shall be a requirement for any permitted use.
- F. The 74.01 acres of property located at the southwest corner of State Route 105 and South Dunbridge Road, presently zoned S-4, Planned Industrial, shall retain the permitted and conditional uses, and bulk and density requirements applicable to such property under the terms of the S-4, Planned Industrial, District, zoning regulations in effect as of June 1, 1993 and shall not be affected by any revisions to the zoning regulations regarding the permitted and conditional uses, and the bulk and density regulation requirements, of the S-4, Planned Industrial, District, enacted after June 1, 1993. The intent of this paragraph F is to continue the permitted and conditional uses, and bulk and density regulation requirements, of the S-4, Planned Industrial, District with respect to such property, which has been zoned S-4, Planned Industrial, since September 15, 1980.

**150.46      S-5 PLANNED RESIDENTIAL - LIMITED**

The following are the only permitted uses:

- A. Single-family dwellings.
- B. Multiple-family dwellings of four (4) units or less.
- C. Condominium buildings of four (4) or fewer units.
- D. Vehicular storage buildings accessory to uses A, B, and C herein.
- E. Community or recreation buildings accessory to uses A, B, and C herein.

**150.47**

**PLANNED OVERLAY DEVELOPMENT (POD) DISTRICT**

- A. Purpose. It is the purpose of the Planned Overlay Development District to permit a property owner or developer, through consultation with Council and the Planning Commission, to develop a site according to an established plan which would supplement normal zoning requirements of a particular zoning district; however, the uses approved within a Planned Overlay Development must conform to the uses as specified in the existing underlying zoning district, except as permitted to be modified by this Section. Planned Overlay Developments allow creative site planning that can result in reduced development costs in exchange for incorporation of amenities such as common open space or increased yards in the overall site design. The Council may approve a Planned Overlay Development (POD) based on the guidelines and procedures outlined in this Section and this Zoning Code.
- B. Establishment of Planned Overlay Development Districts. An overlay district is a mapped zone that imposes additional requirements and procedures over an existing zoning district. A Planned Overlay Development District may be approved over any zoning district, provided that the plan complies with the procedures and standards of this Section and is approved by Council. The establishment of a Planned Overlay Development consists of three primary steps:
  1. Approval of a Concept Plan;
  2. Approval of a Final Plan; and
  3. Issuance of a Development Permit.

This Section defines required development standards that set forth the minimum design criteria that must be provided in order to obtain approval. This Section also specifies review procedures for each step in the approval process. The development standards for the design and review of a POD District are set forth in Sections C through H. The review process and procedures for establishment and approval of a POD District are set forth in Sections I through O.

- C. Yard, Area, Use and Density Regulations. The various yard, area, use, density and other development standards for Planned Overlay Development Districts are defined and set forth below.
  1. Lot Size, Width, Depth, and Frontage Requirements. Minimum lot size, width, depth, and frontage requirements for property or lots in a Planned Overlay Development may be less than the minimums specified in the underlying district if approved by City Council as part of the Concept Plan. In no case, however, may the lot size, width, depth or frontage requirements be reduced to be less than fifty percent (50%) of the required standard in the underlying district.
  2. Peripheral Setback. The peripheral setback is the minimum setback for buildings, parking and streets along the boundary of any POD. If a Planned Overlay Development involves a subdivision, the front, side and rear yards shall be required for each lot in addition to the peripheral setback. The peripheral setback for a Planned Overlay Development site shall be as set forth in the table below. Required landscape bufferyards may be located within the peripheral setback.

POD Use	If Adjacent to a Residential District	If Adjacent to a Non-Residential District	Required Peripheral Setback to Obtain Density Bonus
Residential	20 Feet	30 Feet	50 Feet
Non-Residential	30 Feet	10 Feet	N/A

3. Minimum Site Size. There shall be no minimum site area requirement for the establishment of a Planned Overlay Development District.
4. Building Height. The maximum building height for a POD shall be the same as the underlying zoning district height requirement. An increase in building height may be approved if the peripheral yard is increased by two feet (2') per foot of height increase over the specified allowable height, but no occupied structure shall exceed forty-five feet (45').
5. Permitted Uses. Permitted uses within a residential Planned Overlay Development District shall be those residential uses allowed within the R-1, R-2, and R-3 Districts. Permitted uses within a non-residential Planned Overlay Development District shall be those uses allowed within the underlying non-residential zoning district.

6. Development Density. A development density bonus may be approved by the City based on the requirements of the following subsections, and the provision of increased peripheral setback and open space percentages as required.
  - a. In a residential Planned Overlay Development, the density permitted is the same as that of the underlying district or districts. The number of dwelling units permitted in a Planned Overlay Development shall be calculated by dividing the gross residential area by the minimum lot size required in the underlying residential district. The residential area for a Planned Overlay Development shall be calculated by using the area of the residential development.
  - b. The number of dwellings yielded from this calculation shall be used in determining the overall density for the site. The Planning Commission may grant approval for an increase in the number of dwelling units permitted within a residential Planned Overlay Development. Such approval may be granted if the Planning Commission finds, based on a report by the City Staff, that the POD provides the required increases specified for open space and peripheral yards, and that the POD meets the landscaping, buffering, lighting and signage as specified by this Section. The Planning Commission must also determine that the increase in the number of dwelling units allowed for the POD will not have an adverse or negative impact on the surrounding properties or the neighborhood. Such determination shall be based on a finding by the Commission during the approval of the Concept Plan. In considering adverse or negative impact, the Planning Commission shall consider the effect the increase in dwelling units will have on the provision of public services and the roadway network based on a report submitted by the developer addressing these issues, and other potential adverse or negative impacts.
  - c. The total number of dwelling units in a Planned Overlay Development may not exceed one hundred twenty five percent (125%) of the maximum number permitted by the underlying zoning district.
  - d. For a non-residential use, the density shall be determined based on the requirements of the underlying zoning district and the limitations that the POD development regulations may impose.
- D. Open Space. The Planned Overlay Development District shall only be approved if the development plan contains areas to be allocated for open space which satisfy the standards governing the usability and quality of open space that are contained below:
  1. Open space shall comprise the required proportion of the POD development as specified in the table below:

POD Use	Required Percent of Open Space	Required Percent of Open Space to Obtain Density Bonus
Residential	20%	25%
Non-Residential	10%	N/A

2. Open space in a Planned Overlay Development means the land area to be used for scenic, landscaping, or recreational or leisure purposes within the development. It shall not include street right-of-ways, driveways, or open parking areas. Open space may include the peripheral setback area, however, shall not include land or areas in single-family lots or other parcels created for development within the POD.
3. Open space shall be suitably improved for its intended use, but open space containing natural features worthy of preservation may be left unimproved.
4. If the POD Plan provides public improvements, the developer shall provide a bond of one hundred percent (100%) of the City Engineer's estimate of the cost of those improvements so that the improvements will be completed. The bond will be filed before the Final Plan is recorded. Upon request by the developer, the Planning Commission may delay the requirements of posting the bond if such delay is based upon the development schedule. The Commission shall release the bond or other assurance when the buildings, structures or improvements have been completed according to the Final Plan.

E. Landscape Requirements. A landscape plan for a proposed Planned Overlay Development shall be provided for review and approval by the City. Landscaping shall be used to enhance the overall appearance and appeal of the development. Landscape treatment shall also be provided to enhance architectural features and parking areas, screen equipment, and to provide shade. Review of proposed landscaping by the City shall include analysis of whether the plan provides the required quantities and locations of landscaping, and the overall effectiveness of the proposed landscape plan to enhance the property. The following standards shall be used to evaluate proposed landscape plans as approved by the City.

1. Bufferyards. A landscape bufferyard shall be provided as part of a POD in order to screen and/or lessen the impact between uses and developments. The table below shall be used to determine if a bufferyard is required. The table is also to be used to determine the composition of the bufferyard. The table identifies minimum requirements; additional plant material or other screening devices may be included.

<b>When...</b>	<b>Is proposed to abut...</b>	<b>A minimum bufferyard of...</b>
Any commercial POD land use  Any office POD land use  Any industrial POD land use  Any residential POD land use	Any residential zone or land use Any residential zone or land use  Any residential, office or commercial zone or land use  Any office, commercial, or industrial zone or land use	Evergreen trees planted at the property boundary at a standard of one tree per twenty-five feet (25') of linear distance and an opaque fence shall be installed six feet (6') in height and placed at the nonresidential property line. This area shall be treated with plantings to form a permanent landscaped area. Such buffer area shall be a minimum of fifteen feet (15') in width.
Any multiple family POD land use	Any single family residential zone or land use	A boundary bufferyard as specified in Figure 150.41-A.
Any institutional POD land use	Any residential zone or land use	A boundary bufferyard as specified in Figure 150.41-A.
Any non-residential use or parking lot	Any public right-of-way	A streetscape buffer as specified in Figure 150.41-B.

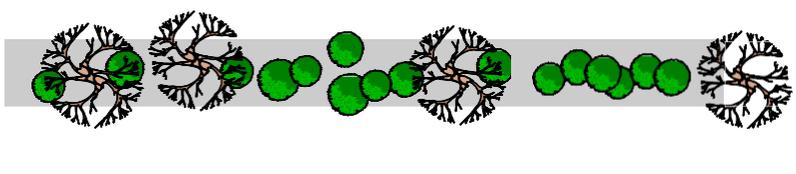
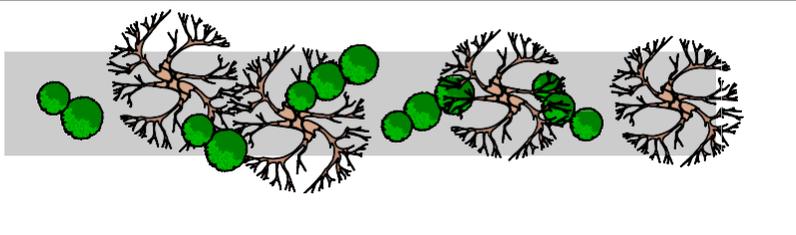
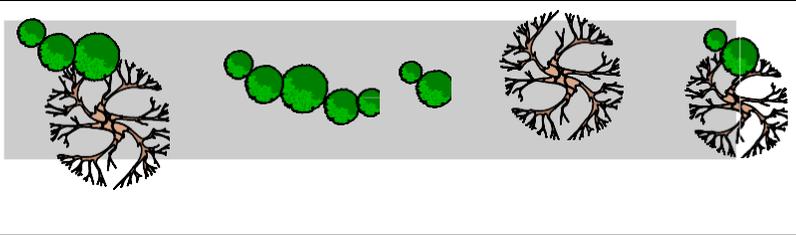
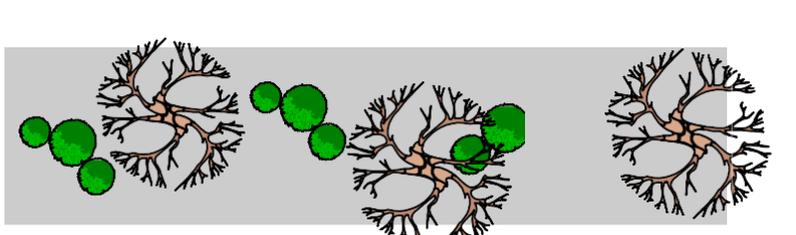
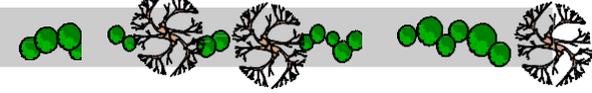
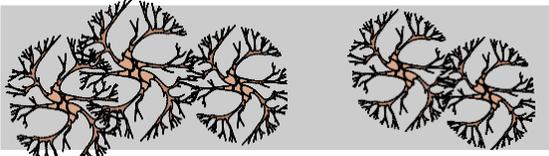
Minimum Width of buffer	100 Linear Feet	Landscape Material Requirements	
		Canopy Trees	Shrubs
10 ft.		4	15
15 ft.		3.5	12.5
20 ft.		3	10
25 ft.		2.5	8

Figure 150.41-A Boundary Bufferyard

- g. Landscape screening shall be of a height and density so that it provides the full desired effect within three years growing time.
- h. The required bufferyard may be located within the required peripheral setback. No buildings or parking or vehicular use areas may be located within the required bufferyard.
- i. A bufferyard is not required between adjacent single-family developments.
- j. 1.5 understory trees or one (1) evergreen tree may be substituted for one (1) canopy tree for up to fifty percent (50%) of the required canopy trees. A canopy tree is a deciduous tree which at maturity will shed its leaves annually, and provide shade, and shall have a minimum of twelve feet (12') overall height or a minimum caliper of 2 1/2 inches when installed, and have an expected height of at least thirty-five feet (35') at maturity. An evergreen tree is a coniferous tree with needles or a broadleaf tree which retains its leaves throughout the year and shall be a minimum of five feet (5') in height when installed. An understory tree is a lower growing tree which screens, flowers, defines space and provides seasonal interest and shall be a minimum of five feet (5') in height in clump form or 1-1/2" caliper in single stem form when installed. Shrubs shall be at least eighteen inches (18") in height or twenty-four inches (24") in spread when installed.
- k. A solid fence, wall, or berm 4 feet to 6 feet (4'-6') in height may be used and can substitute for shrub requirements.
- l. All landscape material required for the buffer shall be confined to within the required landscape strip.

2. Streetscape Buffer. A streetscape buffer shall be provided as part of a POD in order to provide a transition between the public right-of-way and the proposed development. Figure 150.41-B shall be used to determine the required streetscape buffer. The figure identifies minimum requirements; additional plant material or other screening devices may be included. The required streetscape buffer may be located within the required peripheral setback.
3. Vehicular Use Area Landscaping. Landscaping within parking and vehicular use areas shall be provided per the requirements of Section 150.55. Planning Commission may approve the use of environmentally sensitive materials or technology as alternatives to hard surface pavement in vehicular use areas when determined appropriate for the proposed use and circumstance.
4. Upon written request by the applicant, the Planning Commission shall have the authority to modify the aforementioned landscape requirements with respect to changes in elevation, environmental impact, durability of plant material, aesthetic appeal, and any other factors that will result in a buffer or screen of the same or greater level of visual as required at the time of application.

Minimum Width of Buffer	100 Linear Feet	Landscape Requirement Materials	
		Canopy Trees	Shrubs
Option 1 10 Feet		2.5	20
Option 2 20 Feet Average (Range 10-30 ft.)		5 (or existing woodland area)	

**Notes:**

1. Berms shall be a minimum 3 ft.
2. A fence or wall 3 ft. to 4 ft. in height with 50% or less of it's structure open or a minimum 3 ft. open grade drop from the right-of-way to the vehicular use area may be used and can be substituted for 50% of the shrub requirements.
3. All landscape material required by the buffer shall be confined to within the required landscape strip.

**Figure 150.41-B Streetscape Bufferyard**

- F. Signs. Signs within a Planned Overlay Development shall conform to the regulations of Section 150.63 through 150.71, except that freestanding signs shall be limited to ground signs. Ground signs in a Planned Overlay Development shall have a maximum height of ten feet (10') for non-residential uses and eight feet (8') for residential uses.
- G. Lighting. A proposed lighting plan shall be submitted for a POD illustrating the location, height, type and intensity of proposed light fixtures. A photometric lighting plan shall be provided for review by the City. The proposed design of the light fixtures shall be illustrated in the submission.
  1. All exterior lighting shall be part of the architectural and landscape design concept. Fixtures, standards and all exposed accessories shall be of similar design with other project design materials.
  2. The height of exterior lighting fixtures should not exceed the predominant height of the principal building to which it relates.
  3. Exterior lighting shall be designed to prevent an adverse effect upon neighboring properties. Designs shall specify light cut-off angles for all sources of illumination. Proposed illumination levels shall not exceed one-half footcandles at the property line.
  4. Proposed lighting plans shall comply with the requirements and regulations of Section 152.19.

- H. Other Criteria. The following planning criteria are established to guide and control the planning, and development in a POD District, and are in addition to the other development criteria and other regulations in this Section and in the Zoning Code. The City should evaluate a proposed Planned Overlay Development plan for consistency with the following general criteria.
1. The POD should provide an arrangement of buildings, facilities, open spaces, improvements, access and circulation compatible with the Land Use Plan and the area in which it is to be located.
  2. Proposed building materials shall be similar with adjoining structures and should be selected for suitability to the type of buildings and design in which they are used, and shall be of durable quality.
  3. Mechanical equipment or other utility hardware on the roof, ground, or elevations shall, wherever possible, be located so as not to be visible from any public ways or adjacent residential areas. Where such limitation on location is not possible, the facilities shall be screened from public view with landscaping and/or materials similar to the material of the primary building.
  4. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways with landscaping and/or materials similar to the material of the primary building.
  5. The site shall provide parking and loading spaces, design and landscaping, as required for the proposed use per Section 150.55 through 150.59. The Planning Commission may approve the use of environmentally sensitive materials or technology as alternatives to hard surface pavement in vehicular use areas when determined appropriate for the proposed use and circumstance.
  6. The design and location of parking areas shall be such that the visual impact of parked vehicles from public view and residential areas are minimized. This can be accomplished by use of decorative walls, landscape plantings, berms, the location of parking areas and other means of screening or design.
  7. Newly installed utility services shall be underground.
  8. Traffic and access circulation should be designed in accord with adopted City policies and principles to ensure safe transportation within and throughout new developments. The City may require the submission of a traffic impact study evaluating the impact that a proposed POD may have on the surrounding street network, requesting that the study identify mitigation techniques as demanded by the impact. Such study shall comply with the standards, regulations and requirements of the City's adopted Access Management Policies and Guidelines.
  9. The provision of adequate public utility, infrastructure and other services shall be examined. The City should consider the recommendations of City Departments in the review of the proposed plans in relation to public services.
- I. Review and Approval Process. It is the purpose of Sections J. through O. to establish procedures, supplementary to those applicable to standard zoning districts created by this Zoning Code, under which a developer may prepare development plans particularly designed to meet the objectives for a Planned Overlay Development District. The establishment of a Planned Overlay Development District shall involve the following primary processes and are addressed in detail in subsequent subsections.
1. A Pre-application Conference with the Planning Director.
  2. Concept Plan review by the Planning Department and Planning Commission.
  3. Approval by City Council establishing the POD District and approving the Concept Plan.
  4. Final Plan review by the Planning Department and approval by Planning Commission.
  5. Issuance of a Development Permit by the Planning Department in conformance with the Final Plan.
- J. Pre-application Conference.
1. Prior to submission of a Concept Plan, the applicant shall request the Planning Director to arrange a Pre-application Conference, unless the Director finds that a conference is not needed. The applicant shall submit to the Director a plan of the proposed development. The plan shall be drawn to scale, which shall be noted on the plan. The following information shall be provided:
    - a. Scale of drawing, north arrow, and date; a scale of 1"=40' is preferred.
    - b. Proposed land uses and number of units by type of units.
    - c. Natural features (such as trees, streams, and rock outcroppings).
    - d. Approximate size of lots, if a land division is involved.
    - e. Proposed street pattern.
    - f. All contiguous holdings of the owner, including land in the same ownership, with an indication of the portion which is proposed to be divided.

- g. An estimation of proposed open space, density and minimum lot size for the development.
  - 2. The purpose of the Pre-application Conference shall be to discuss the standards of the Planned Overlay Development, including minimum development requirements, and to discuss the review and approval process. The Pre-application Conference is also an opportunity for the applicant to describe the project to the Planning Director and to request guidance on the interpretation of the Planned Overlay Development regulations.
- K. Concept Plan. Following a Pre-application Conference with the Planning Director, the landowner, or designated agent representing the landowner, shall file an application for a Planned Overlay Development Concept Plan, with applicable fees, to the Planning Department. The POD Concept Plan Application represents a request to change the zoning designation of the property to add a POD overlay to the existing underlying zoning district, with the Concept Plan as an initial binding development plan. The Planning Department shall determine whether the application is complete, including the required fee of \$200 plus \$3.00 per acre in addition to the fee for the change in Zoning Classification. Applications that are determined to be incomplete shall not be processed until the required information is provided.
- 1. Submission Materials. The Concept Plan Application should present all relevant graphic data at an acceptable scale. The Concept Plan Application shall consist of twenty-five (25) copies of all plans, maps, and diagrams drawn in sufficient detail to indicate the nature of the plan elements and a written narrative description. The information shall include, but is not limited to, the following:
    - a. Proposed land uses and residential densities.
    - b. A plan that shows the dimension of the required peripheral setback.
    - c. A plan that shows the proposed location of open space calculation, and locations of bufferyards and streetscape buffers, including preliminary information regarding landscape materials and quantities. Prior to the submission of the concept plan, the developer shall have had the City Arborist visit the site and determine the significant trees on the site. The city shall bill the developer for the City Arborist's time for this work, and the developer shall pay the amount to the city prior to submission of a concept plan.
    - d. Building types and locations.
    - e. Means of access, circulation, and parking.
    - f. Subdivision plan if the land is to be divided.
    - g. Proposed ownership pattern.
    - h. Operation and maintenance proposal, i.e., homeowners association, co-op, or other similar organization.
    - i. Tables showing the overall density of any proposed residential development with density of dwelling types and intensity of any commercial, industrial, or other employment-related uses.
    - j. Data showing the total number of acres, the distribution of area by use, the percentage designated for each dwelling type, off-street parking, streets, and open spaces.
    - k. Data showing the overall density of the proposed residential development and showing density by dwelling types and minimum lot sizes.
    - l. A statement of how the proposed Planned Development complies with the applicable Land Use Plan policies and the standards of this Section.
    - m. Demonstration of adequate financing to be available to the applicant to assure substantial completion of the proposal.
    - n. A statement indicating that adequate public services and infrastructure exist, or an explanation of how any service deficiencies will be addressed.
    - o. A traffic impact study evaluating the proposed impact of the development on adjacent and surrounding streets, in accordance with adopted standards by the City. Such study shall identify recommended improvements to mitigate anticipated impacts created by the development. The study shall also indicate the dedication of right-of-way as may be required for conformance with the City's transportation and thoroughfare plans.
    - p. The stages, if any, of the development construction. Such stages shall be clearly marked on the Final Plan.
    - q. List of names and addresses of property owners as required for public notification.
  - 2. Procedures for Review of Concept Plan.

- a. Once the Planning Department determines that the Concept Plan Application is complete (within ten (10) days of submission), copies of the application and material shall be distributed to City Departments for review and comment. The Application shall also be forwarded to the Planning Commission for scheduling of a public hearing by the Planning Commission in accordance with the requirements for Amendment per Section 150.111. Once comments are received from other City Departments, the Planning Department shall prepare a staff report and transmit the report to the Planning Commission addressing compliance, or noncompliance, with the standards of this Section, other parts of the Zoning Code, and the comments from the City Departments for review at the Public Hearing.
  - b. The Planning Commission shall review the Concept Plan at a public hearing, per Section 150.111, and may recommend approval, approval with modifications, or denial of the application to City Council. Such recommendation shall be based upon consideration of the Land Use Plan, and a finding of conformance with this code, the standards of this Section, and the suitability of the proposed development in relation to the character of the area. Consideration should be given to the Approval Criteria specified below.
  - c. The City Council shall consider the Concept Plan at a public hearing in accordance with the requirements for Amendment per Section 150.111 and take action based on the recommendation of the Planning Commission and consideration of the regulations of this Section and the Zoning Code.
  - d. Approval of the Concept Plan shall authorize the preparation of a Final Plan.
3. Approval Criteria. In determining whether a Planned Overlay Development Concept Plan request filed pursuant to this Section shall be approved or recommended for approval, the Planning Department Staff, the Planning Commission, and the City Council shall apply the following general standards.
- a. Compliance with this Zoning Code, with the purposes of the POD, and with the regulations specified in subsection C through H.
  - b. Applicability of and consistency with adopted objectives and policies of the City related to land use, transportation or other plans adopted by the Bowling Green.
  - c. Compatibility with surrounding land uses.
  - d. Whether the size and physical features of the project area enable adequate protection of surrounding property and orderly and coordinated improvement of property in the vicinity of the site.
  - e. Whether the proposed development is served adequately and efficiently by existing or planned public facilities and services.
  - f. Whether modifications of the underlying zoning regulations as provided and limited in the Section are warranted by the design of the development.
- L. Final Plan. After receiving approval of the Concept Plan, the landowner, or designated agent, shall have a Final Plan prepared. An application for a Planned Overlay Development Final Plan with applicable fees shall be submitted to the Planning Department. The Final Plan must be reviewed by the Planning Department and approved by the Planning Commission in order for the Planning Department to issue zoning certificates for the development. The Final Plan will be reviewed for consistency with the approved Concept Plan. The Planning Department shall determine whether the application is complete, including the required fee of \$200.00 plus \$3.00 per acre. Approval of the Final Plan must be obtained as set forth below.
1. Submission Materials. The Final Plan shall contain the following elements:
    - a. A copy of the approved Concept Plan to determine conformance of the Final Plan with the approved Concept Plan.
    - b. A plan showing the layout of proposed lots and streets, indicating yard setbacks, lot sizes and the location of buildings.
    - c. Existing and proposed contour map or maps of the site, indicating proposed grading and storm water management for the development.
    - d. Location, widths, and names of all existing or platted streets or other public ways, railroad and utility right-of-ways, parks or other public open spaces, and land uses within 200 feet (200') of the boundaries of the development.
    - e. Existing and proposed sewers or other disposal facilities, water mains, and other underground facilities within and adjacent to the development and their certified capacities based on review by the appropriate City Departments.

- f. A subdivision plan if the property is proposed to be divided.
  - g. A land use plan indicating the uses planned for the development.
  - h. Areas proposed to be dedicated or reserved for interior circulation, public parks, playgrounds, schools sites, public buildings, or other uses dedicated or reserved to the public, if any.
  - i. Open space that is to be maintained and controlled by the owners of the property and the proposed uses thereof, and the location and dimensions of pedestrian walkways, trails, or easements. This shall include a calculation of required open space per the approved Concept Plan.
  - j. A traffic flow map showing the circulation pattern within, and adjacent to, the proposed development. Such plan shall include proposed improvements that may have been identified to mitigate traffic impacts during the Concept Plan approval.
  - k. Location, arrangement, number, and dimensions of automobile garages and parking spaces, width of aisles, bays, and angle of parking, if any.
  - l. Location, arrangement, and dimensions of truck loading and unloading spaces and docks, if any.
  - m. Proposed photometric lighting plan, including details of fixtures proposed for the development.
  - n. Proposed sign plan, indicating sign area, location, height and design.
  - o. Proposed plans indicating the general height, bulk, and number of dwelling units, if applicable.
  - p. A landscape plan showing locations of bufferyards, streetscape buffers, vehicular use area landscaping and other plantings or screening. The landscape plan shall indicate the proposed quantity, size and species of landscape material. All the trees designated as significant by the City Arborist shall be shown on the landscape plan and retained unless mitigated in a fashion acceptable to the City Arborist. In the case of mitigation, the terms of the mitigation shall be noted on the landscape plan.
  - q. The locations, height, and materials of all walls, fences, and screen plantings. Elevation drawings of typical walls and fences shall be included.
  - r. Provide a legal instrument or instruments acceptable to the City setting forth a plan for the permanent care and maintenance of open space, including streets, drainage facilities, recreational areas, and other facilities. Such instruments shall be recorded by the owner.
  - s. Proposed building elevation drawings indicating proposed building materials and general design of the buildings.
  - t. Estimated project construction costs.
2. Procedures for Review of Final Plan. Once the Planning Department determines that the Final Plan Application is complete (within ten (10) days of submission), copies of the application and material shall be distributed to City Departments for review and comment. The Application shall also be forwarded to the Planning Commission for scheduling of a public hearing by the Planning Commission in accordance with the requirements for Amendment per Section 150.111. Once comments are received from other City Departments, the Planning Department shall prepare a staff report and transmit the report to the Planning Commission addressing compliance, or noncompliance, with the standards of this Section, other parts of the Zoning Code, and the comments from the City Departments for review at the public hearing.
- a. The Planning Commission shall review the Final Plan at a public hearing and shall approval, approval with modifications, or deny the application. Such action shall be based upon the following approval criteria.
3. The Planning Commission shall approve the Final Plan if the Commission makes the following findings regarding the Final Plan Application:
- a. That the proposed Final Plan is in substantial accordance with and represents a detailed extension of the Concept Plan approved by Council.
  - b. That the Plan complies with all of the conditions and adjustments which may have been imposed in the approval of the Concept Plan.
  - c. That the Plan is in accordance with the design criteria and provisions of this Zoning Code which apply particularly to POD plans.
  - d. That all agreements, contracts, deed restrictions, dedications, declarations of ownership and other required documents are in acceptable form and have been executed.
  - e. That all fee payments have been made.
  - f. That all of the provisions of the subdivision regulations have been met, as applicable.

4. Expiration. An approved Final Plan shall remain in effect until the owner of the property, or the City of Bowling Green, seeks and obtains a change to the zoning of the subject property, per the Amendment procedures required by the Zoning Code.
- M. Development Permit. Following approval of the Final Plan by the Planning Commission, the applicant shall prepare a Development Permit Application which shall be submitted to the Planning Department to determine compliance with the approved POD Final Plan.
1. If the POD Final Plan is found to be in compliance, it shall be so certified by the Planning Department. The final plat with all documents relating to dedications, improvements, agreements, restrictions, and associations, shall be recorded with the Wood County Recorder.
  2. Subdivision plats shall be recorded if the property is to be divided or streets are to be dedicated.
  3. All public site dedications, development rights to open space, conservation easements or other dedications for the entire site or approved staged portion shall be recorded prior to the issuance of any zoning certificate.
  4. Final copies of all approved articles governing operation and maintenance shall be placed on file with the Planning Department prior to the issuance of any zoning certificate.
- N. Changes and Adjustments to an Approved POD Plan. Adjustments to an approved POD Final Plan or previously approved Development Permit may be considered minor or major. (Adjustments to a Concept Plan must be approved by City Council per the procedures established in Section 150.41 K.) Such adjustments may be considered provided there is no modification of written conditions of approval or of recorded easements. Further, any modifications must be in conformity with the intent of the POD approval. For any adjustments of a technical or engineering nature, the applicant shall submit a report from the appropriate public agency assuring compliance with agency regulations.
1. Minor Adjustments. The Planning Director has the authority to consider and approve minor adjustments to a Final Plan or Development Permit. Minor adjustments shall be the minimum necessary to overcome a particular difficulty. No adjustment shall result in a violation of any standard or requirement of this Code nor create or extend any previously approved modification to the development standards. Minor adjustments shall be limited to altering the location of structures, circulation elements, open space or grading where such alterations will comply with the intent of all peripheral setbacks and buffer yards that are required by any regulation or by the approved POD plan, and do not decrease the amount of open space or increase the density of residential developments.
  2. Major Adjustments. Any adjustment to the POD Plan within the criteria of this Section but not authorized as a Minor Adjustment shall be considered a major adjustment. The Planning Commission shall hold a public hearing, giving notice as required by Section 150.111. At the conclusion of the public hearing, the Commission may approve an application for a major adjustment to the POD Plan not requiring a modification of written conditions of approval or recorded easements. Findings shall be made that any changes in the plan as approved will be in conformity with the intent of such POD Plan. If the Commission determines that a major adjustment is not in conformity with the intent of such POD Plan as approved, then the modification must be reviewed following the procedures outlined in Section 150.47 K through M.
- O. Application of Development Standards. In cases of conflict between standards of the underlying district and the Planned Overlay Development, the standards of the Planned Overlay Development District shall apply.
- P. Required Charges. Fees shall be as contained in 150.47(K) and (L) and 150.112.

**150.48**

**(B-5) Transitional Central Business District**

- (A) Purpose: This District is intended to create a transition between residential uses and commercial uses.
- (B) Permitted uses: All uses permitted within the B-3 Central Business District except those specifically excluded in this chapter.
- (C) Prohibited Uses.
  - (1) Vehicle fueling stations;
  - (2) Automobile sales and/or service;
  - (3) Tattoo parlors;
  - (4) Bars or taverns;
  - (5) All uses prohibited in the B-3 Central Business District.
- (D) Buffering and screening.
  - (1) When a request to change a district classification to B-5 is presented, the Planning Commission should consider, with the advice and counsel of the Planning Director and/or Municipal Administrator, appropriate screening and/or buffering between abutting uses that are different and inconsistent within the B-5 designation. Such consideration should be included in any recommendation made to council approving the change in classification.
  - (2) Screening and/or buffering to separate different and inconsistent uses for projects in areas zoned B-5 shall be required by the Planning Director and/or Municipal Administrator as deemed appropriate.
- (E) All off-street parking and outdoor advertising requirements shall be the same as in the B-3 Central Business District.

## **CONDITIONAL USES**

### **150.50 PLAN REQUIRED**

One of the objectives of this ordinance is to provide for the orderly placement and use of land and buildings in order to maximize the social, economic, and physical welfare of the city. Most uses permitted within a specific district will have the same limitations and setbacks. Some activities, however, have characteristics which require additional conditions in order to ensure their own proper functioning or to avoid possible adverse effects to adjacent property. Conditional uses shall be permitted in the districts heretofore set forth, provided the conditions therein enumerated are met.

### **150.51 APPLICATION PROCEDURE**

Uses set forth in any zoning district as conditional require a conditional use approval prior to the issuance of a zoning permit. Application for a conditional use permit in any district other than an S District shall be made to the zoning inspector. The application shall show a map containing all the information requested and showing compliance with all items specified for the proposed use. In an S District, the procedure for conditional use approval shall be the same as that outlined in 150.34 and 150.35.

### **150.52 REVIEW OF CONDITIONAL USE**

In any district except an S-District, the Zoning Inspector shall review the conditional use application and shall approve it or reject it before acting on the zoning permit. He shall determine in all instances before issuing the permit that adequate ingress, egress, and parking is provided. If conditional use is approved and the other requirements for the zoning permit are met, the zoning permit shall be issued. If the conditional use is rejected, the zoning permit shall be rejected.

In an S-District, the Planning Commission shall review the conditional use application and shall approve it or reject it before acting on the site plan. If conditional use requirements are met, the conditional use shall be approved. If the conditional use is approved, the Planning Commission can act on the site plan.

# OFF-STREET PARKING

## 150.55 GENERAL PROVISIONS

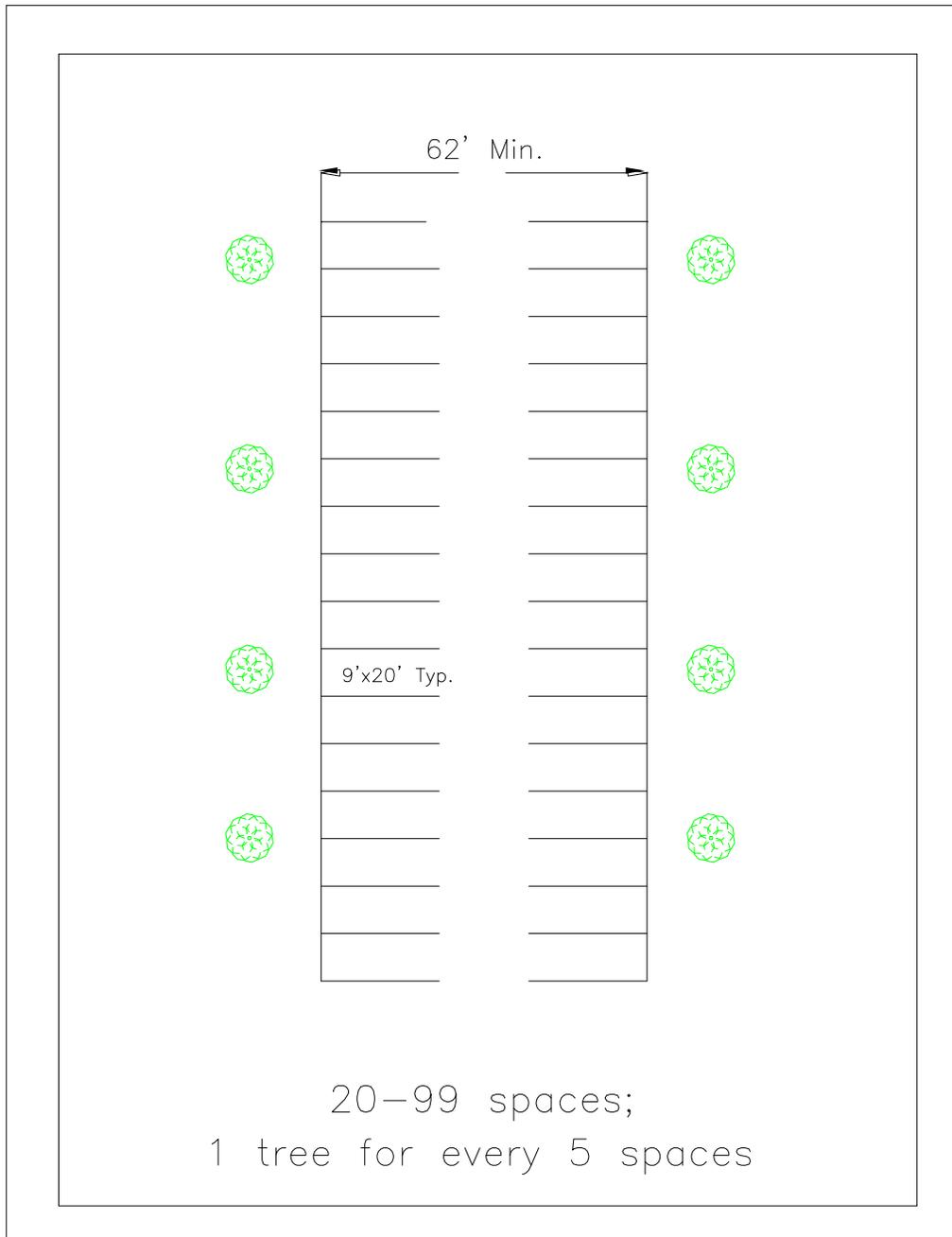
In all districts except the Central Business District, unless otherwise noted in 150.55 through 150.59, there shall be provided at such time as any use is made of land, or any building is constructed or enlarged, off-street parking as designated in this Article.

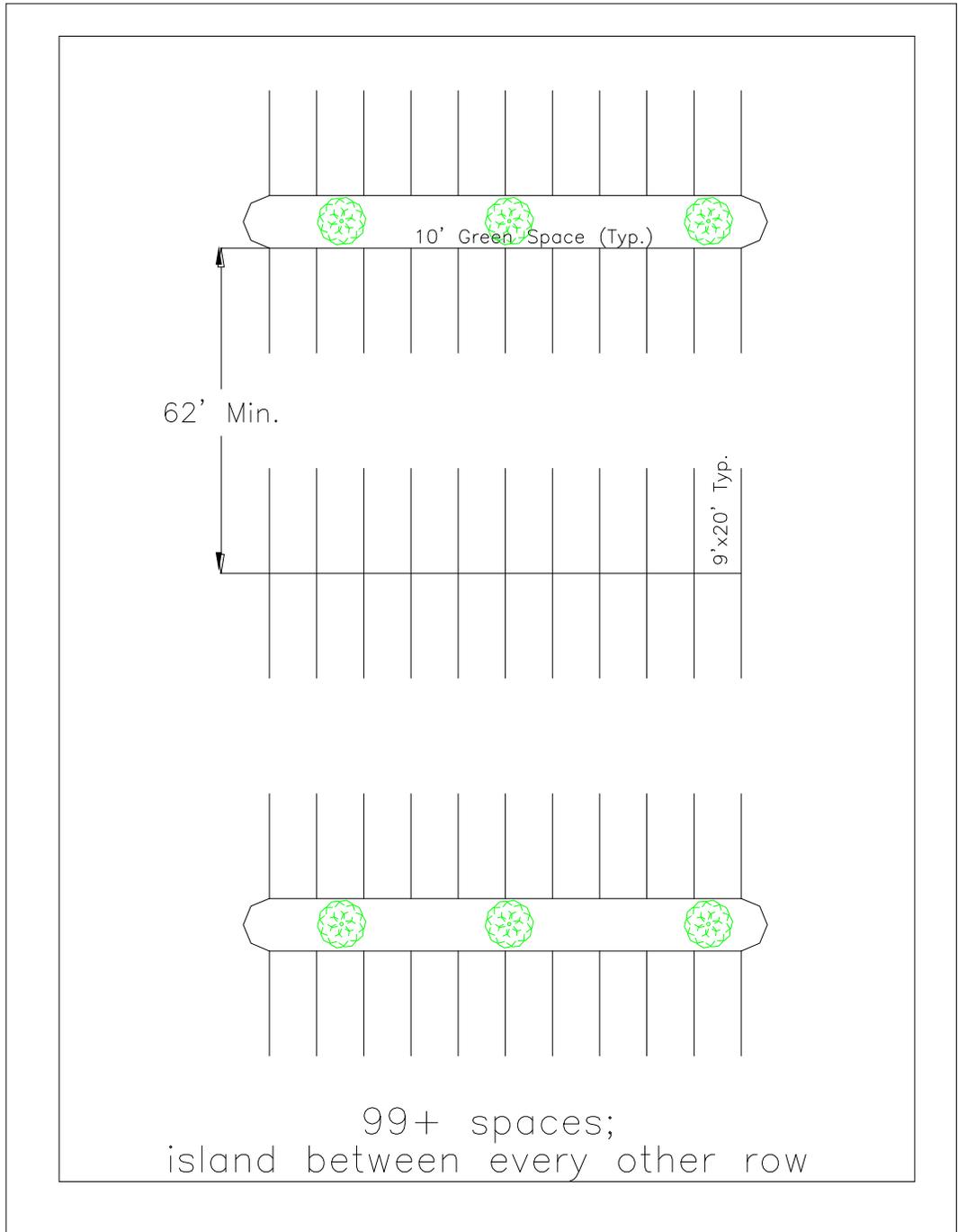
- A. Each required off-street parking space for passenger vehicles, except in R-1 and R-2 Districts, shall have a minimum area of one hundred eighty (180) square feet, measuring either nine feet (9') by twenty feet (20') or ten feet (10') by eighteen feet (18'), exclusive of aisles or drives and shall be designed for adequate ingress and egress. In R-1 and R-2 Districts, each required off-street parking space for passenger vehicles shall have a minimum area of one hundred eighty (180) square feet, measuring either nine feet (9') by twenty feet (20') or ten feet (10') feet by eighteen feet (18'), which may be part of a driveway.
- B. Each required truck loading space shall be a minimum of ten feet (10') wide, forty feet (40') deep, and fifteen feet (15') high.
- C. No off-street parking or loading space may be placed within a required front yard, except within a driveway located within an R-1 or R-2 District or a single- or two-family use located within an R-3 or R-4 District.
  - 1. For the purpose of this regulation, in the case of a corner lot, the side yard adjoining the side street shall be considered a front yard.
- D. Off-street parking or loading areas in any district shall be:
  - (1) No closer than three feet (3') to any lot line for any single- or two-family dwelling.
  - (2) No closer than five feet (5') to any lot line for any other type structure.
  - (3) Where rear lot line abuts a dedicated alley, off-street parking or loading areas may extend to the rear lot line.
  - (4) Driveways may be placed no closer than the formula outlined above in divisions D.1, 2, and 3 for parking areas.
  - (5) a. The objective of this section is to improve the appearance of off-street vehicular parking lots as well as to moderate the microclimate of parking lots and provide some acoustical control to reduce noise. Landscaping in parking lots will tend to reduce local wind velocity and make parking lots more tolerable in winter as well.
    - b. All enclosed, surface parking lots, of a minimum of ten (10) off-street parking spaces, shall provide one (1) shade tree for every ten (10) spaces, or fraction thereof in an arrangement to shade the maximum number of spaces possible. Such trees shall be large spreading trees, except those deciduous trees prohibited by Chapter 99 of the Code of Ordinances, with a minimum caliper of one and three-quarters inches at the time of planting. The shade trees shall be planted so that the vehicles face the trees, and the shade trees may be on the perimeter of the parking area(s). However, this division shall not be interpreted to prohibit backing into parking spaces.
    - c. For commercial uses, an island shall be provided, and the required trees planted therein, between facing strips of parking spaces, as follows:

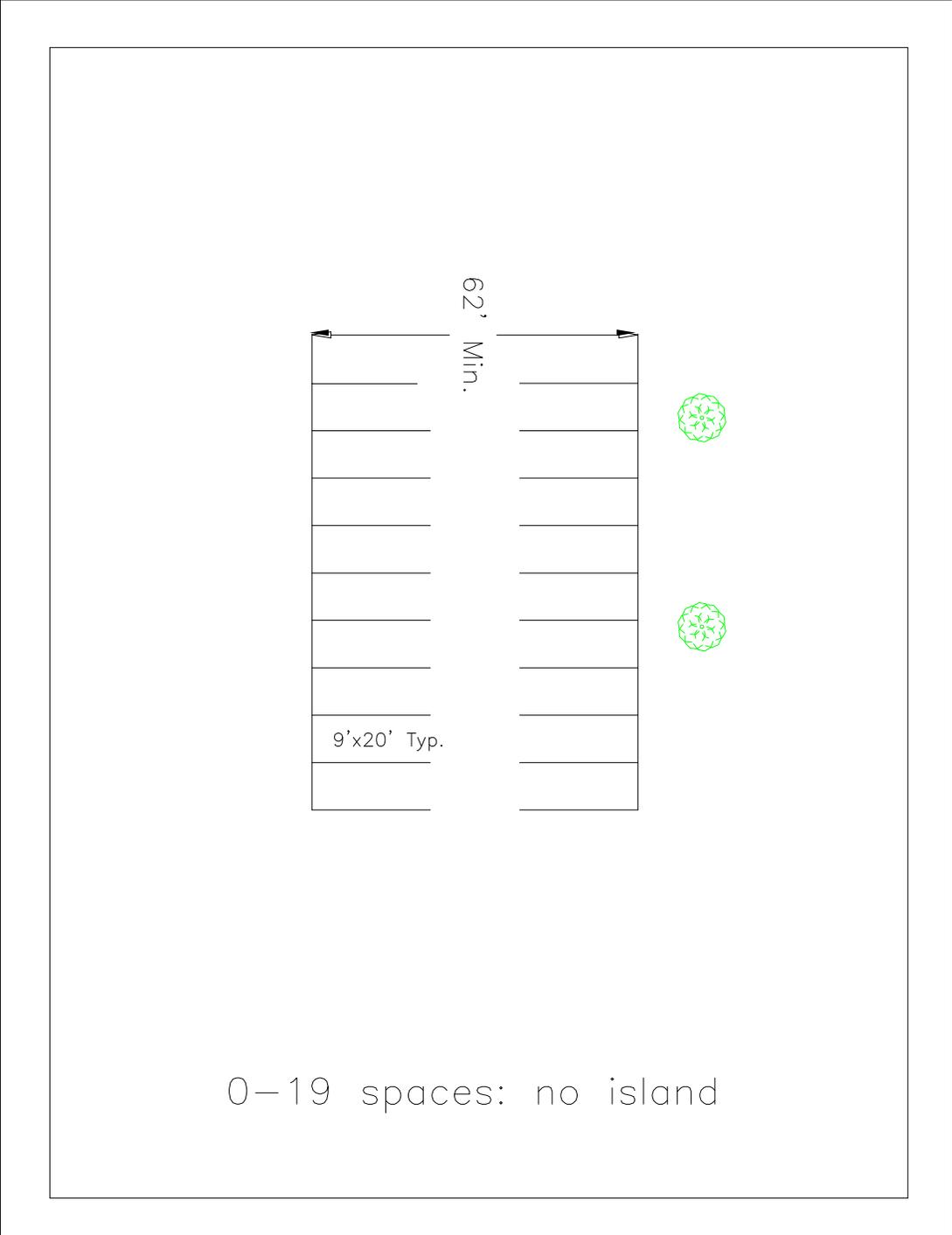
0 -19 spaces:	no island required.
20 - 99 spaces:	an island with a minimum width of ten feet (10')
100+ spaces:	an island with a minimum width of ten feet (10') for every two (2) rows, or portion thereof, of facing parking spaces.

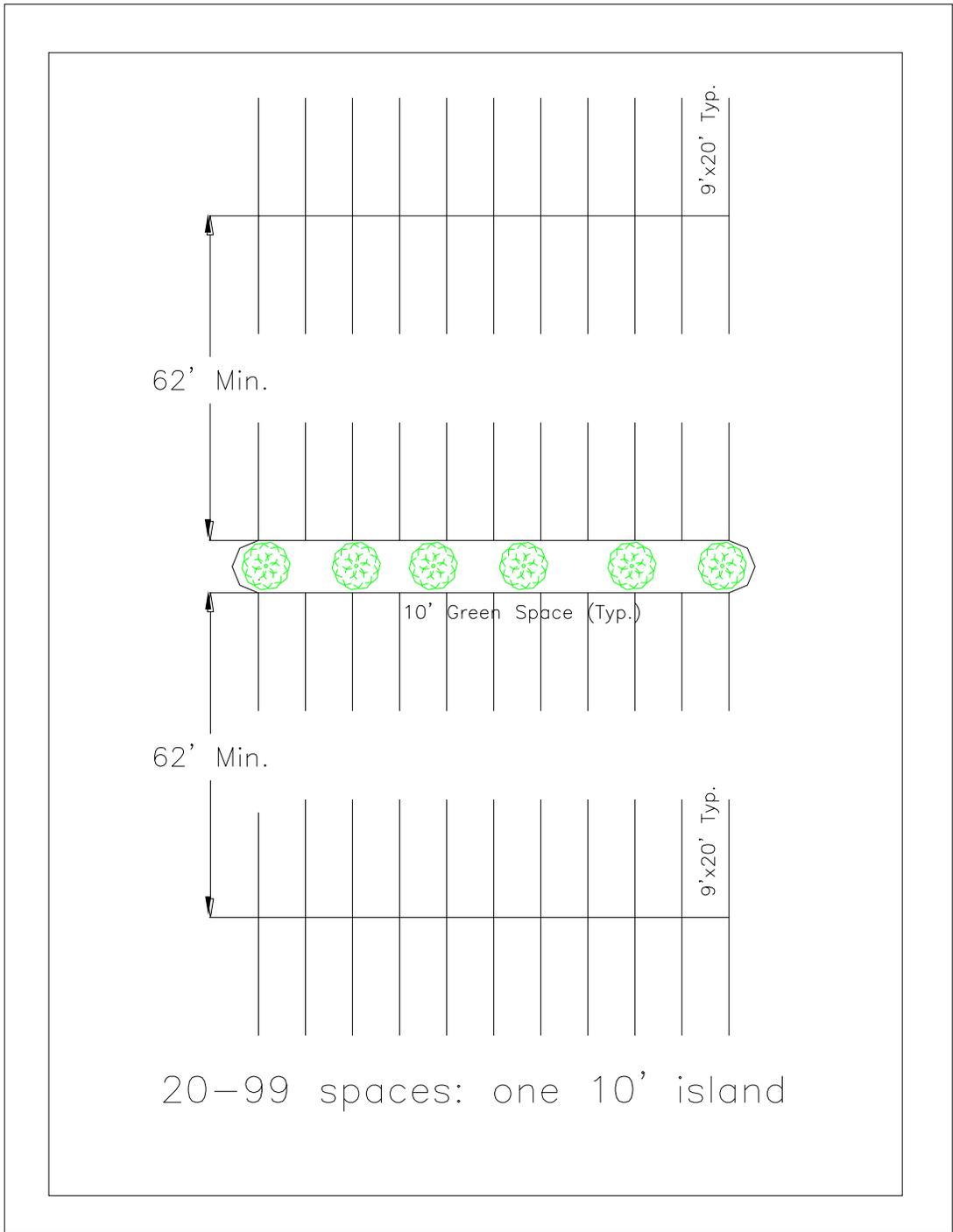
If, due to site size or geometrics in parking lots of twenty (20) spaces or more, the parking spaces are not in facing rows, one (1) shade tree shall be planted for every five (5) parking spaces, and the shade trees shall be planted, on the perimeter of the parking lot so that the vehicles face the shade trees.

d. The required island area shall be curbed to a minimum height of six inches (6") and be protected from adjacent parking. The required island(s) shall not impair visibility within the parking lot. All planted and landscaped areas shall be properly maintained and shall provide for identification during snow removal operations. Shade trees are to be live. Artificial trees are not acceptable. Any required shade tree that dies must be replaced by the next planting season.









20-99 spaces: one 10' island

- (6) In the B-3 District off-street parking or loading areas and driveways may be located contiguous with adjoining lot lines.
- E. Any off-street parking or loading spaces for more than three (3) vehicles located adjacent to any R, S-1, S-3, or S-5 District shall provide screening in the following manner:
  - (1) Off-street parking areas shall be screened by a four foot (4) screen fence or by screen plantings;
  - (2) Drives shall be screened by a four foot (4) ornamental fence or by screen plantings;
  - (3) Truck loading spaces shall be screened by a six foot (6) screen fence;
  - (4) Such space between the drive or parking area shall be landscaped and maintained in good order.
- F. Any off-street parking or loading space or driveway or storage area, for its entire length and area shall be of a hard, dustless surface (asphalt, concrete, or brick paving blocks) and drained according to sound engineering practices, and acceptable to the City Engineer.
- G. The design of all curbs and all driveways and parking areas for four (4) or more vehicles shall conform to accepted engineering practice and be acceptable and approved by the city engineer and the director of utilities. This shall not apply to single- family residences in an R-1 or R-2 residential zone.
- H. All off-street parking areas except those associated with single- or two-family dwellings shall be clearly marked by the use of striping.

## **150.56 RULES GOVERNING THE DETERMINATION OF NUMBER OF SPACES**

In computing the number of spaces required in this Article, the following rules shall govern:

- A. "FLOOR AREA" shall mean the outside dimensions of the building, including all projections such as stairways and porches, multiplied by the number of floors. The resulting number shall be the square footage of the building used for determining the number of off-street parking spaces required.
- B. Where fractional spaces result, the parking spaces required shall be construed to be the nearest larger whole number. For example, 13.01 shall mean fourteen (14).
- C. The parking space required for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
- D. Whenever a building or use constructed or established after the effective date of this chapter is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase of ten percent (10%) or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty percent (50%) or more in floor area or in the area used, the building or use shall then and thereafter comply with the parking requirements set forth herein.

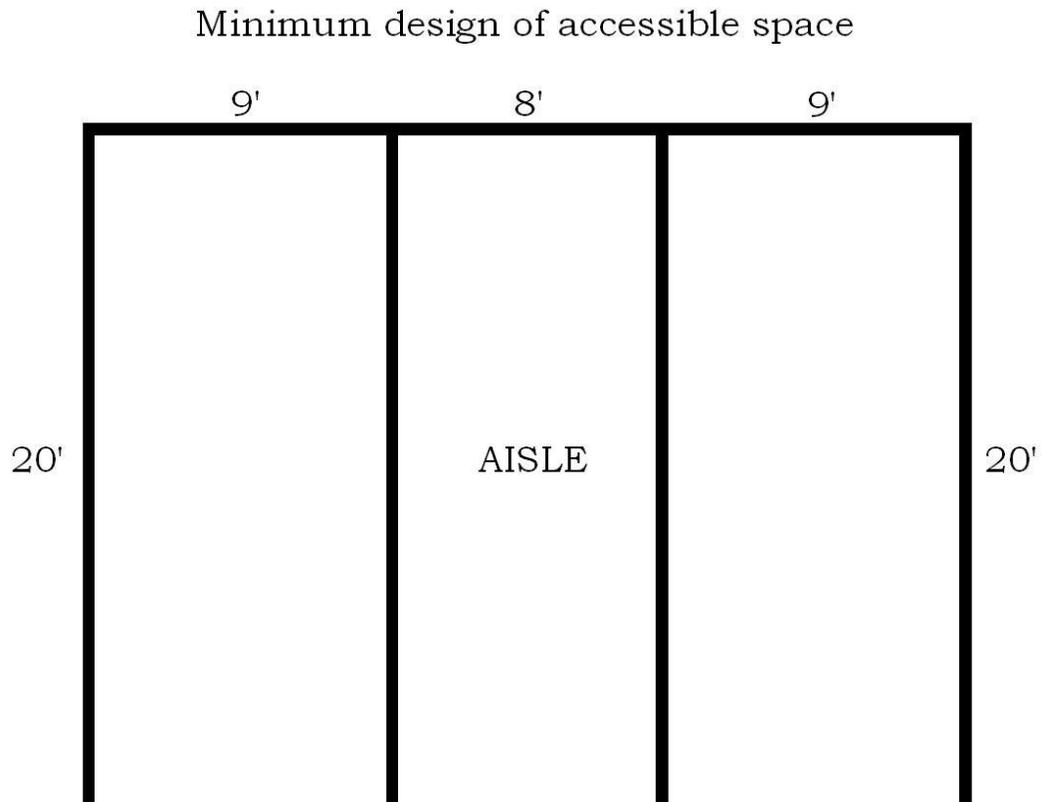
## **150.57 SPECIAL PARKING PROVISIONS**

- A. The parking of a disabled vehicle within a residential district for a period of more than one (1) week shall be prohibited; except that such vehicles may be stored in an enclosed garage or other accessory building, provided that no business shall be conducted in connection therewith while such vehicles are parked or stored.
- B. All parking or loading spaces required herein shall be provided on the same lot as the building or use served, except as modified in C and D below.
- C. Not more than fifty percent (50%) of the parking spaces required for theaters, bowling alleys, dance halls, night clubs, or cafes, and up to one hundred percent (100%) of the parking spaces required for a church or school auditorium, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used or operated during the same hours as the theaters, bowling alleys, etc. However, written agreement thereto should be properly executed and filed as specified in D hereof, and such spaces are located not more than three hundred feet (300") from the stated use.

- D. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement approved as to form by the city attorney assuring their retention for parking purposes shall be executed by the owners and filed with the application for a zoning permit.
- E. For every use, except single- and two-family dwellings, accessible spaces shall be provided as follows:

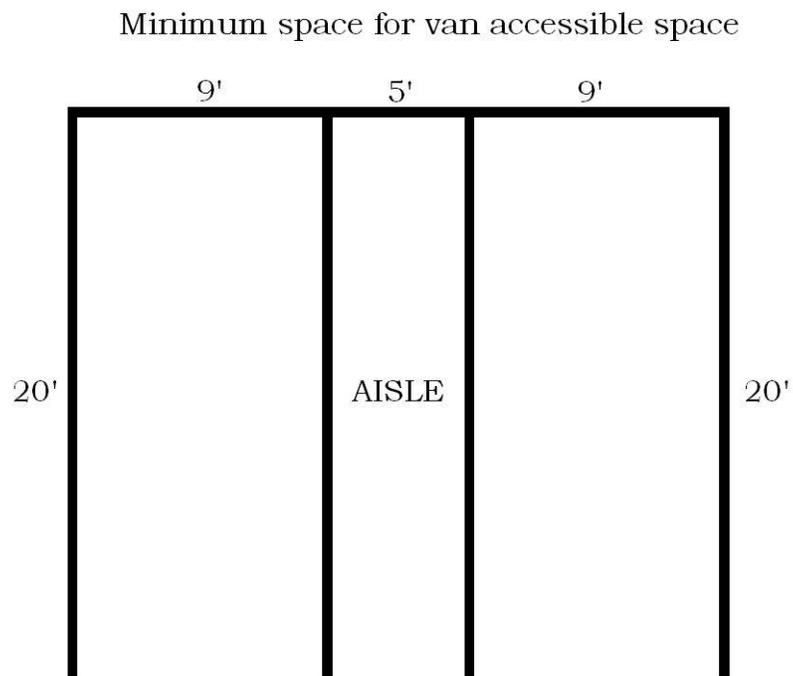
Total Parking in Lot	Minimum Number of Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
Over 1000	20 plus 1 for each 100 over 1000

F. Minimum design of accessible space.



G. One (1) in eight (8) accessible spaces, but not less than one (1), shall be designated van accessible.

H. Minimum space for van accessible space.



## **150.58      OFF-STREET LOADING REQUIREMENTS**

- A. In any district, every building or part thereof hereafter erected and having a gross floor area of three thousand (3,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, wholesale, retail, hotel, hospital, laundry, dairy, or any other goods handling establishment of a similar nature, shall provide off-street loading space according to the following table:

<u>Gross Floor Area Required</u>	Berths
3,000 - 10,000 sq. ft.	1
10,000 - 20,000 sq. ft.	2
20,000 - 40,000 sq. ft.	3
40,000 - 60,000 sq. ft.	4
Over 60,000 sq. ft.	5

- B. Other uses not listed on the preceding table containing more than ten thousand (10,000) square feet of gross floor area shall provide one (1) loading space.

## **150.59      OFF-STREET PARKING REQUIREMENTS**

In any district, except a B-3 District, there shall be provided at the time of construction or alteration of any building or use, the following amounts of off-street parking:

- A. See Table 150.59(A) for uses.
- B. See Figures 150.59(B)(1), 150.59(B)(2), 150.59(B)(3) and 150.59(B)(4) for parking design/layout
- C. Wheel Stops: Each wheel stop shall be a singular block of reinforced concrete or other durable material with a maximum height of six (6) inches, a maximum width of six (6) inches and a maximum length of eight (8) feet. Wheel stops are to be securely fastened to the ground and located no less than two (2) feet from the front end of parking stalls. See figures 150.59(B)(3) and 150.59(B)(4). Wheel stops shall be located a minimum of four (4) feet from any structures, buildings, walls, or plant material, excluding ground cover, to prevent a vehicle from driving onto the landscaped area or hitting the structure or plant material at the edge of a parking area. See figure 150.59(B)(4).
- D. Any project built in phases over a period of time shall conform to the maximum parking requirements of each phase as constructed. Such parking requirements shall be constructed before any such phase of construction is approved.

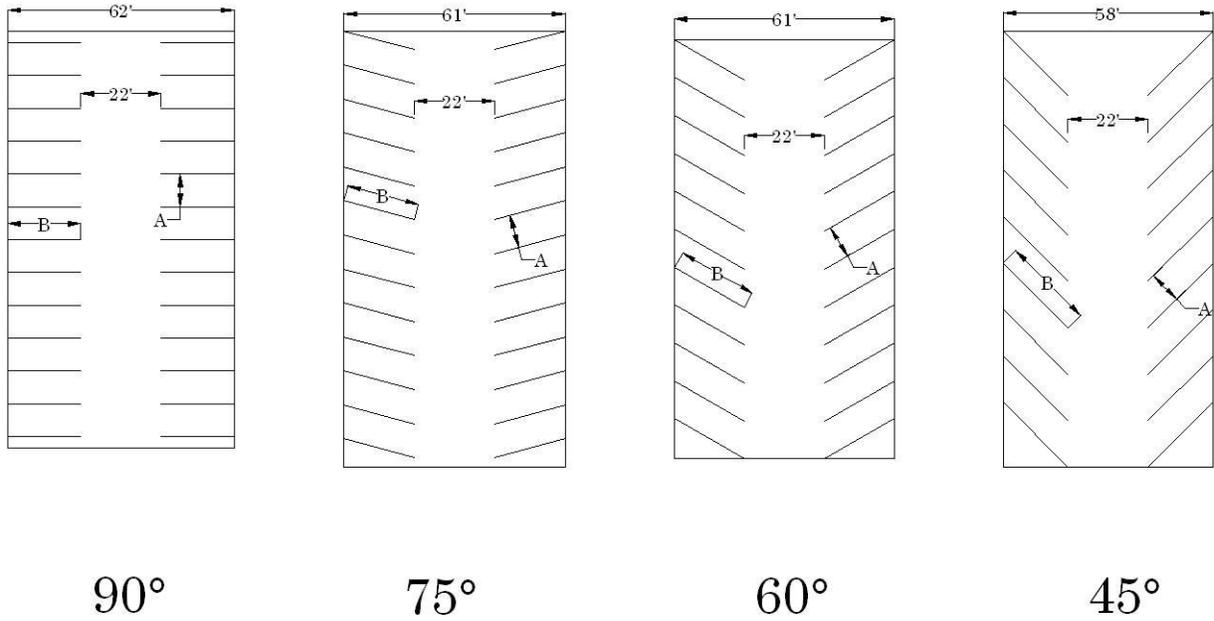
**TABLE  
150.59(A)**

<b>Use</b>	<b>Required Parking Spaces</b>
<b><u>Residential</u></b>	
Bed and Breakfast	2 spaces per dwelling unit plus, 1 space per rented room
Fraternity or Sorority House	1 space per 320 square feet or portion thereof
Group Home or Community Residence	1 space per 4 residents plus, 1 space per employee at peak shift
Mobile Home Park	2 spaces per dwelling unit
Multiple-Family Dwelling	1 space per 320 square feet or portion thereof
Nursing Home, Sanitarium, Convalescent Home, Home for the Aged, etc.	1 space for each 3 beds
Rooming or Boarding House	1 space per 320 square feet or portion thereof
Single-Family Dwelling	2 spaces per dwelling unit
Two-Family Dwelling	2 spaces per dwelling unit
<b><u>Commercial ~ Automobile</u></b>	
<b>Required Parking Spaces</b>	
Car Wash	5 off-street for each stall or washing device for self-service; 8 off-street plus, 1 per employee for assembly-line type
Gasoline Station	2 per pump, plus 1 per employee, plus requirements for retail service establishments
Sales	1 per 200 square feet
Towing Services	1 per 200 square feet plus, 1 per company vehicle plus, 1 per employee at peak shift ~ vehicle storage to be screened with a 6 foot high solid fence
Vehicle Repair	1 per 100 square feet or 3 per bay plus, 1 per employee
<b><u>Commercial ~ Non Automobile</u></b>	
<b>Required Parking Spaces</b>	
Bars, Night Clubs	15 for the first 1,000 square feet plus, 1 per 100 square feet over 1,000 square feet
Furniture or Appliance Store	2 plus, 1 for each 250 square feet over 1,000 square feet ~ except in a B-3 District
Hardware Store	2 plus, 1 for each 250 square feet over 1,000 square feet ~ except in a B-3 District

Hotel/Motel	1.1 for each bedroom or sleeping room plus, 1 per employee at peak shift plus, 15 for the first 1,000 square feet plus, 1 per 100 square feet over 1,000 square feet of area used for restaurant, bar or other similar uses.
Machinery or Equipment Repair Sales or Service	2 plus, 1 for each 250 square feet over 1,000 square feet ~ except in a B-3 District
Mortuary or Funeral Home	1 for each 50 square feet of floor area in slumber rooms, parlors, or service rooms
Restaurants	15 for the first 1,000 square feet plus, 1 per 100 square feet over 1,000 square feet
Restaurants with Drive-Thru Facilities	15 for the first 1,000 square feet plus, 1 per 100 square feet over 1,000 square feet plus, additional stacking space for 8 vehicles per lane
Retail Sales or Service Establishments, unless otherwise noted herein	1 for each 200 square feet plus, 3 stacking spaces shall be provided for drive-thru facilities
Wholesale Establishments	2 plus, 1 for each 250 square feet over 1,000 square feet ~ except in a B-3 District
Retail Center	1 for each 300 square feet.
<b>Office</b>	<b>Required Parking Spaces</b>
Bank or Financial Institution	1 for each 300 square feet plus, 5 stacking spaces shall be provided per window at a drive-thru facility
Business or Professional Office	1 for each 300 square feet
Medical or Dental Clinic	1 per 200 square feet
Stand-Alone ATM or other Drive-Up	5 stacking spaces shall be provided
<b>Institutional</b>	<b>Required Parking Spaces</b>
Church or Temple	1 for each 4 seats or seating spaces ~ Bench seating equals 1 per 24 lineal inches
College	1 per paid or unpaid full-time, part-time or visiting staff member plus, 3 per classroom plus, requirements for Auditorium, Arena and Stadium
High School	1 per paid or unpaid full-time, part-time or visiting staff member plus, 3 per classroom plus, requirements for Auditorium, Arena and Stadium
Hospital	1 for each 3 beds plus, 1 per 250 square feet of ER, Out-Patient and Specialized Clinics plus, 1 per employee at peak shift
Medical Facilities (Not Hospital)	1 per 250 square feet of ER, Out-Patient and Specialized Clinics plus, 1 per employee at peak shift
School (Not High School)	1 per paid or unpaid full-time, part-time or visiting staff member plus, 3 per classroom
Day Care Center, Pre-School, Nursery School, etc.	1 per employee plus, 1 per 5 children plus 3 spaces for a drop-off area

<b>Public/Recreational</b>		<b>Required Parking Spaces</b>
Arena, Auditorium, Stadium, Theater		1 for each 4 seats or seating spaces ~ Bench seating equals 1 per 24 lineal inches
Assembly or Exhibit Hall or Adult Entertainment		15 for the first 1,000 square feet plus 1 per 100 square feet over 1,000 square feet
Bowling Alley		5 for each lane plus, 1 for each 150 square feet of floor area in a restaurant or bar area within the structure
Community Center, Library, Museum		10 spaces plus, 1 for each 300 square feet of floor area in excess of 2,000 square feet, excluding floor area for stacks and book processing functions in libraries
Dance Hall, Lodges, Private Clubs, etc.		15 for the first 1,000 square feet plus 1 per 100 square feet over 1,000 square feet
Golf or Country Clubs		5 per hole plus, 1 for each 150 square feet of floor area in restaurant, bar or banquet meeting area within the structure
Indoor Sports Training Facility		1 for each 300 square feet of floor area
Recreational Facility		10 spaces plus, 1 for each 300 square feet of floor area in excess of 2,000 square feet

<b>Manufacturing</b>		<b>Required Parking Spaces</b>
Bakery, Dairy Processing, Bottling Plant		1 for each employee on peak shift
Contractor Yard or Office		1 for each employee on peak shift
Manufacturing or Industrial Establishment		1 for each employee on peak shift
Printing or Publishing Plant		1 for each employee on peak shift
Research or Testing Laboratory		1 for each employee on peak shift
Warehouse		1 for each employee on peak shift

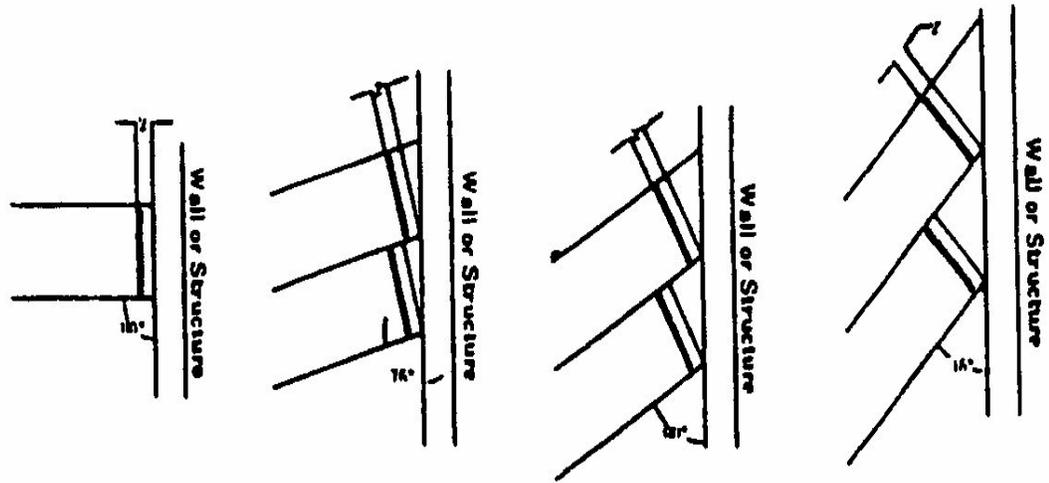


**Figure 150.59(B)(1)**

Angle of Parking (Degrees)	Minimum Parking Stall Width (Feet) "A"	Minimum Parking Stall Length (Feet) "B"	Minimum Width of Parking Area Required "C"
$45^\circ$	9'	25'	58'
$60^\circ$	9'	22'	61'
$75^\circ$	9'	20'	61'
$90^\circ$	9'	20'	62'

NOTE: All parking spaces require a minimum of 180 Sq. Ft.  
Minimum width of 9', Maximum width of 10'

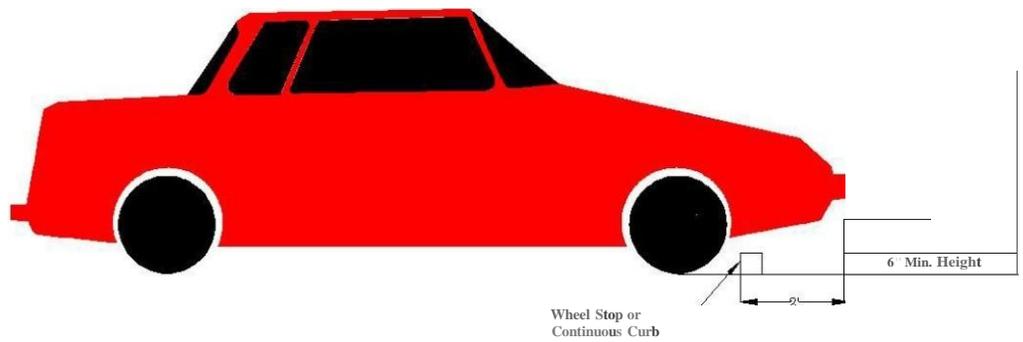
**Figure 150.59(B)(2)**



**4' Separation between Parking Stall and Structure or Wall**

4' Separation between Parking Stall and Structure or Wall

**Figure 150.59(B)(3)**



Typical location of Wheel Stop and Parking Stall from Structure

**Figure 150.59(B)(4)**

## **150.60 TELECOMMUNICATIONS FACILITIES**

(A) Whereas:

(1) The passage of the Federal Telecommunications Act of 1996 (the "Act") has permitted and fostered the rapid growth of wireless telecommunications services and has given rise to the concomitant need for adequate telecommunications facilities, including towers and other structures.

(2) Section 704(a) of the Act generally preserves the authority of local governments over decisions regarding the placement, construction, and modification of such facilities, subject to the limitations specified in the Act and incorporated in this legislation. The City of Bowling Green, by adoption of its charter on October 31, 1972 exercises its home rule authority.

(3) The City of Bowling Green, in order to properly address the requirements of the Act, enacted a moratorium on permits for placement, construction, and modification of such facilities until July 15, 1998.

(4) This local government has examined the escalating facility needs of wireless telecommunications providers in the context of addressing, in comprehensive fashion, concerns regarding the placement, construction, and modification of telecommunications facilities generally. In an effort to balance the needs of the telecommunications industry and the health, safety and general welfare of the public, the City of Bowling Green has closely examined the competing considerations relating to the placement, construction, and modification of telecommunications facilities.

(B) *Intent.*

(1) The intent of this legislation is to preserve the ability of telecommunications providers to operate facilities as necessary within the jurisdiction of this local government, while at the same time:

(a) Minimizing the adverse visual impacts of telecommunications towers, attachments, poles, nodes, and related facilities;

(b) Protecting persons and property from injury and damage; and

(c) Preserving and protecting natural resources and formations.

(2) It is not the intent of this legislation, and consistent with the provisions of the Act, nothing in this legislation shall be construed:

(a) To permit unreasonable discrimination among providers of functionally equivalent personal wireless services, as defined in the Act;

(b) To prohibit or have the effect of prohibiting the provision of personal wireless services;

(c) To permit action on any request for the authorization to place, construct, or modify personal wireless services facilities other than within a reasonable period of time after the request is duly filed, taking into account the nature and scope of the request;

(d) To permit denial of an application to place, construct, or modify personal wireless services facilities other than in writing and supported with substantial evidence contained in a written record; and

(e) To permit basing regulatory decisions of this nature on the environmental effects of radio frequency emissions to the extent that personal wireless services facilities comply with the regulations of the Federal Communications Commission (the "FCC") concerning such emissions. The provisions of this legislation are subject to all applicable federal and state laws, rules, regulations, and orders.

(C) *Definitions.* The following terms as used in this legislation shall have the following meanings unless otherwise herein provided or unless the context or use indicates another or different meaning or intent. Such definitions shall be equally applicable to both the singular and plural forms of any of the terms herein defined.

**CO-LOCATION.** The use of a telecommunications facility by more than one telecommunications provider.

**RESIDENTIAL STRUCTURE.** Any dwelling unit(s) and any accessory structure associated with the dwelling unit(s).

**TELECOMMUNICATIONS.** The exchange of information through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

**TELECOMMUNICATIONS ANTENNA.** The exterior physical device designed to transmit and/or receive electromagnetic signals authorized by the FCC in furtherance of electronic telecommunications. Antennae used by amateur radio operators are not included within this definition.

**TELECOMMUNICATIONS ATTACHMENT.** A structure designed primarily to support telecommunications antennae, which is not self-supporting, but rather is attached to a building or other structure (other than a residence) such as, but not limited to, a church steeple, clock or bell tower, smoke stack, government building, agricultural building, utility building, apartment building, or water tower.

**TELECOMMUNICATIONS EQUIPMENT SHELTER.** An unmanned building, structure, or casing that is used to house tele-

communications facilities such as reception, relay, and transmission equipment.

**TELECOMMUNICATIONS FACILITY.** Any structure, tower, antenna, pole, node, wire, cable, line, wave guide, device, equipment, or any other physical object, and all appurtenances thereto, used to connect electrical or electromagnetic signals used in telecommunications, except as such facilities have been preempted from regulation by applicable law. Amateur radio operators' equipment and satellite-signal reception dishes for residential use are not included within this definition, but may be otherwise regulated by the city.

**TELECOMMUNICATIONS PROVIDER.** A person or entity engaged in the business of providing telecommunications services to consumers, or a governmental entity, such as a police or fire department, that employs telecommunications facilities in its communications network. An amateur radio operator is not a telecommunications provider for purposes of this legislation.

**TELECOMMUNICATIONS TOWER.** A free-standing structure designed primarily to support telecommunications antennae. A telecommunications tower is a primary structure.

(D) *Appearance-related standards applicable regardless of location.*

(1) Telecommunications facilities must meet the following standards, regardless of location.

(a) *Aesthetics.* Telecommunications facilities must be aesthetically compatible with their environs as technically feasible and practicable under the circumstances.

(b) *Landscaping.* Existing vegetation must be preserved as much as practicable. Any security fencing or barrier related to telecommunications facilities must be surrounded by a continuous row of hardy, evergreen hedges or trees not less than ten feet high, sufficient in height to screen adequately such fencing or barrier, and located within ten feet of the fencing or barrier. Such landscaping shall be continuously maintained and promptly restored, if necessary.

(c) *Lighting.* Lights, beacons, or strobes attached to or illuminating telecommunications facilities shall be permitted only to the extent necessary to ensure safety or to comply with applicable law or regulation, and shall be designed to minimize direct light or glare onto surrounding properties.

(d) *Signage.* Signage on the site of telecommunications facilities shall be permitted only as may be required by applicable law or regulation or as specifically required or approved by the city. "No Trespassing" signs with a telephone number of whom to contact in the event of an emergency shall be required.

(e) *Upkeep and storage.* The telecommunications provider is responsible for the weed and trash removal related to, and general upkeep of, its telecommunications facilities and their grounds, and for ensuring that the surfaces of such facilities are maintained in good condition, free from flaking or peeling paint and rust. Outdoor storage of equipment, supplies and vehicles related to telecommunications facilities is prohibited, except to supply emergency power to such facilities during a power outage.

(f) *Lot.* Subject to the requirements for setbacks set forth herein, telecommunications towers are to be the sole use on a lot and the minimum lot size shall be the minimum lot size allowable for the applicable land use district. Where other types of telecommunications facilities, except telecommunication towers, are to be placed on a lot with an existing use, the minimum lot area shall be that which is necessary to accommodate the telecommunications facilities, any guy wires, any security fencing, any buffer plantings, and the like, in conjunction with such existing use

(g) *Automation.* Where telecommunications facilities are to be placed on a lot with an existing use, such facilities must be fully automated and operationally unattended, with visits only for construction, emergencies, and periodic and necessary maintenance.

(h) *Service equipment.* All equipment and devices (including but not limited to cables, wires, pipes, and conduits) that service telecommunications facilities shall be located underground or within such telecommunications facilities, if technically feasible and unless otherwise required by the Ohio Basic Building Code, the National Electric Code, and/or other applicable law.

(2) Telecommunications towers and telecommunications attachments must meet the following standards, regardless of location.

(a) *Co-location.* Telecommunications towers and telecommunications attachments shall be designed to be buildable up to the maximum height permitted by this legislation, and shall be constructed in such a way as to permit at least two other telecommunications providers to co-locate their telecommunications facilities thereon when and if built to the maximum height permitted by this legislation.

(b) *Setbacks.* Unless otherwise specified in this legislation, the setback requirements for all telecommunications towers shall be the greater of one foot for every foot of allowable height of such telecommunications attachment when attached; or the setback requirements for the applicable land use district. Any related fencing, screening, or other barriers shall be located behind the applicable setback lines. Notwithstanding the first sentence of this division and unless otherwise specified in this legislation or permitted by the city, telecommunications towers and telecommunications attachments shall be located not less than:

1. 50 feet from the nearest public right-of-way; and
  2. 500 feet from the lot line of any school.
- (3) Telecommunications towers must meet the following standards, regardless of location.
- (a) *Height.* The height of telecommunications towers (including antenna and approved lightning rods, if any) may not exceed 200 feet above the average grade plane of the telecommunications tower's base.
  - (b) *Color.* The color of telecommunications towers shall be non-contrasting gray or that color which best camouflages them against their surroundings, unless another color is required by applicable law or regulation.
- (4) Telecommunications attachments must meet the following standards, regardless of location.
- (a) *Height.* The height of telecommunications attachments may not exceed the greater of 20 feet above or 20% of the height of the top of the building or structure to which it is attached.
  - (b) *Color.* The color of telecommunications attachments shall be that which best camouflages them against their surroundings, unless another color is required by applicable law or regulation.
- (5) Telecommunications equipment shelters must meet the following standards, regardless of location.
- (a) *Size.* The maximum size of a telecommunications equipment shelter shall be 350 square feet for one shelter on a given plot, and 750 total square feet if there is more than one shelter on a given plot.
  - (b) *Height.* The maximum height of a telecommunications equipment shelter shall be the maximum building height for the applicable land use district.
  - (c) *Setbacks.* The setback requirements for all telecommunications equipment shelters shall be the setback requirements for the applicable land use district. Any related fencing, screening, or other barriers shall be located behind the applicable setback lines.
  - (d) *Access.* Where telecommunications facilities are to be placed on a lot with an existing use, the service access to any telecommunications equipment shelter shall be provided by way of the circulation driveways associated with the existing use to the extent possible.
  - (e) *Use.* Telecommunication equipment shelters shall not be used for offices or long-term vehicle storage.
  - (f) *Co-location.* If telecommunications equipment shelters are initially constructed to accommodate only one user, space shall be reserved on-site to accommodate at least two other telecommunications equipment shelters in the event of co-location.
- (6) Additional appearance-related standards applicable to non-residential districts. In addition to all standards that apply independent of location, the following standards also apply to telecommunications facilities located in non-residential districts.
- (a) *Setbacks.* Notwithstanding any provision of this legislation to the contrary, the minimum distance from the center of the base of any telecommunications tower (or the base of any building or structure directly beneath the vertical center line of a telecommunications attachment) to any residential district shall be 190 feet.
  - (b) *Lot.* Notwithstanding any provision of this legislation to the contrary, if telecommunications towers are to be located in an agricultural area or a vacant lot, the minimum lot size shall be the minimum lot size required to meet all applicable setback requirements.
- (7) Additional appearance-related standards applicable to residential districts. In addition to all standards that apply independent of location, the following standards also apply to telecommunications facilities located in residential districts.
- (a) *Automation.* Where telecommunications facilities are to be placed in a residential district, they must be fully automated and unattended on a daily basis, with visits only for construction, emergencies, and periodic and necessary maintenance.
  - (b) *Non-residential use property.* Where telecommunications towers or telecommunications attachments are to be placed or constructed on property with a non-residential use within a residential land use district (including, but not limited to, government buildings, agricultural buildings, churches, utility buildings, hospitals, and schools), such telecommunications towers or telecommunications attachments shall be set back from all single- or multi- family residential use lots by at least ten feet.
  - (c) *Shelters.* Telecommunications equipment shelters located in a residential district must be placed underground unless otherwise permitted by the appropriate governmental entity for extraordinary reasons.
- (8) Safety-related standards. Telecommunications facilities must meet the following standards, regardless of location.
- (a) *Compliance with laws and regulations.* All telecommunications facilities must comply with all applicable laws and regulations, including but not limited to the Ohio Basic Building Code and the applicable regulations promulgated by the Federal Aviation Administration and the FCC (including radio frequency electromagnetic emissions standards) and by the Ohio Department of Transportation, and their respective successors.
  - (b) *Sound construction.* All telecommunications towers and telecommunications attachments must be soundly constructed and, including any guy wires, must be securely anchored to a foundation appropriate for the applicable soil conditions,

and must be able to withstand sustained winds of at least 80 miles per hour and ice loads in accordance with the American National Standards Institute/Electronic Industry Association, Section 222-F (Annex H: Commentary on Ice Design Criteria for Communications Structures), as the same may be amended from time to time.

(c) *Security fencing.* Security fencing eight feet in height shall surround the telecommunications facilities (including any guy wires), or each of them, as required by applicable law or as may be determined by the appropriate unit of this local government. All outside storage of related vehicles or equipment shall be contained within the fenced area.

(d) *Anti-climbing devices.* Telecommunications towers and telecommunications attachments shall be fitted with anti-climbing devices.

(e) *Maintenance.* All telecommunications facilities must be regularly maintained as appropriate to ensure that safety is not compromised.

(f) *Non-interference.* No telecommunications facilities may interfere with any public safety, police, fire, ambulance, or other governmental telecommunications.

(9) *Nature preservation.* The placement, construction, or modification of telecommunications facilities shall comply with all natural resource protection laws and regulations, including those for floodplain, wetlands, and steep slopes.

## **150.61 SITING**

Within areas that are technically feasible for telecommunications facilities, telecommunications facilities shall be situated in accordance with the following prioritization of location (with (1) being the most favored location), and subject to the applicable land use regulations.

(A) *Permitted use.* Co-location or attachment to non-residential structures.

(B) *Conditional use.*

(1) Institutional districts.

(2) Industrial district.

(3) Commercial district.

(4) Agricultural district.

(5) Residential district (if placed or constructed on institutional-use property, such as that of a church, library, government, hospital, utility, or school).

(6) Residential district.

(7) In addition to all other applicable application requirements of this legislation, applications to place, construct, or modify telecommunications towers in a particular location must be accompanied by evidence demonstrating that locating such telecommunications towers in more preferable locations (as depicted in the above priority list) is not technically feasible or practicable under the circumstances.

(C) *Prohibited use.* None.

## **150.62 APPLICATIONS**

Any person or entity desiring to place, construct or modify telecommunications facilities in the jurisdiction of this local government shall be required to obtain a permit from the city. Applications seeking to place, construct, or modify telecommunications facilities on land owned by a public entity other than this local government shall, to the fullest extent permitted by law, be considered under and be subject to this legislation. In addition to any application requirement detailed elsewhere in this legislation, applications to place, construct, or modify telecommunications facilities, regardless of the proposed location thereof, must include the following.

(A) *Technical report.* Technical demonstration that the telecommunications facilities are necessary and must be located where proposed in order to adequately cover the applicant's service area. This report shall also include:

(1) The location of all of the applicant's existing and other planned telecommunications facilities in the jurisdiction;

(2) The location of all other potential sites for the proposed telecommunications facilities that are technically feasible;

(3) The location of all other telecommunications facilities where co-location is technically feasible;

(4) The suitability of the proposed site for co-location, and

(5) Any interference restrictions or considerations applicable to the proposed telecommunications facilities.

(B) *Basic proposal.* The width, depth, height, color, type, specifications, capacity, functionality, and co-location potential of all proposed telecommunications facilities, certified by a state licensed professional engineer.

(C) *Compliance with standards.* Reasonably satisfactory evidence of compliance with all applicable structural, appear-

ance, safety, and nature preservation standards set forth in this legislation and in applicable law (as certified by a state licensed professional engineer), including, but not limited to the following.

(1) *Certification.* The certification of a state licensed professional engineer as to compliance with applicable nationally accepted structural standards as published by the American National Standards Institute/Electronic Industry Association, Section 222-F (ANSI/EIA-222-F), as the same may be amended from time to time; and

(2) *Report.* A soil report which comports with the standards of ANSI/EIA-222-F (Annex I: Geotechnical Investigations for Towers), as the same may be amended from time to time, which report shall support the foundation and anchor specifications for the telecommunications facilities (including any guy wires).

(3) *Co-location.* In the event that a telecommunications tower or telecommunications attachment is proposed to be constructed, evidence that the applicant has attempted in good faith to co-locate such telecommunications tower or telecommunications attachment at all technically feasible locations on reasonable terms. Those telecommunications providers contacted by applicant for such purposes must be given at least 30 days to respond to such contact. The applicant shall agree to permit co-location on a proposed telecommunications tower or telecommunications attachment (together with associated access and parking), to the extent technically feasible (but in no event fewer than two additional antennae), on reasonable terms. The applicant shall agree that all disputes with future telecommunications providers concerning co-location and the terms and conditions of co-location shall be submitted to commercial arbitration under a system chosen by the parties in question, but if the parties are unable to agree upon such a system, then under the auspices of the Commercial Arbitration Provisions of the American Arbitration Association.

(4) *Use of existing structures.* In the event that a telecommunications tower is proposed to be constructed, evidence that a technically feasible location is not reasonably available to construct an alternative telecommunications attachment on an existing structure.

(5) *Site plan.* A site plan detailing, within 300 feet of all proposed telecommunications facilities:

- (a) Existing and proposed telecommunications facilities;
- (b) Existing and proposed buildings and other man-made structures;
- (c) Existing and proposed natural features, including trees and shrubs;
- (d) Existing and proposed access easements and parking areas; and
- (e) Existing and proposed utilities to and within the site.

(6) *Affected properties.* A listing of lots (with property owners' names and addresses, and uses of properties) within one-fourth mile of the proposed site, and a graphical depiction of the area within which the facilities would be visible from ground level.

(7) *Maintenance plan.* A maintenance schedule (including, at a minimum, frequency of service, equipment needs, and traffic, safety and noise impacts) acceptable to the city in light of any manufacturer's recommended maintenance schedule or otherwise.

(8) *Legal access.* Evidence of continual legal access to the telecommunications facilities (regardless of other developments that may take place at the site) for the expected duration of the use of such telecommunications facilities, and evidence of a contractual right to place, construct, or modify such telecommunications facilities on the proposed site (through a siting agreement or grant of easement or otherwise).

(9) *Agreement to remove; bond.* The agreement of the applicant to remove the telecommunications facilities (and any associated site improvements such as access drives) within 180 days of discontinued use of or failure to use them, and to thereafter return the entire site thereof to its prior state, at the applicant's cost. Upon such discontinued use or failure to use, and if such telecommunications facilities are not removed as aforesaid, they shall be considered abandoned and the permit to use them shall be terminated. At any time thereafter, this governmental body, or its authorized designee, may give written notice to the applicant that it intends to remove such telecommunications facilities (and related site improvements), at the applicant's cost, no sooner than 180 days after receipt by the applicant of the notice. Within that 180-day period, applicant must be given an opportunity to either reactivate or activate such telecommunications facilities, remove them (and related site improvements) and return the site thereof to its prior state, or show good cause why such telecommunications facilities (and related site improvements) should not be removed. In the absence of such circumstances occurring within the 180-day period, this governmental body may order that such telecommunications facilities (and related site improvements) be removed and the site be returned to its prior state, at the applicant's cost. To cover the costs of such removal upon the occurrence of such events, the applicant shall post a bond or submit to escrow a cash deposit (or otherwise as approved by the city) in a reasonably sufficient amount to be determined by the city prior to issuance of a permit. The city may require periodic evidence of the continuing force and effect, or the deposit shall remain in escrow, as the case may be, until such telecommunications facilities are removed in accordance with this legislation.

(10) *Agreement to indemnify.* The agreement of the applicant to indemnify and hold harmless this local government, its

officers, and employees from any claims, liabilities, costs and expenses incurred on account of or resulting from the construction, operation, maintenance, or removal of the proposed telecommunications facilities.

(11) *Insurance.* Proof of insurance of the following types and in the following amounts, insuring both this local government (and its elected and appointed officers, officials, agents, and employees) and the applicant pursuant to this legislation:

(a) Comprehensive general liability insurance with limits not less than:

1. \$1,000,000 for bodily injury or death to each person;
2. \$1,000,000 for property damage resulting from any one accident; and
3. \$5,000,000 for all other types of liability;

(b) Automobile liability for owned, non-owned, and hired vehicles with a limit of \$100,000 for each person and \$300,000 for each accident;

(c) Worker's compensation insurance within statutory limits;

(d) Employer's liability insurance with limits of not less than \$1,000,000; and

(e) Comprehensive form premises-operations, explosions, and collapse hazard, underground hazard, and products completed hazard with limits of not less than \$5,000,000. Such insurance shall be maintained until the proposed telecommunications facilities are removed in accordance with this legislation. The city may require the annual filing of a certificate of insurance evidencing the insurance amounts required herein, and evidencing that the city shall be notified by the insurer at least 30 days before any expiration or cancellation of required coverage.

(12) *Application fee and deposit.* To reimburse the city for reasonable costs related to the processing of applications under this legislation, the applicant shall submit with its application a non-refundable permit fee and a deposit in amounts comports with the schedule posted and periodically updated by the city. Reasonable fees and costs of engineers and/or other consultants used by the city to verify initial compliance with this legislation shall be deducted from the deposit, and the balance returned to the applicant upon completion of the permitting process. Application requirements may be waived or modified by the city only if:

(a) Required by applicable law;

(b) Deemed to be in the best interests of the city on the basis of unique circumstances; or

(c) Deemed to be inapplicable on the basis of unique circumstances. Decisions of this local government on the application shall not be based on the environmental effects of radio frequency emissions to the extent that any proposed personal wireless services facilities (as defined in the Act) comply with FCC regulations. Applications submitted to this local government shall be acted upon within a reasonable period of time after the application is duly filed, taking into account the nature and scope of the application. Denials of applications shall be in writing and supported by evidence contained in a written record.

(D) *Post-approval placement, modification or construction.* A successful applicant shall commence placement, construction, or modification, as the case may be, of telecommunications facilities within 180 days of permit issuance.

(E) *Annual review and inspection.* To ensure continuing compliance with this legislation, any permits issued to place, construct, or modify telecommunications facilities pursuant to this legislation are subject to annual review, and such telecommunications facilities are subject to annual inspection, by the city, at the successful applicant's cost.

(F) *Transfers.* Applicants shall covenant that they will not assign, transfer, convey, sublet, sell, mortgage, pledge, or encumber the telecommunications facilities by any other person or entity, without in each instance having first notified and obtained the approval of the city. Any person or entity to which such telecommunications facilities are assigned, transferred, conveyed, sublet, sold, mortgaged, pledged, or encumbered, or to which use of such telecommunications facilities has been allowed, shall fully be subject to the conditions of any related permit and to the provisions of this legislation.

(G) *Applicability.* Upon adoption, the provisions of this legislation shall supersede any provisions of prior legislation directly in conflict therewith; otherwise, prior zoning and/or building code provisions shall remain in full force and effect.

## **OUTDOOR ADVERTISING**

### **150.63 INTENT**

- A. Sign regulations, including provisions to control the type, design, size, location, illumination, and maintenance thereof, are established in order to achieve, among others, the following purposes:
- (1) To promote attractive and maintain high value residential districts by permitting only name plates, bulletin boards, and signs related to the development, rental or sale of properties in such districts;
  - (2) To provide reasonable, yet appropriate, conditions for identifying and advertising goods sold or services rendered in business districts by relating the size, type, and design of signs to the type and size of establishments;
  - (3) To provide conditions for appropriate signs to identify industrial and commercial development;
  - (4) To control the design of signs so that their appearance will be aesthetically harmonious with their surroundings and an overall urban design for the area;
  - (5) To eliminate any conflict between advertising (or identification) signs and traffic-control signs which would be hazardous to the safety of the motoring public or pedestrians.
- A. In establishing these objectives, the city has determined that, without adequate regulation and design standards, signs are a nuisance. The number of signs in the city is excessive and is unduly distracting to motorists and pedestrians, creates a traffic hazard, and in some places reduces the effectiveness of signs needed to direct the public. As the appearance of the city is marred by the excessive number of signs and by oversized and poorly-designed signs, both residential and business property values are adversely affected. Therefore, the number of such distracting signs ought to be reduced and signs permitted should comply with the standards of this code in order to reduce the aforementioned effects.
- B. The signs of least value to the people of the city are those which carry commercial messages other than the advertisement of any product, service, event, person, institution, or business located on the premises where the sign is located.
- C. In view of the foregoing, all signs not conforming with the provisions of this chapter are hereby declared a nuisance unless erected pursuant to a city permit. It is further declared that the regulations contained in this code are the minimum regulation necessary to abate the nuisance and to achieve the purpose of this code.

### **150.64 ESTABLISHING REGULATIONS**

Signs shall be designed, erected, altered, reconstructed, moved, and maintained, in whole or in part, in accordance with the type, design, size, location, illumination, and other provisions set forth in this chapter.

### **150.65 GENERAL PROVISIONS**

The purpose of this Section is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more visually attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising clutter, distraction, and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment, and enhance community development by permitting signs which are compatible with their surroundings. All nomenclature in this Section shall be as in Section 150.03

- A. Unless otherwise permitted by 150.65 through 150.69, no sign shall be placed within any R or any S-1 District.
- B. Except those for traffic control, regulation, or information, no sign shall be placed within the public right-of-way.
- C. Any illuminated sign or lighting device shall employ only light(s) emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights. In no event shall an illuminated sign or lighting device be placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public thoroughfare, highway, sidewalk, or adjacent premises so as to cause a glare or reflection that may constitute a traffic hazard or nuisance nor lights of an intensity or hue and form which are simi-

lar to traffic-control lights. This Section shall not apply to any sign performing a public service function indicating time, temperature or similar services.

- D. No sign shall employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention. This Section shall not apply to any sign performing a public service function indicating time, temperature or similar services.
- E. Unless otherwise prohibited by 150.65 through 150.69, signs may be illuminated internally by globes, light tubes, or other means or externally by spot or floodlights provided such lights do not interfere with public safety.
- F. No spot or flood light may be directly visible from a public right-of-way.
- G. No advertising shall be placed on any awning, mansard roof, or canopy, that extends above the building roofline.
- H. No outdoor sign shall be placed so as to impair the view of pedestrian or motorist along a public right-of-way or at intersections of the public right-of-way.
- I. No sign may be placed on the roof of a structure or above the roof line. (See Figures 1.2d, 1.3b)
- J. Signs placed flush against a door or doorway not exceeding 4 square feet designating an office or store location and such sign, if located on a doorway, shall be exempt from requirements of a minimum or maximum elevation from the sidewalk.
- K. All wiring, fittings, and materials used in the construction connection and operation of electrically illuminated signs shall be in accordance with the provisions of the electric code as administered by Wood County Building Inspection.
- L. No sign shall be located nearer than eight (8) feet vertically or four (4) feet horizontally from any overhead electric wires, conductors, or guy wires.
- M. No sign shall be erected in any manner to interfere with traffic visibility. This shall include visibility when exiting from private drives. Any sign that is found to interfere with traffic visibility shall be removed.

## **150.66 OUTDOOR ADVERTISING IN B, I, M, R-C and S DISTRICTS**

- A. Monument or ground signs, not exceeding eight (8) feet in height, may be located as close as ten (10) feet to the right-of-way. If a monument sign is located on streets other than "major streets" as defined herein, these signs shall be limited to not more than 50% of the allowable area set forth in Section 150.66 (D) herein.
- B. A pole, pylon or blade sign may not exceed 25 feet in height. (See Figures 1.1a - c, 1.4c, 1.5)
- C. No sign shall be placed in other required setbacks.
- D. No outdoor advertising sign shall exceed the following limitations, by district:

District	Formula for Allowable Sign Area
B-1 and B-4	68 square feet or width of the building front times 1.2 plus 20 square feet, whichever is less.
B-2	112 square feet or width of the building front times 1.6 plus 40 square feet, whichever is less
B-3	90 square feet or width of the building front times 1.4 plus 40 square feet, whichever is less.

S-1 (For B-1 uses only)	68 square feet or width of the building front times 1.2 plus 20 square feet, whichever is less.
I-1 S-3 R-C	32 square feet
S-2 S-4	90 square feet or width of the building front times 1.4 plus 40 square feet, whichever is less
M-1 M-2 M-3	136 square feet or width of the building front times 1, whichever is less

- E. (1) No more than 3 outdoor advertising structures shall be used for each business or structure and must be located on the same lot or premises, except as provided in 150.65 for mall or arcade type structures which will permit other signs designating the location of stores within a mall area.
- (2) Total aggregate square footage for outdoor advertising for each business or structure may not exceed the following:

District	Total Allowable Square Footage
B-1 and B-4	202
B-2	336
B-3	270
S-1 (For B-1 uses only)	202
S-3	64
I-1 and R-C	64
S-2	270
S-4	270
M-1	360
M-2	360
M-3	360

- F. The sign area on the face of an approved awning will count as one sign. The area formula will be based on Section 150.66(D). Signage area will be determined as shown in Fig 1.8. Sides of an awning with any character or lettering that may be understood to be advertising will count as a separate sign.
- G. (1) When attached to a building, signs shall not extend more than 9 inches from the building face. Signs attached to a building shall not be located in a manner which is hazardous to pedestrians or vehicular traffic. (See Figure 1.4b)
- (2) Signs of one square foot or less may extend more than 6 inches from the building face, but the leading edge of such a sign shall be no more than 2 feet from the building face. Such a sign may project below a mansard roof providing the lowest portion of the sign is at least 7 feet above the sidewalk elevation.
- H. Outdoor advertising signs for nonconforming uses shall be limited as follows:

District	Formula for Allowable Sign Area
Any	68 square feet or width of the building front times 1 plus 10 square feet, whichever is less

The total aggregated square footage for the 3 allowable signs shall not exceed 136 square feet.

I. Residential district signs

(1) The aggregate square footage for any sign in a residential district posted on property used for residential purposes is fifteen (15) square feet, with no single sign exceeding ten (10) square feet. Such sign(s) may encroach upon the front yard setback but may not obstruct any right-of-way and may not exceed five (5) feet in height. All such signs must be non-illuminated. In any event no sign under this section shall remain erect for longer than six (6) months. This sign does not require a permit.

(2) A residential district sign may be ordered removed by the Code Enforcement Officer if, after an investigation, it is determined that the sign was specifically intended to be in place for a period of less than six (6) months.

(3) Conforming nonresidential uses, other than home occupations, in a residential district may have one monument or flush-mounted sign and one changeable copy sign, either flush-mounted or monument, not exceeding 64 square feet in aggregate, but no single sign shall be greater than 32 square feet. Such signs will maintain a distance from the right-of-way of not less than the front yard setback. Monument and ground mounted changeable copy signs may not exceed six feet in height.

(4) For reasons of public safety, apartment complex and subdivision entrance signs, located on the property, in a residential district, may have an aggregate square footage of fourteen (14) square feet and may not exceed five (5) feet in height.

(5) Upon subdivision plan approval and until 25% of platted lots are developed with homes, a Development Sign with an aggregate square footage of 32 Square feet will be permitted. For proposed subdivisions that have frontage on two (2) existing streets, an additional 32 square foot sign will be permitted for a total aggregate of 64 square feet. The sign(s) may not obstruct any right-of-way and may not exceed ten (10) feet in height. All such signs shall be non-illuminated. This type of signage requires a permit.

## **150.67 NON-RESIDENTIAL TEMPORARY SIGNS**

- A. Freestanding temporary signs may be erected for special, short-term events when erected by commercial or institutional establishments. Such signs must be non-illuminated and must not interfere with the visibility of pedestrian or vehicular traffic and shall not exceed six (6) feet in height, and not be located closer than ten (10) feet to any public right-of-way. No sign erected pursuant to this section shall exceed sixteen (16) square feet in size. This type of sign shall be permitted no more than one (1) time per calendar year at any one location.
- B. Temporary signs may be flush-mounted upon a building face and may be situated any place on the building face between the sidewalk elevation and the building roof line. This type of sign shall be permitted no more than 4 times per calendar year at any one location.
- C. A temporary sign will not count in the total number of signs permitted for a business
- D. An approved variance for signage (total number of signs permitted) will have no bearing on a temporary sign being permitted.

## **150.68 MAINTENANCE**

- A. Each sign shall be kept safely and in a safe condition and in good order and repair at all times, so as to constitute no danger or hazard to public safety.
- B. No sign shall be erected, relocated, or maintained so as to prevent free ingress or egress from any door, window, or fire escape. No sign of any kind shall be attached to a fire escape.
- C. The zoning inspector shall cause the removal and/or repair of any sign found to be unsafe or defective to the extent that it creates an immediate and/or emergency hazard to persons or property.
- D. It shall be unlawful for any owner of record, lessor, lessee, manager, agent, or other person having lawful possession or control over a building, structure, or parcel of land to fail to maintain the property and all signage thereon.

## **150.69 CONSTRUCTION STANDARDS.**

All signs erected under this ordinance shall be constructed in accordance with the Ohio Building Code as adopted..

## **150.70 NONCONFORMING SIGNS.**

A sign which is nonconforming on the effective date of this chapter (January 6, 1975) that does not conform with the regulations of this or a subsequent amendment, shall be deemed a nonconformity.

- A. Statement of purpose. The purpose of this chapter, in addition to providing specific standards for the design, construction, and erection of every new graphic, sign, marquee, canopy, and awning is to cause every graphic or other sign in violation of any provision of this chapter to be removed, altered, or replaced so as to conform with the provisions of this chapter, unless erected pursuant to a city permit.
- B. Authority to continue existing nonconformities. Any permanent graphic, sign, marquee, canopy, or awning, as defined in 150.03, other than a temporary sign, which is deemed to be a nonconformity, and not erected pursuant to a city permit and in place on the effective date of this chapter, and which remains or becomes a nonconformity upon the adoption of this chapter or any subsequent amendment thereto, may be continued only in accordance with the following regulations:
  - (1) Repairs. Ordinary repairs and nonstructural alterations may be made to a nonconforming sign. No structural alterations shall be made in, to, or upon such nonconforming sign, except those required by law to make the sign conform to the regulations of this chapter, unless the sign was erected pursuant to a city permit.
  - (2) Additions and enlargements. A nonconforming sign shall not be added to or enlarged in any manner, except to make the sign conform to the regulations of this chapter.
  - (3) Moving. No nonconforming sign shall be moved in whole or in part to any other location unless such sign, and the use thereof, is made to conform to all regulations of this chapter.
  - (4) All nonconforming signs as of the date of the enactment of this ordinance shall be addressed pursuant to Bowling Green ordinance section number 150.75, 150.76, and 150.77.
  - (5) Conformance date. All graphics, signs, marquees, canopies, and awnings rendered nonconforming by the provisions of this chapter and permitted to continue shall be removed, altered, or remodeled conform to the provisions of this chapter no later than January 1, 1994, unless erected pursuant to a city permit.
  - (6) The council hereby finds and determines that all existing nonconforming signs constitute a nuisance, except those erected pursuant to a city permit.

Fig. 1.1

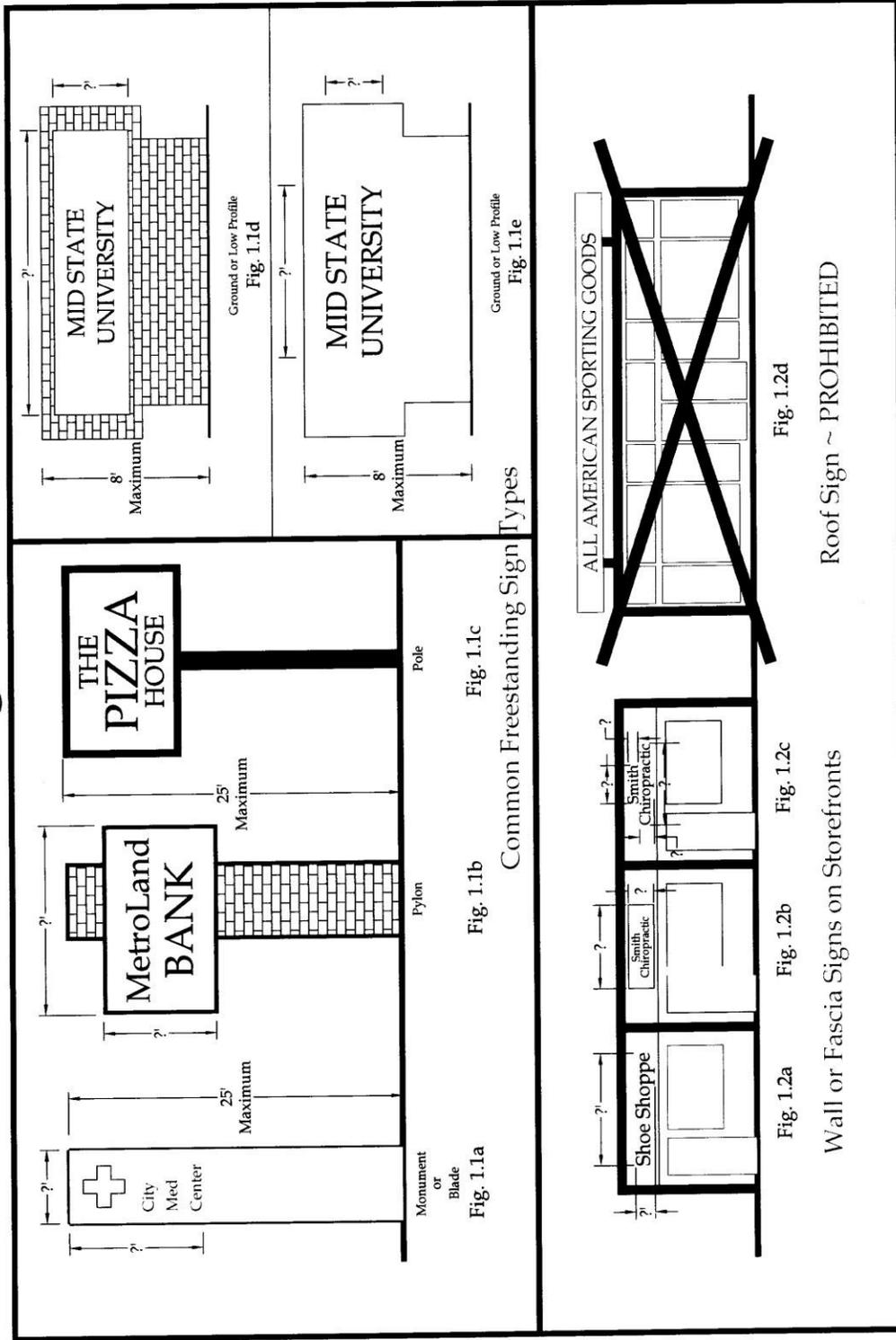


Fig. 1.2

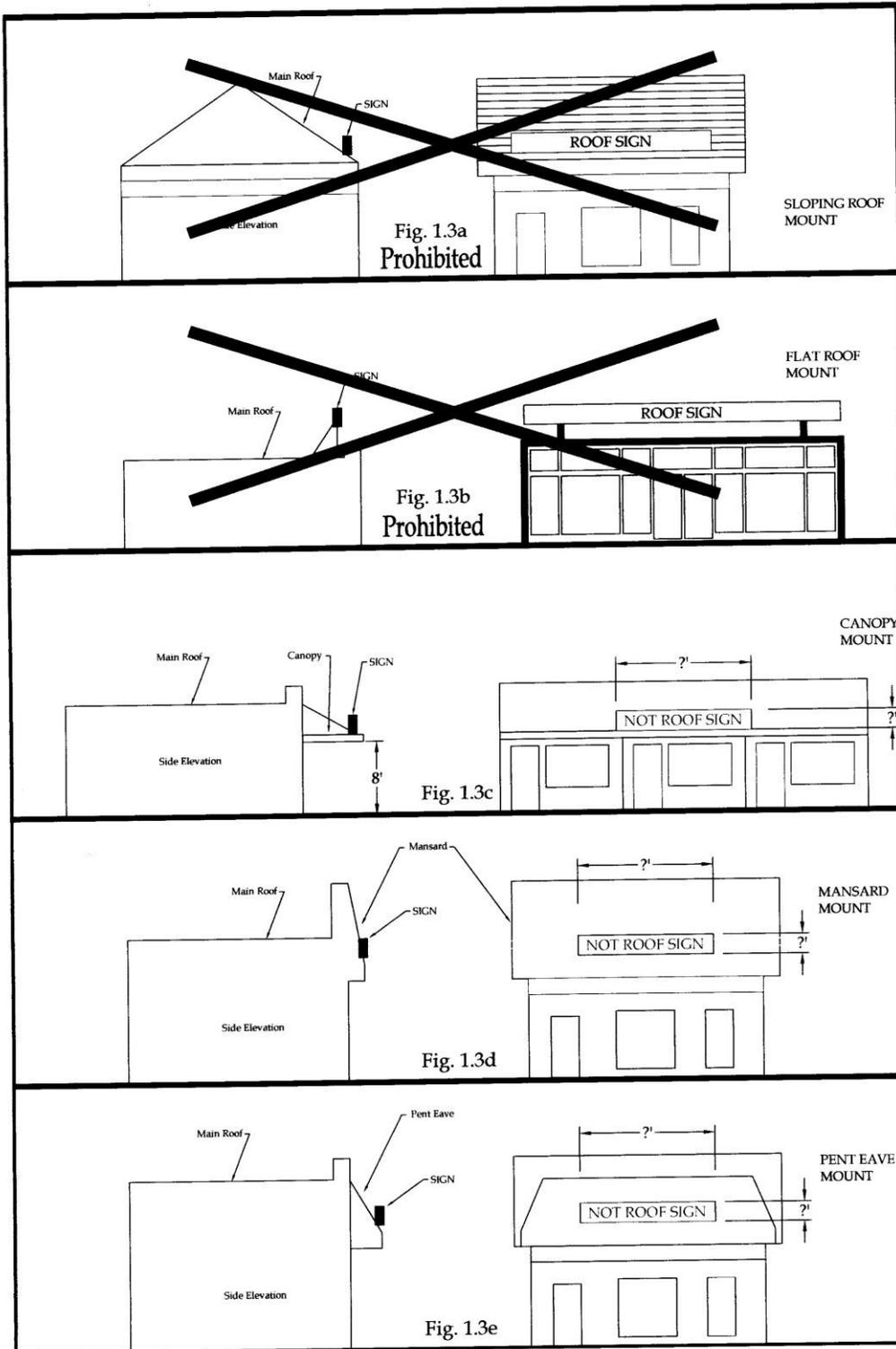


Fig. 1.3

Fig. 1.4

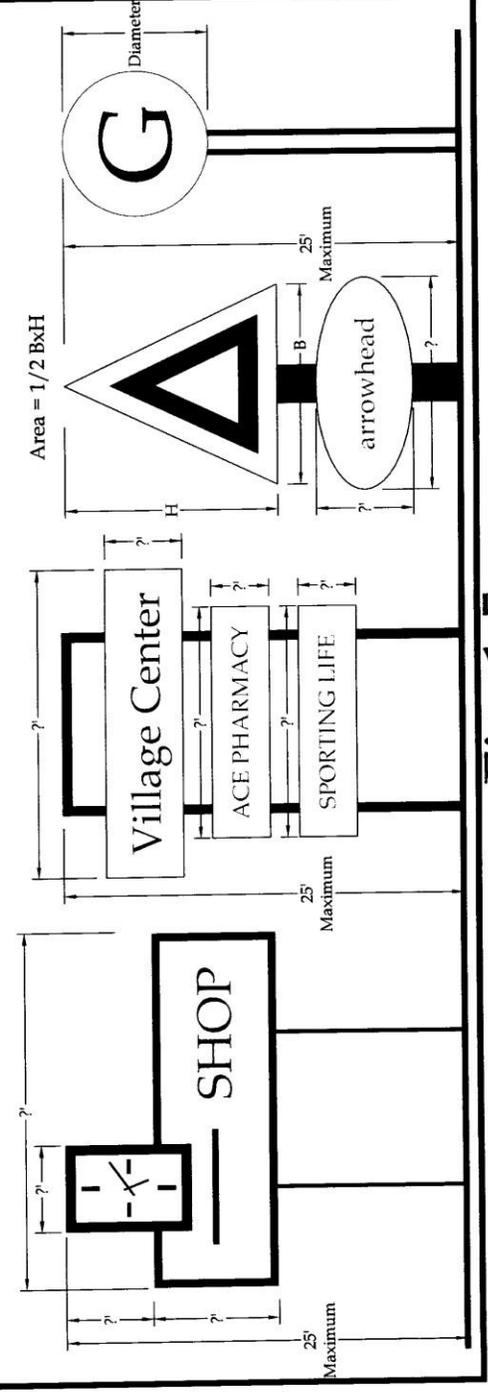
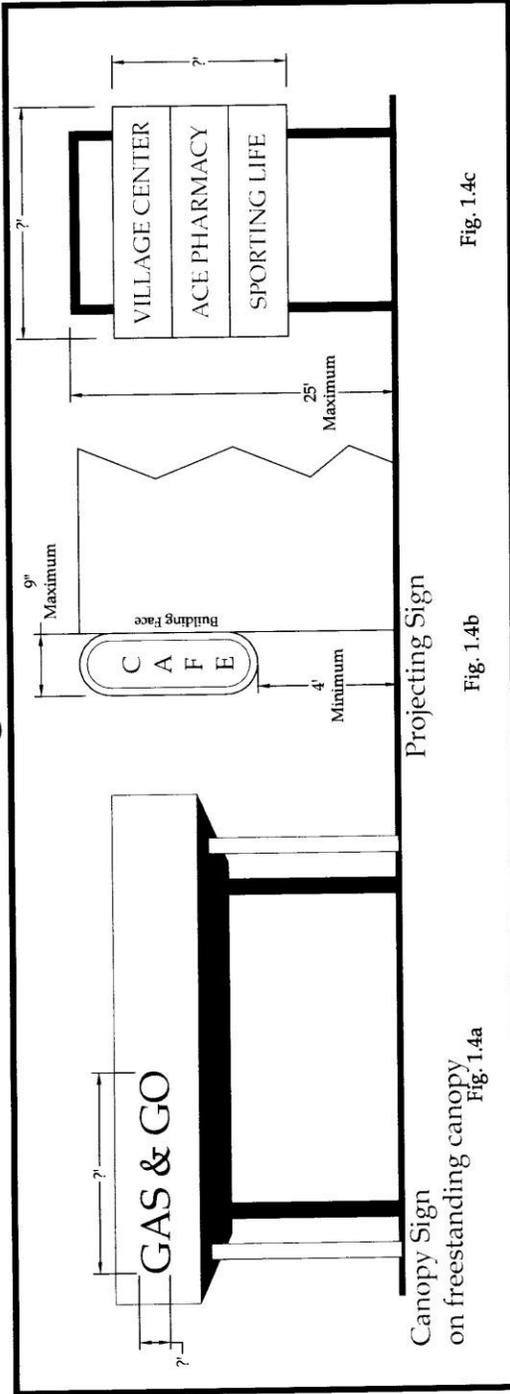


Fig. 1.5

Fig. 1.6

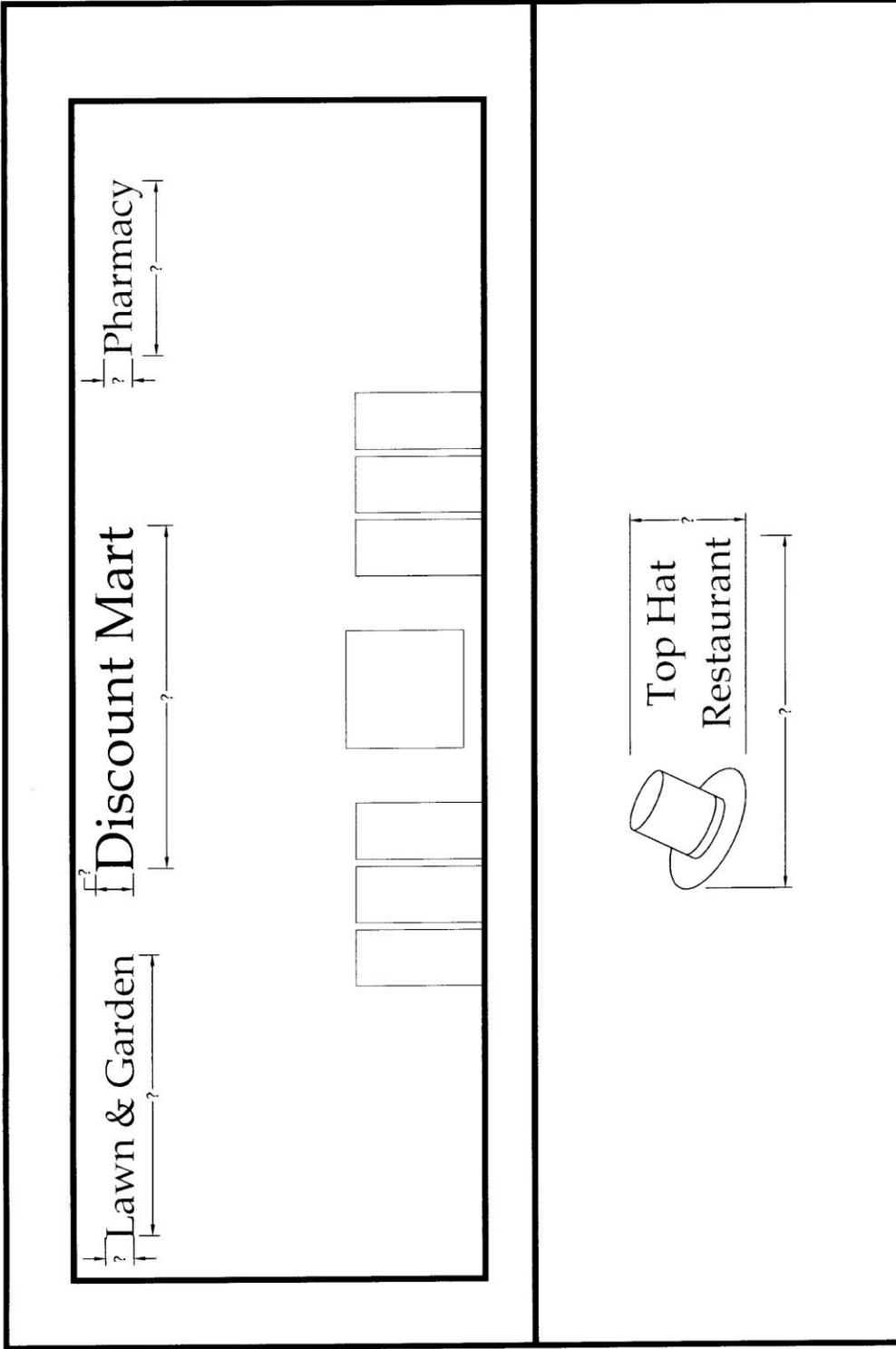


Fig. 1.7

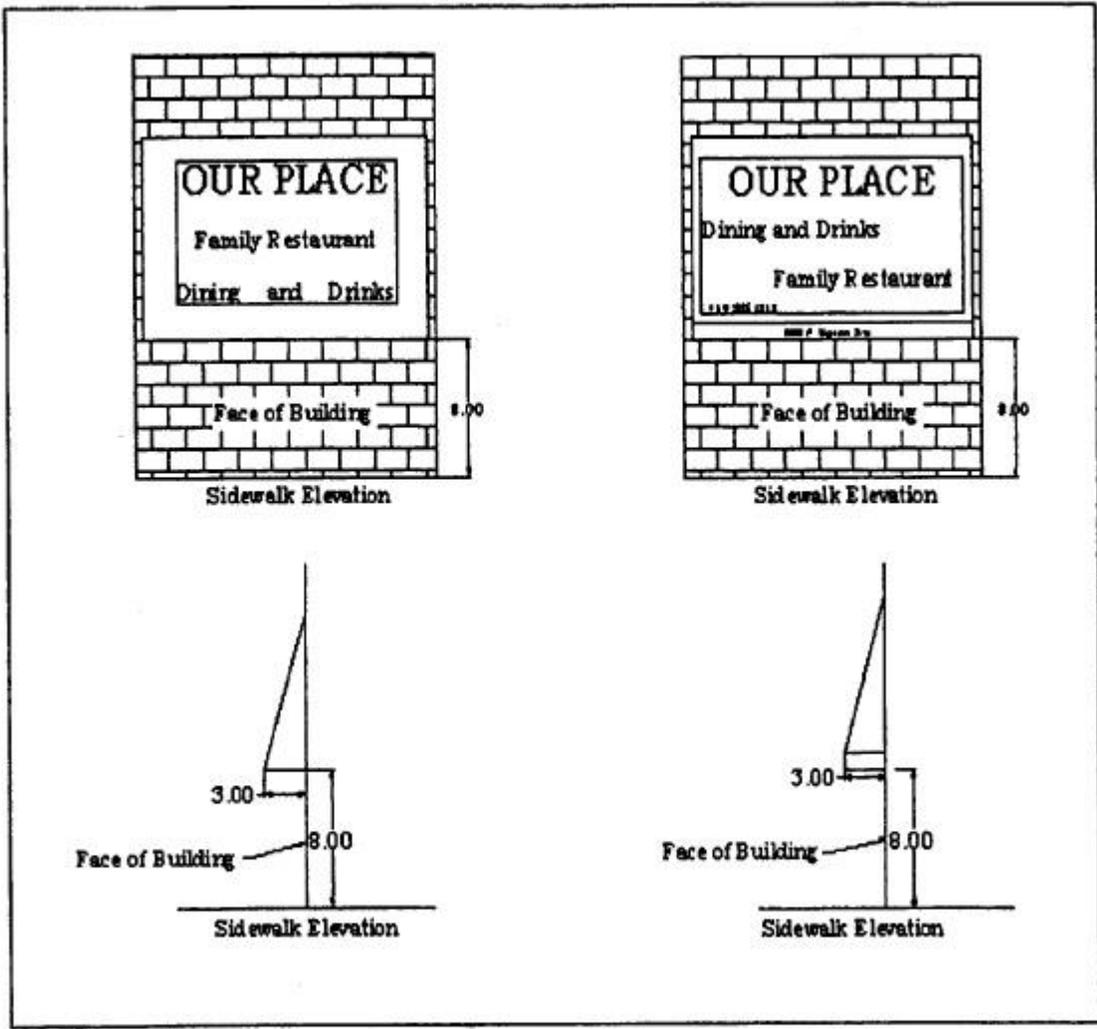


Fig. 1.8

## **150.75     NONCONFORMING USES**

Any lawful use of any dwelling, building, or other structure and of any land or premises as existing and lawful at the time of the enactment of this chapter, or any amendment thereto, though not conforming to the regulations of the district in which it is located, shall be deemed a legal nonconforming use. The nonconforming use of land or buildings may be changed to another nonconforming use of a more restrictive classification. 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. The nonconforming use of a building may be extended throughout the parts thereof which were manifestly arranged and designed for such use at the time of the adoption of this chapter. No nonconforming occupancy within a residence shall be expanded or intensified in volume or magnitude except when authorized by the board of appeals pursuant to 150.130 through 150.132. No nonconforming building, land, or structure shall be moved, extended, or enlarged except when authorized by the board of appeals in accordance with the provisions of 150.130 through 150.132.

## **150.76     VOLUNTARY DISCONTINUANCE**

A nonconforming use of a dwelling, building, or other structure, or land or portions thereof, or nonconforming occupancy of a residence, which is voluntarily discontinued for a continuous period of 1 year shall not again be used except in conformity with the regulations of the district in which it is located.

## **150.77     DAMAGED NONCONFORMING BUILDINGS AND STRUCTURES**

A nonconforming building or other structure which is damaged by fire, explosion, windstorm, flood, riot, demonstration, public enemy, or other cause to the extent of more than sixty percent (60%) of its reproduction value at the time of damage shall not be restored except in conformity with the regulations in the district in which it is located. When damaged by less than sixty percent (60%) of its reproduction value, a nonconforming building or other structure or land may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are completed within two (2) years of the date of such damage.

## **150.78     INADEQUATE YARDS**

A use which is nonconforming only because of inadequate side yards, front yards, or rear yards, and which conformed to the terms of the regulations in the zoning code at the time of the acceptance and recording of the subdivision plat, shall be permitted to continue, even if the building or structure is completely destroyed.

## EXCEPTIONS AND MODIFICATIONS

### 150.85 GENERAL

Requirements and regulations specified in this chapter shall be subject to the exceptions, modifications, and interpretations set forth in 150.85 through 150.93.

### 150.86 EXISTING LOTS OF RECORD

In any district where single-family dwellings are permitted, a single-family detached dwelling may be erected on any lot, as defined in 150.03, forty feet (40') or wider, of official record as of the effective date of this chapter, irrespective of the area of the lot, provided the owner of such lot does not own any adjoining property, and provided further:

- A. In no case shall the width of any side yard be less than five feet (5'), and, on a corner lot, the width of the side yard adjoining the side street lot shall not be less than twenty-five percent (25%) of the frontage.
- B. In no case shall the depth of the rear yard of any such lot be less than twenty feet (20').
- C. Where three (3) or more contiguous unimproved lots of record with less than the required area and width are held by one (1) owner, the planning commission may require replatting to fewer lots to permit compliance with minimum yard requirements.

### 150.87 HEIGHT

- A. The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors, and flagpoles, except where the height of such structures will constitute a hazard to the safe landing and takeoff of aircraft at an established airport.
- B. Public, semipublic, or public service buildings, hospitals, institutions, or schools, where permitted, may be erected to a height not exceeding eighty feet (80') and churches and temples may be erected to a height not exceeding eighty feet (80') when the required side and rear yard are each increased by one foot (1') for each foot of additional building height above maximum permitted by the regulations for the district in which the building is located.

### 150.88 FRONT YARDS

- A. When fifty percent (50%) or more of the frontage on one side of the street between two (2) intersecting streets is improved with buildings that have front yards of greater or less depth than the required front yard in the district, no building shall project beyond the average front yard so established. However, a front yard depth shall not be required to exceed fifty percent (50%) in excess of the front yard otherwise required in the district in which the lot is located.
- B. An open uncovered porch or paved terrace may project into a required front yard for a distance of not more than ten feet (10'), but this shall not be interpreted to include or permit fixed canopies.

### 150.89 SIDE YARDS

- A. No accessory building shall project beyond a required yard line along any street.
- B. An awning in a residential district may project into a required side yard, provided every part of such awning is unenclosed and not less than seven (7) feet from any side lot lines.
- C. A canopy, in a commercial, institutional, or industrial district is considered part of the primary structure and cannot encroach into any setbacks.
- D. For the purpose of side yard regulations, a two-family dwelling or multiple-family dwelling shall be considered as one (1) building occupying one (1) lot.

## **150.90**      **REAR YARDS**

- A. Where a lot abuts upon an alley, 1/2 the alley width may be considered as part of the required rear yard.
- B. Accessory Buildings
  - 1. In residential districts and other districts where residential uses are allowed, a detached garage, which is the only garage for its primary structure, not exceeding eighteen feet (18') in height, may occupy not to exceed thirty percent (30%) and unenclosed parking spaces may occur not to exceed fifty percent (50%) of the area of a required rear yard, but not closer than five feet (5') to the rear lot line. A detached garage must be located no closer than five feet (5') to the primary structure.
  - 2. In residential districts and other districts where residential uses are allowed, an accessory building with an area equal to or less than one hundred sixty (160) square feet may be located no closer than five feet (5') to the side or rear lot lines and may not exceed twelve feet (12') in height. An accessory building, that is not a detached garage, that is larger than one hundred sixty (160) square feet shall be no closer than twenty feet (20') to the primary structure or to the rear lot line – this structure may not exceed eighteen feet (18') in height.
  - 3. In commercial, industrial, or institutional districts, an accessory building must be a minimum of twenty feet (20') from the primary structure and twenty feet (20') from the rear lot line. No accessory building may encroach into any required side yard setback. The maximum height of an accessory building is thirty feet (30').
- C. Any swimming pool constructed on a lot shall not be constructed so as to extend into the required front or side yards, and shall be at least ten feet (10') from all property lines. In-ground swimming pools shall be enclosed with a solid fence at least four feet high with a self-closing gate. No swimming pool shall be closer than five feet (5') to the main building or any accessory building. In any district, a retention pond does not require a fence, and the top of the bank of a retention pond may be located as close as fifteen feet (15') to a side lot line.
- D. Open or lattice-enclosed fire escapes, outside stairways, and balconies opening upon fire towers and the ordinary projections of chimneys and flues into a rear yard may be permitted by the zoning inspector for a distance not to exceed five feet (5') when these are so placed as not to obstruct light and ventilation.

## **150.91**      **FENCES**

A fence erected on a lot line or within a setback may not exceed in height the following:

- A. Fences erected under this section must comply with Section 150.05. When required by other provisions of this chapter for screening, a fence shall be four feet (4') in height, but such screen fence must not be installed in such manner as to violate Section 150.05.
- B. Four feet (4') when placed within a required front yard setback, but must not be installed in such a manner as to violate Section 150.05.
- C. Six feet (6') when placed within a required side yard setback, between the front and rear face of the primary structure.
- D. Six feet (6') when placed within the required rear yard setback.
- E. In any M-District, a seven-foot (7') fence may be erected on a lot line or within any setback, except for the traffic visibility triangle as defined by Section 150.05.

## **150.92**      **OPEN AREAS WITHIN MULTIPLE-FAMILY DISTRICTS**

Except in a B-3 District, in order to ensure adequate outside recreation areas, any multiple-family dwelling constructed after the adoption of this chapter shall provide on its site an area or areas free from buildings, drives, and parking. Such area or areas shall total one hundred (100) square feet per dwelling unit on the parcel.

## **ENFORCEMENT**

### **150.100     ZONING INSPECTOR**

- A. The zoning inspector shall enforce this chapter. It shall be the duty of all officials and employees of the municipality to assist the zoning inspector by reporting to him new construction, reconstruction, or land uses or apparent violations.
- B. Appeal from the decision of the zoning inspector shall be made to the board of appeals as provided in 150.130 through 150.132.

### **150.101     ZONING CERTIFICATE**

- A. It shall be unlawful for an owner, agent, or lessee to use or to permit the use of any structure, building, or land, or part thereof, hereafter created, erected, changed, converted, or enlarged, wholly or partly, until a zoning certificate shall have been issued by the zoning inspector. It shall be the duty of the zoning inspector to issue a certificate, provided he is satisfied that the structure, building, or premises and the proposed use thereof conforms to all the requirements of this chapter. The zoning inspector shall issue no permit for excavation or construction unless the plans, specifications, and the intended use conform to the provisions of this chapter.
- B. Under written request from the owner, tenant, or optionee of the owner, the zoning inspector shall issue a zoning certificate for any building or premises existing at the time of the enactment of this chapter certifying, after inspection, whether such use conforms to the provisions of this chapter. No charge shall be made for issuing a zoning certificate in accordance with this division.
- C. A zoning certificate shall be valid for a period of one (1) year from the date of application. Under reasonable and legitimate conditions, the zoning inspector may extend it for a period of one (1) year. Such extension shall be noted on the original application.
- D. A zoning certificate shall be issued for an expansion of a nonconforming building which conforms to the use regulations for the district in which it was situated provided the expansion of such building conforms to all setback requirements, use regulations, and all other regulations in this chapter.
- E. Any improvements to any public right-of-way, public utility, or other public facility that is required as the result of the use of any structure, building, land or part thereof, hereafter created, changed, converted, or enlarged, wholly or partly, shall be financially guaranteed, by cash or bond, to the City prior to the issuance of a zoning certificate.

### **150.102     CONDITIONS UNDER WHICH CERTIFICATES ARE REQUIRED**

- A) A zoning certificate shall be required for any of the following, except as herein provided:
  - 1) Construction or alteration of any building, including accessory buildings. Such construction or alteration shall include exterior modifications involving construction, reconstruction, or alteration but excluding painting, re-siding, re-roofing, application of shutters or eaves spouting.
  - 2) Change in use of an existing building or accessory building to a use of a different classification or involving a change in required setbacks, screening, off-street parking or conditional use permit.
  - 3) Occupancy and use of vacant land.
  - 4) Change in the use of land or buildings to a use of a different classification.
  - 5) Any change in the use of a nonconforming use.
  - 6) Erection of fences, swimming pools, and signs.
  - 7) Construction of driveways and off-street parking areas.
- B) In all other situations where a minimum dollar amount of \$2,500 is being expended on any building, structure, or land, a certificate of zoning compliance is to be obtained. There is a \$5 charge for a certificate of zoning compliance and application shall be made on form(s) available in the Planning Department.

## **150.103 APPLICATION AND ISSUANCE OF ZONING CERTIFICATE**

- A. Written application for a zoning certificate for the construction of a new building or for the alteration of an existing building shall be made at the same time as the application for a building permit. The certification shall be issued within ten (10) days after a final inspection of the property and premises has been made by the zoning inspector or his agent, provided such construction or alteration is in conformity with the provisions of this chapter.
- B. Written application for zoning certificate for the use of vacant land, or for a change in the use of land or of a building or for a change in nonconforming use, as herein provided, shall be made to the zoning inspector; if the proposed use is in conformity with the provisions of this chapter, the certificate therefore shall be issued within fifteen (15) days after the final inspection of the property and premises for the same has been made.
- C. Every application for a zoning certificate shall be accompanied by a plot plan drawn to scale and such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made.
- D. Every application for a zoning certificate, except for new single- and two-family dwellings, additions or alterations to single- and two-family dwellings, accessory structures associated with single- and two-family dwellings, fences, signs, and changing the pitch of the roof, shall contain the following utilities information:
  1. Site benchmark. This shall meet the requirements of Section 12.02 of the Codified Ordinances of the city.
  2. Existing elevations on site and on adjacent properties. This information shall be sufficient to indicate directions of drainage flow.
  3. Proposed elevations.
    - (f) Finished grade at proposed building.
    - (g) Parking areas, drives, and alley improvements.
    - (h) Finished elevation and location of all grade changes of public sidewalks.
  4. Locations and sizes of all existing utilities (electric, natural gas, communication, water lines, storm sewers, and sanitary or combination sewers) and appurtenances thereto.
  5. Locations and sizes of any existing water and sewer service connections.
  6. Locations, sizes, types of material, and elevations of proposed sewers and water lines.
  7. Locations of the proposed tie to the electrical system, electric service, and electric load.
  8. Locations of proposed natural gas and communication lines.
  9. Drawings shall show all right-of-way lines and property lines.
  10. All drawings must be prepared on reproducible paper.
  11. For plans of five (5) acres or less, the scale shall be an engineers scale, not less than 1:20. For plans for more than five (5) acres, the scale shall be an engineers scale, not less than 1:40.
  12. All drawings must include a north arrow and legend that indicates existing and proposed sewers, water-lines, and elevations.
  13. A note shall be on each plan to indicate that all construction and materials must meet the requirements of the city.
  14. A registered engineer shall prepare the drawing for new construction on vacant parcel(s) and the registered engineer shall seal the drawing.
  15. The project plan set submitted in an electronic format compatible with the city's computer assisted drawing program. The electronic copy shall be provided on a CD or other media acceptable to the city.
  16. Completed Stormwater Pollution Prevention Plan forms as required by the Storm Design requirements of the city.
  17. Plans and calculations addressing storm detention, water quality volume and storm sewers.
  18. After final approval by the city, the developer must supply the city with six (6) prints of the final drawings. Two (2) approved sets of plans will be returned to the applicant and the applicant shall keep one set of approved plans on-site during construction.
- E. Any improvements to any public right-of-way, public utility, or other public facility that is required as the result of the use of any structure, building, land or part thereof, hereafter created, changed, converted, or enlarged, wholly or partly, shall be financially guaranteed, by cash or bond, to the City prior to the issuance of a zoning certificate.

**150.104 FEE FOR ZONING CERTIFICATES**

- A. A fee in accordance with the following schedule of amounts to cover the approximate cost of processing applications shall accompany each application for a zoning certificate and shall be deposited to the credit of the general fund:

Use (each main structure)	Fee
Single- or two-family dwellings	\$100
Commercial, industrial, institutional structure	\$100 plus \$10 per dwelling unit
Commercial, industrial, institutional addition:	
Additions for each 500 square feet or portion thereof	\$10
Use of land not including a structure	\$5
Alteration of existing residential use	\$25
Signs, permanent	\$50
Signs, temporary	\$5
Fence, swimming pool, or other condition under 150.102 not otherwise specified	\$35
* Less than 5,000 square feet ground area. Add \$10 for each 1,000 square feet or portion thereof thereafter.	

B. Every zoning certificated shall state that the building or the proposed use of the building or land complies with all provisions of law. A record of all zoning certificates shall be kept on file in the office of the zoning inspector or his or her agent and copies shall be furnished on request to any person having proprietary or tenancy interest in the building or land affected.

C. A sign containing a notice that a zoning certificate has been issued shall be displayed on the premises facing the street on which the premises abuts before the use of construction authorized by the permit is commenced.

### **150.105     ZONING CERTIFICATE FOR NONCONFORMING USES**

A zoning certificate may be obtained for all lawful nonconforming uses of land or buildings created by the adoption of this chapter. Application for such certificates for nonconforming use shall be filed with the zoning inspector by the owner or lessee of a building or land occupied by such nonconforming use within the one (1) year of the effective date of this chapter. It shall be the duty of the zoning inspector to issue a certificate for a lawful nonconforming use and such certificate shall be conclusive evidence that the nonconforming use was lawfully in existence at the effective date of this chapter. No charge shall be made for issuing the zoning certificate in accordance with this section.

### **150.106     RESERVED**

### **150.107     PLAN APPROVAL BY EXECUTIVE DIRECTOR OF UTILITIES**

- A. Before the zoning certificate provided for in 150.101 is issued, the application, drawings, and plot plans required by 150.103 shall be submitted to the executive director of utilities. The executive director shall examine the application, drawings, and plot plans with respect to the water supply, electrical supply, and sewage disposal facilities set forth therein. If the plans, drawings, and application as submitted show water supply, electrical supply, and sewage disposal facilities which are in accordance with the specifications of the board of public utilities, the executive director shall approve the application, drawings, and plans as to utilities.
- B. If any part of the proposed utilities installation is not in accordance with the specifications of the board of public utilities, the executive director shall return the plans with recommendations for changes necessary to make them conform to the requirements of the board of public utilities.
- C. No zoning certificate shall be issued unless the plans, drawings, and application shall have been approved by the executive director of utilities as herein provided.
- D. The Utilities Director shall not approve any application for zoning certificate until the site has obtained all necessary permits, approvals, and easements required for full conformity with Chapter 50.02 of the Code of Ordinances of the City of Bowling Green, Ohio.

## **DISTRICT CHANGES AND ORDINANCE AMENDMENTS**

### **150.110 GENERAL**

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the council may, by ordinance, after receipt of recommendation thereon by the planning commission, and subject to the procedure prescribed by general law and by the Charter of the city, amend, supplement, or change the regulations, district boundaries, or classification of property now or hereafter established by this chapter or amendments thereof. It shall be the duty of the commission to submit its recommendations regarding all applications or proposals for amendments to the council.

### **150.111 PROCEDURE FOR DISTRICT CHANGES AND ORDINANCE AMENDMENTS**

- A. Applications for any change of district boundaries or classifications of property as shown on the zoning map shall be submitted to the commission, at its public office, upon such forms as are made a part of this chapter and shall be accompanied by such data and information as may be prescribed for the purpose by the commission, so as to assure the fullest practicable presentation of facts for the permanent record. Each such application shall be verified by at least one (1) of the owners or lessees of property within the area proposed to be reclassified. The owners or lessees shall attest to the truth and correctness of all facts and information presented with the application. Upon filing the request for change in classification, the applicant, at his expense, shall erect a sign or signs conforming to the requirements below, legible from the public right-of-way, measuring two feet (2') by four feet (4'), at the property requested for change in classification the same day the completed application and fees are turned in to the Planning Department. If the required sign(s) are not in place, the request shall be returned to the applicant as incomplete and not placed on the Commission's agenda. In the case of parcels with frontage on more than one (1) public street, a minimum of one (1) sign shall be provided for each public street. In any event, one (1) sign shall be provided for each public street. In any event, one (1) sign shall be provided for every six hundred feet (600') of frontage. The sign shall give the applicant's name, address, and telephone number and the present zoning classification. The sign shall state that the information concerning the request is on file at the Planning Commission's public office and is available for inspection during normal business hours. The required signs shall remain in place until forty (40) days after the final action on the legislation when they shall be removed by the applicant. Applications for amendments initiated by the commission shall be accompanied by its motion pertaining to such proposed amendment.
- B. Public hearing by commission. Before submitting its recommendations on a proposed amendment to council, the planning commission may hold a public hearing thereon. If the planning commission determines that a public hearing is desirable, notice of such hearing shall be given by one (1) publication in a newspaper of general circulation in the city and shall also be posted as provided in the administrative code. The notice shall state the place or places where, and time when, the proposed amendment to the ordinance, including text and maps, may be examined, and the time and place for the public hearing.
- C. Notice to property owners. If the planning commission elects to hold a public hearing, and if the proposed ordinance, measure, or regulation intends to rezone or redistrict ten (10) or less parcels of land as listed on the tax duplicate, notice of the hearing shall be mailed by the zoning inspector by first class mail at least twenty (20) days before the date of the public hearing to the owners of property within, contiguous to, and directly across the street from such parcel or parcels, to the addresses of such owners appearing on the county auditor's current tax list or the treasurer's mailing list. Failure to receive notice as provided in this section shall not invalidate any such ordinance, measure, or regulation.
- D. Department assistance. The commission may call upon the various departments of the municipality, upon its own staff, or upon expert consultants for assistance in the performance of its duties, and it shall be the duty of such departments or staff to render such assistance to the commission as may reasonably be required.
- E. Action of the commission. The commission may, without a public hearing, or after public hearing if it determines a

public hearing is desirable, recommend that the application be granted as requested, or it may recommend a modification of the zoning amendment requested in the application, or it may recommend that the application not be granted. The commission's recommendation shall be certified to council.

- F. Public hearing by council. After receiving from the commission the planning commission's recommendations on the proposed amendment, and before acting on such amendment, the council shall hold a public hearing thereon in accordance with the provisions of R.C. 713.12. Council shall set the date of such hearing and shall give at least thirty (30) days' notice of the time and place thereof in a newspaper of general circulation in the municipal corporation by publication twice. If the ordinance, measure, or regulation intends to rezone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the clerk of the legislative authority, by first class mail, at least twenty (20) days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels, to the addresses of such owners appearing on the county auditor's current list, or the treasurer's mailing list, and to such other list or lists that may be specified by the legislative authority. The failure of delivery of such notice shall not invalidate any such ordinance, measure, or regulations. Notice shall be posted as provided by the administrative code. During such thirty (30) days, the text or copy of the text of such ordinance, measure, or regulations, together with the maps, plans, or copies thereof forming part of or referred to in such ordinance, measure, or regulation, and the maps, plans, and reports submitted by the planning commission, board, or officer shall be on file for public examination in the office of the clerk of the legislative authority or in such other office as is designated by the legislative authority.
- G. Action by Council. After receiving the planning commission's recommendations, and after holding the above public hearing, council shall consider the proposed amendment and recommendations of the planning commission. No ordinance, measure, or regulation that violates, differs from, or departs from the plan or reports submitted by the planning commission shall take effect unless passed by a vote of four (4) members of council. No ordinance, measure, or regulation which is in accordance with the recommendation, plan, or reports submitted by the planning commission shall be deemed to pass or take effect without the concurrence of at least a majority of the members elected to council.

## **150.112     FEES**

- A. In order partially to defray the costs of processing a property owner's or lessee's application for change in a zoning district, the following schedule itemizes the fee that must accompany the application and which shall be deposited in the general fund.
  - 1. Application for change in zoning to an R-1, R-2, R-3, R-4, R-5, B-1, B-2, B-3, A-1, POD, I-1, M-1, M-2, or M-3 District, \$300;
  - 2. Application for change in zoning to an S-1, S-2, S-3, S-4, or S-5 District, \$300 plus \$5 per acre over three (3) acres.
- B. Under no condition shall any of the aforesaid sums or any part thereof be returned to the applicant for failure of the application.
- C. If the application for change in district, or for other change in the zoning code, originates in the planning commission on its own action without application from a property owner, no fee shall be charged.

## **ZONING UPON ANNEXATION**

### **150.120     INTERIM ZONING**

After approval of an annexation by the county board of commissioners, the Zoning Inspector will examine the existing zoning on the parcel and will present a written report to the planning commission as to the zone classification in the city which most nearly corresponds to the present zoning of the parcel. If the parcel is not zoned, the Zoning Inspector will certify to the commission that zone classification in this chapter that most nearly corresponds to the present use of the parcel. The planning commission will consider the Zoning Inspector's report and, without public hearing and as soon as practicable after the acceptance of the annexation by the Council of the city, will recommend to Council interim zoning for the parcel which, in the opinion of the commission, is most consistent with the existing zoning or existing use of the land, or a classification that implements

the land use envisioned by the City's Future Land Use Plan. The Planning Commission's recommendation shall be considered by council following the procedure set forth in 150.110 through 150.112 concerning chapter amendments, including the public hearing, and council shall adopt interim zoning for the parcel.

### **150.121 PERMANENT ZONING**

The interim zoning here established shall remain in effect until amended. The procedure for change in interim zoning to permanent zoning shall be the same as for any district change, but the planning commission in considering permanent zoning shall consider all matters, including the wishes of the property owners of the parcel, the orderly development of the area, and the goals established for development in the master plan.

### **150.122 SITE REVIEW**

- A. All requests for site review shall be made in writing. A site review shall determine the legal use of an existing property, buildings (s), and/or use, and/or may be a review of as-built drawings and a site visit to determine conformity with the current regulations. If no site drawings exist in the City's files, it is the responsibility of the applicant to provide the as-built drawings for review at their cost. A site review shall not be interpreted to include a request to determine only the Zoning Classification of a property or a preliminary plan review of a vacant parcel. All site review findings shall be made, in writing, by the Planning Department.
- B. Fees.
  - 1. In order to partially defray the costs of processing a request for site review by any property owner, potential buyer, bank, mortgage company, title company, lender, or other interested party, a non-refundable fee of \$300.00 per request shall be paid to the City's general fund prior to any analysis of a site being provided. A site review shall include any letter FAX, e-mail, or other written communication.
  - 2. Once a site review is completed, it is a public document, and the \$300.00 fee shall not be charged for a copy of the site review unless additional site analysis is required. If additional analysis is required beyond a copy of the original site review, the \$300.00 fee shall be applicable.
  - 3. The cost of providing any public documents shall be as determined by the policies of the City of Bowling Green and be in addition to the fee for site review, when applicable.

# BOARD OF ZONING APPEALS

## 150.130 ORGANIZATION AND PROCEDURES

- A. Appointments. Members of the board of zoning appeals shall be constituted and selected as provided in Charter 7.03 and 30.113.
- B. Organization and procedure. The board shall organize annually to elect a chairman, a vice- chairman, and a secretary. It shall further adopt rules for its own government not inconsistent with the zoning code, the Charter of the city, general law, or any other ordinance of the municipality to carry into effect the provisions of this chapter.
  - 1. Meetings of the board shall be held at the call of the chairman and at such other times, as the board shall determine. The chairman, or in his absence, the vice-chairman, may administer oaths and the board may compel the attendance of witnesses. All board meetings shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if a member is absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the council clerk within seventy-two (72) hours after each meeting, examination, or other official action. A court stenographer shall take the verbatim testimony of all persons testifying at a zoning hearing, which shall be available to any party upon paying the cost thereof to the court stenographer. In event of appeal, the transcript shall be made for the zoning board of appeals by the court stenographer and shall be taxed as part of the costs in the appeal.
  - 2. Quorum. Four (4) members of the board shall constitute a quorum. The board shall act by resolution, and the concurring vote of a majority of the members of the board present shall be necessary to reverse any order of determination of the zoning inspector or to grant any variance from the requirements of this chapter.
  - 3. In the event that any member of the board shall be an owner, part owner, partner, or shareholder of an owner, part owner, tenant, or optionee of any premises for which an application is pending before the board of zoning appeals for variance or by way of appeal, or shall be financially interested in the sale or development of any such property, they shall not serve on the board in making any determination with respect to such property.
  - 4. Department assistance. The board may call upon the various departments of the municipality for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the board as may reasonably be required.

## 150.131 HEARINGS

- A. The board shall fix a reasonable time for the hearing of an appeal or for the hearing on any application on which the board has original jurisdiction.
- B. Notice of the hearing on an appeal, or on any application for variance or exception shall be given by publishing once in a newspaper of general circulation in the city at least five (5) days prior to the hearing, and by posting in accordance with the administrative code. Notice in writing shall be sent by first class mail mailed at least ten (10) days before the hearing to the owner of the property for which the permit, variance, or exception was requested, to all adjoining property owners, and to the applicant or appellant. A notice that an appeal or application for a variance or exception is pending shall be displayed on the property before the hearing.
- C. The hearing of the board shall be public. The board may go into executive session for discussion but must take all official action in public.
- D. On the day for hearing an application or appeal, the board may adjourn the hearing in order to permit the obtaining of additional information or to cause such further notice as it deems proper to be served upon such other property owners or parties in interest it decides may be substantially interested in the application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of the resumption of the hearing unless the board so decides.

## **150.132    POWERS OF THE BOARD.**

The Board shall have the power to hear and decide applications in accordance with the provisions of this chapter as follows:

### **A. Exceptions.**

1. Nonconforming uses. The extension of a nonconforming building upon a lot occupied by such building or on an adjoining lot, provided that such lot was under the same ownership as the lot in question at the time the use of such building became nonconforming, and that such extension is necessary and incidental to such existing nonconforming use; and provided that the extent of such extension shall not exceed in all twenty percent (20%) of the existing ground floor area of the existing building devoted to a nonconforming use and that such extension shall be within a distance of not more than twenty-five feet (25') of the existing building or premises, and provided further only one (1) such extension will be permitted.
2. Nonconforming trailer communities can be expanded by increasing the number of trailers by not more than twenty percent (20%) over the number at the date of the passage of this chapter.
3. Notwithstanding any other provision of this chapter the board of zoning appeals shall have the power to grant a variance for setback requirements to any owner of property.

### **B. Extension of use on border of district.**

1. The extension of a use or building into a more restricted district immediately adjacent thereto but not more than twenty-five feet (25') beyond the dividing line of the two (2) districts, under such conditions as will safeguard development in the more restricted district.
2. The extension of a use or building into a more restricted district when the district boundary divides a lot or lots in single ownership at the time of the adoption of this chapter. Such extension shall not be for more than twenty-five feet (25') or to the edge of the divided lot, whichever is greater.

### **C. Temporary structures and uses.** The temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this chapter for the district in which it is located; provided that such use be of a temporary nature and does not involve the erection of a substantial structure. A zoning certificate for such use shall be granted in the form of a temporary and revocable permit for not more than a twelve (12) month period, subject to such conditions as will safeguard the public health, safety, convenience, and general welfare.

### **D. Variances.** The board shall have original jurisdiction to grant variances from the provisions or requirements of this chapter as may be required to afford justice and avoid reasonable hardship.

1. In exercising its authority under this section, the board must first find:
  - a. The existence of practical difficulties or unnecessary hardship or, where due to peculiar circumstances, strict enforcement will cause needless expense, difficulty, or hardship without serving any useful public purpose; or
  - b. That the grant of a variance will be in the best interest of the neighborhood and community.
2. If the board finds the existence of either a or b above, the board must also find the granting of the variance will be in harmony with the general purpose and intent of the chapter.
3. Examples of situations in which the board might grant a variance are determination that by reason of exceptional narrowness, shallowness, unusual shape of a specific piece of property on the effective date of this chapter or by reason of topographic conditions or other extraordinary situations or conditions of such piece of property, or the use or development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties or cause undue hardship unnecessary to carry out the spirit and purpose of this chapter.
4. The board may find other situations meeting the standards set forth above.
5. The zoning inspector shall have no authority to grant variances. If application for a permit is made which does not meet the requirements of this chapter the zoning inspector shall inform the applicant and reject the application. The applicant may either appeal to the board of zoning appeals from the zoning inspector's determination that the application does not comply with this chapter, or the applicant may apply directly to the board of zoning appeals for a variance, or may do both. In exercising its variance power, the board may impose such reasonable conditions upon the applicant, as it deems necessary to accomplish the purposes of this chapter.

6. The board may also grant a variance in an R-2 District for the construction of a two-family dwelling if it finds that there is a minimum lot area of 9,000 square feet and all other bulk and density regulations in an R-2 Zone can be applied and if it finds the evidence of either the practical difficulties or unnecessary hardship or peculiar circumstances set forth in 1a above, or that the granting of the variance will be in the best interests of the neighborhood and community as set forth in 1b above.

**E. Appeals to the board.**

1. An appeal to the board may be taken by any party in interest or by the city attorney in matters of interpretation or administration of this chapter. The appeal shall be taken from the decision of the zoning inspector by filing a notice of appeal with the zoning inspector and with the board within twenty (20) days from the zoning inspector's decision. The notice of appeal shall specify the grounds thereof. The zoning inspector shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken. If the appeal is from the action of the zoning inspector in granting a zoning permit, the time for appeal shall not begin to run until a sign is posted on the premises showing that a permit has been granted.
2. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning inspector shall certify to the board of zoning appeals, after the notice of appeal shall have been filed with it, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property; in which case proceedings shall not be stayed otherwise than by a restraining order from a court of general jurisdiction.
3. The board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises; and to that end, shall have all powers of the zoning inspector from when the appeal is taken.
4. The board shall hear all appeals arising from the jurisdiction granted in 152.52.
5. The board may grant a variance on Section 150.55 (F) only in any zoning district. However, since the dust associated from unpaved surfaces is a public health nuisance incompatible with any R, S, I, or B District, a variance can only be granted in an M-District if, in addition to division (1) and (2) above, that all the following conditions are met:
  - a. That the property is no closer than one thousand (1000) feet to any R or S-1 or S-5 District;
  - b. The facts in evidence support that the parking, loading, or storage area will not be subject to average traffic greater than one (1) vehicle per hour;
  - c. That the paving of the parking, loading, or storage area, because of the nature of the items parked, stored, or loaded, that an asphalt surface would not withstand the weight of the items or vehicles or that the minimum depth of the concrete would have to exceed six (6") because of the weight of the vehicles being loaded or used to move the stored items; and
  - d. That an agreement for annual dust control, as approved by the City engineer and annual inspection by a project inspector, has been recorded with the deed to the property.

**F. Fees.**

1. An appeal from a decision of the zoning inspector shall be accompanied by a fee of \$100.00.
2. The fees payable under this section shall be paid, by the appellant, to the fiscal officer of the city for deposit to the credit of the general fund. Copies of proceedings and transcripts shall be made available at the cost of preparing such reproductions.

**H. Appeals from the board of zoning appeals.** Appeals from the Board of Zoning Appeals shall be to the county court of common pleas as provided by R.C. 2506

Cross-reference: Board of Zoning Appeals, Charter 7.03 Board of Zoning Appeals, 30.113.

## **VIOLATIONS**

### **150.140 VIOLATIONS**

- A. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or land in violation of any regulation in or any provisions of this chapter or any amendment or supplement thereto adopted by the council.
- B. In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, or any land is or is proposed to be used in violation of this chapter or any amendment or supplement thereto, the zoning inspector, the legal representative of the municipality, or any party in interest who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, on any other appropriate action, actions, proceedings, or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

### **150.999 PENALTY**

- A. Any person, firm, or corporation violating any regulation in or any provision of this chapter or any amendment or supplement thereto, shall be fined not more than five hundred dollars (\$500) for each offense. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues, may be deemed a separate offense.
- B. If the offender has previously been convicted of any violation of this chapter, then any such subsequent violation shall be a misdemeanor of the second degree.

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