



# Planning and Zoning Code

## PART ELEVEN

**DRAFT** May 2, 2023

## CHAPTER 1157. SIGNAGE

### 1157.1 Purpose

The purpose of this chapter is to provide minimum standards to safeguard life, health, property, and public welfare by regulating and controlling the placement, size, quality of materials, construction, illumination, location, and maintenance of all signs and sign structures.

More specifically, the purposes of these regulations are to:

- (A) Preserve the noncommercial character of residential neighborhoods, promote, and maintain attractive, high value commercial and industrial districts;
- (B) Provide necessary, yet reasonable, and appropriate, signage for all residential, institutional, commercial, and industrial uses in the community;
- (C) Require signs are constructed and maintained in a structurally sound and attractive condition;
- (D) Avoid the appearance of clutter and prevent nuisances;
- (E) Ensure that signs are located and designed to maintain a safe and orderly pedestrian and vehicular environment.

### 1157.2 Applicability

- (A) The provisions of this chapter shall apply to and govern all signs in all districts. No signs shall be erected or maintained unless it is in compliance with the regulations governing location and bulk of structures for the district in which it is located.
- (B) Any sign already established on the effective date of this Zoning Code, which does not conform to the provisions of the Code shall be rendered non-conforming and shall be subject to the provisions of Section XXXX (non-conforming).

## CHAPTER 1157. Signage

### 1157.3 General Regulations

#### 1157.3 General Regulations

- (A) Permitted, permitted with standards, and conditional uses may contain specific sign standards and requirements unique to the particular use. Those specific sign regulations shall control in the event of a conflicting sign standard set forth in this chapter.
- (B) All lettering for signs is to be manufactured or professionally painted or produced, excluding chalk boards. No chalk boards or other surfaces for changeable hand-written text, lettering or designs are permitted, except if located in the SE district.
- (C) No sign shall be placed so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

#### 1157.4 Exempted Signs

The following types of signs are exempted from the regulations of this Chapter, including permitting requirements. All exempted signs shall still meet all applicable building or structural requirements.

- (A) Gateway signs shall include:
  - 1) Those that are approved by the City Manager or their designee to identify the city boundary.
  - 2) Those that contain the names of various nonprofit, civic organizations, provided the overall size of the sign is not larger than 100 square feet.
- (B) Company logo flags are permitted subject to the following limitations:
  - 1) Permits are not required for company logo flags but are required for the installation of flagpoles.
  - 2) A company logo flag cannot exceed 40 square feet.
  - 3) Only one company logo flag shall be displayed per parcel.
- (C) City of Fairfield, Butler County, State of Ohio, or federal signs (permanent or temporary), flags or banners erected and maintained by the city pursuant to and in discharge of any governmental function, or required by law, ordinance, or governmental regulation.
- (D) Flags or pennants of any nation, state, or city.
- (E) Temporary signs of any educational, charitable, philanthropic, civic, professional, religious organizations or like campaign, drive, movement, or event.

- (F)** Commemorative plaques approved by the City Council.
- (G)** Any name plate sign in residential areas or any board, sign, or surface used to display any official notices issued or posted by any court or public officer in the performance of a public duty.
- (H)** Any signs for control of traffic and other regulatory purposes, governmental identification, and directional signs, including signs for identification and location of entryways and public facilities and events and geographic areas of the city, street signs, warning signs, railroad crossing signs and signs of public service companies for the purpose of public safety.
- (I)** Signs that are not visible from the right-of-way, private drive, or access drive, including, but not limited to, signs located inside a recreation center, stadium, open air theater, shopping center, arena, community center, parking lot, or other similar use.
- (J)** No trespassing and no solicitation signs that are not more than one square foot in area.
- (K)** Signs on a truck, bus, trailer, or other types of motor vehicles being operated in the normal course of business, which is not primarily the display of such signs.

### **1157.5 Prohibited Signs**

The following types of signs are prohibited within the city.

- (A)** Any sign that employs parts or elements which revolve, rotate, whirl, scroll, spin, flash, have moving illumination, or otherwise make use of motion, lights, or similar electronic components, to attract attention except signs performing a service function such as indication of time, temperature, or similar services.
- (B)** Any sign that contains or consists of posters, pennants, ribbons, streamers, spinners, or other similar moving devices.
- (C)** Any sign that emits audible sounds, odor, or visible matter.
- (D)** Rope lights, except where installed integrally and contemporaneously with architectural details intended only for partial illumination of a building or portions thereof, via only one fixed unchanging or non-flashing color.
- (E)** Signs placed on public property and left on public property after the sign owner has left the vicinity, including but not limited to, parks and rights-of-way, shall be considered abandoned signs. These abandoned signs may be disposed of or destroyed without notice. Such disposal or destruction is not subject to appeal.
- (F)** Bench signs.

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### 1157.5 Prohibited Signs

- (G)** Gas inflatable signs or devices.
- (H)** Snipe signs.
- (I)** Any sign that obstructs sight lines along any public way, traffic control lights, street name signs at intersections, or street sight lines or signals at railroad grade crossings.
- (J)** Any sign that is visible from the sight lines along a street and contains arrows or words such as “stop”, “go”, “slow”, or has a shape or color that may be confused with any authorized traffic sign, signal, or device.
- (K)** Roof signs.
- (L)** Off-premises signs or billboards.
- (M)** Trailer signs.
- (N)** Abandoned signs.
- (O)** Obscene signs.
- (P)** Pole signs, except where expressly permitted.

## 1157.6 General Sign Regulations

The following standards establish the general requirements for each of the permanent sign types that are allowed in all zoning districts. Zoning district specific regulations are provided in Sections 1155.6 and 1155.7.

### (A) Building Wall Signs

- 1) The maximum thickness of building wall signs shall be 15 inches.
- 2) Building wall signs shall not extend above the building wall vertically, including the coping and eaves of the building; or beyond the building wall horizontally to which it is attached.
- 3) No building wall sign shall project over or obstruct the required windows or doors of any building or be attached to or obstruct a fire escape or interfere with any other safety provisions that may be further regulated by the adopted building code of the city.



*Figure 1: Example Illustration of a commercial building wall sign*

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### 1157.6 General Sign Regulations

#### (B) Ground Signs

- 1) Ground signs shall be set back either:
  - a) A minimum of 10 feet from the right-of-way and a minimum of five feet from all curb-cuts and other access points or street intersections; or
  - b) A minimum of five feet from the right-of-way and 25 feet from all curb-cuts and other access points or street intersections.
- 2) Setback distance shall be adequate so as to allow a clear view of oncoming pedestrian or vehicular traffic for vehicles entering or exiting the subject property or adjacent property.
- 3) Ground signs shall be set back a minimum of 10 feet from all side property lines.
- 4) Ground signs in all districts shall not exceed eight feet in height, except in the C-4 district. Ground signs in the C-4 district shall not exceed four feet in height.
- 5) Ground signs shall be located in a designated area that will protect the sign from vehicle encroachment.
- 6) For new developments or redevelopments, landscaping shall be provided at the base of the ground sign subject to Section XXXX (sign landscaping). Existing developments that propose a new ground sign are not required to provide landscaping around the base of the sign.



*Figure 2: Example Illustration of a Ground Sign*

- (C) **Pole Signs.** Pole signs are permitted in specified non-residential zoning districts subject to the following:
- 1) Pole signs shall only be permitted on existing lots where the only available location to erect the sign is in the existing parking lot.
  - 2) Pole signs shall be set back either:
    - a) A minimum of 10 feet from the right-of-way and a minimum of five feet from all curb-cuts and other access points or street intersections; or
    - b) A minimum of five feet from the right-of-way and 25 feet from all curb-cuts and other access points or street intersections.
  - 3) The setback distance shall be adequate so as to allow a clear view of oncoming pedestrian or vehicular traffic for vehicles entering or existing the subject property or adjacent property.
  - 4) Pole signs shall be set back a minimum of 10 feet from all side property lines.
  - 5) Pole signs shall be wrapped in brick or stone. Other wrap material may be permitted with the approval of the Planning Commission.
  - 6) Pole signs shall not exceed 12 feet in height and the wrapped structure shall not exceed eight feet in height.
  - 7) Pole signs in the SE district shall conform to the regulations located in Section XXXX (SE).



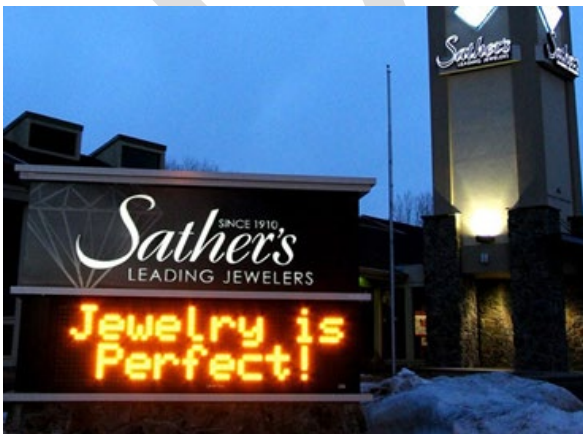
Figure 3: Example Illustration of a Pole Sign



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### 1157.6 General Sign Regulations

- (D) Electronic Message Centers.** Electronic message centers are permitted on ground and free-standing signs in specified non-residential zoning districts subject to the following:
- 1) Electronic Message Centers shall be located a minimum of 200 feet from any A or R District.
  - 2) Electronic message centers shall be installed on a ground or pole sign. The electronic message center shall be subordinate to the principal sign face in location and size.
  - 3) One electronic message center is permitted per property and/or shopping center.
  - 4) Each message or copy must be displayed for at least seven seconds.
  - 5) When a message or copy changes by remote control or electronic process, it shall be accomplished in three seconds or less using an instantaneous transition, a fade, or a dissolve feature.
  - 6) Electronic message centers shall be equipped with automatic dimmer controls to produce a distinct illumination change from a higher illumination level to a lower illumination level between one-half hour before sunset and one-half hour after sunrise.
  - 7) Electronic message centers shall not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from a sign face at maximum brightness. The applicant shall provide a certificate of maximum illumination before a sign permit application is approved.
  - 8) The use of streaming video or full-motion video on any electronic message center sign is prohibited.
  - 9) The lighting within an electronic message center shall not be permitted to strobe, flash on or off, change the intensity of the illumination, or illustrate movement.



*Figure 4: Example Illustration of an Electronic Message Center*

**(E) Menu Board Signs**

- 1) Menu board signs are only permitted on properties with an approved drive-through use.
- 2) A maximum of two menu board signs are permitted per drive-through lane.
- 3) Menu board signs that are not visible from the street shall not be counted in the total sign area.
- 4) Maximum height for a menu board sign is eight feet.
- 5) Maximum area for a menu board sign is 64 square feet per sign.



*Figure 5: Example Illustration of Menu Board Signs*

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### 1157.6 General Sign Regulations

#### (F) Gasoline Price Panels

- 1) Gasoline price panels, either manual or electronic/digital, shall be allowed on a ground or pole sign if integral within the design of the ground or pole sign, if equal in size or smaller to the size of the identification of the business on the ground or pole sign, and if within the area requirements.



Figure 6: Example Illustration of a Gasoline Price Panels

#### (G) Awning Signs

- 1) Awning signs shall be attached flat to the surface and made a part of the awning.
- 2) Awning signs shall not be illuminated, except if the awning has a UL fire-resistant rating approval. In that case, the awning sign may be internally illuminated or backlit provided that the entire translucent or backlit awning shall be included as a sign in calculating the permitted sign area.



Figure 7: Example Illustration of an Awning Sign

**(H) Canopy Signs**

- 1) Canopy signs may be located on the top or the face of a canopy as long as the canopy sign does not extend greater than four feet above the canopy.
- 2) The maximum thickness of canopy signs shall be 15 inches.
- 3) Canopy signs shall not extend below the canopy except in shopping centers in which case shall meet the following:
  - a) Canopy signs shall not extend more than five feet in length and one foot in height.
  - b) Such canopy signs may be oriented either perpendicular to the face of the building or parallel to the face of the building under the canopy.
  - c) Canopy signs shall have an eight-foot clearance between the bottom of the sign and the sidewalk or pedestrian way.
- 4) Canopy signs may be internally illuminated or backlit provided that the entire translucent area of an internally illuminated or backlit canopy shall be included as a sign in calculating the permitted sign area.



*Figure 8: Example Illustration of a Canopy Sign*

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### 1157.6 General Sign Regulations

#### (I) Directional Signs

- 1) Directional signs shall be a maximum of four feet in height.
- 2) The maximum area of directional signs shall be three square feet for single uses on a parcel. The maximum area of directional signs shall be six square feet for developments with multiple uses or multiple buildings and for industrial uses.
- 3) Directional signs shall be set back a minimum of five feet from the right-of-way and all property lines.
- 4) Directional signs shall not contain commercial messaging.
- 5) Directional signs may be single-faced or double-faced.
- 6) The maximum thickness of directional signs shall be 15 inches.



Figure 9: Graphic Illustration of a Directional Sign

(J) **Window Signs**

- 1) Window signs are not permitted in A or R districts, except educational facilities in all zoning districts may have window signs that are intended for safety purposes of the students within the facility.



*Figure 10: Example Illustration of a Window Sign for an Educational Facility*

- 2) Window signs are not included in the calculation of the total sign area permitted.
- 3) Window signs shall not cover more than 50 percent of the cumulative square footage of the windows on the front sides of the building.
- 4) Professionally produced vinyl adhesive window decals that are installed for the purpose of advertising, security, privacy, or to provide shade and that cover at least 90 percent of the square footage of a window are not subject to this provision.
- 5) Electronic message centers and digital signs that are positioned in a window facing outward shall not exceed 10 percent of the front window area.

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#### (K) Projecting Signs

- 1) A maximum of one projecting sign is permitted per non-residential use.
- 2) Projecting signs must be located a minimum of 10 feet and a maximum of 15 feet above a pedestrian way.
- 3) Projecting signs must be located a minimum of 16 feet and a maximum of 20 feet above a vehicular way.



*Figure 11: Example Illustration of a Projecting Sign*

## 1157.7 Agricultural and Residential District Sign Regulations

(A) **Agricultural and Single-Family Districts.** The following permanent signs shall be permitted in the A-1, R-0, and R-1 districts:

- 1) Non-residential uses are permitted to have a maximum of one ground sign or building wall sign per street frontage, not to exceed 24 square feet in area and six feet in height.
- 2) Subdivisions are permitted to have either of the following, but not both:
  - a) A maximum of two building wall signs per development entrance (one sign is permitted on each side of the entrance drive). Maximum area of each building wall sign shall not exceed 32 square feet and maximum height is six feet. The sign shall be mounted to a decorative wall or fence that generally runs parallel with the street and shall only be externally illuminated. The wall or fence shall be set back a minimum of five feet from the right-of-way and shall not block sight visibility.

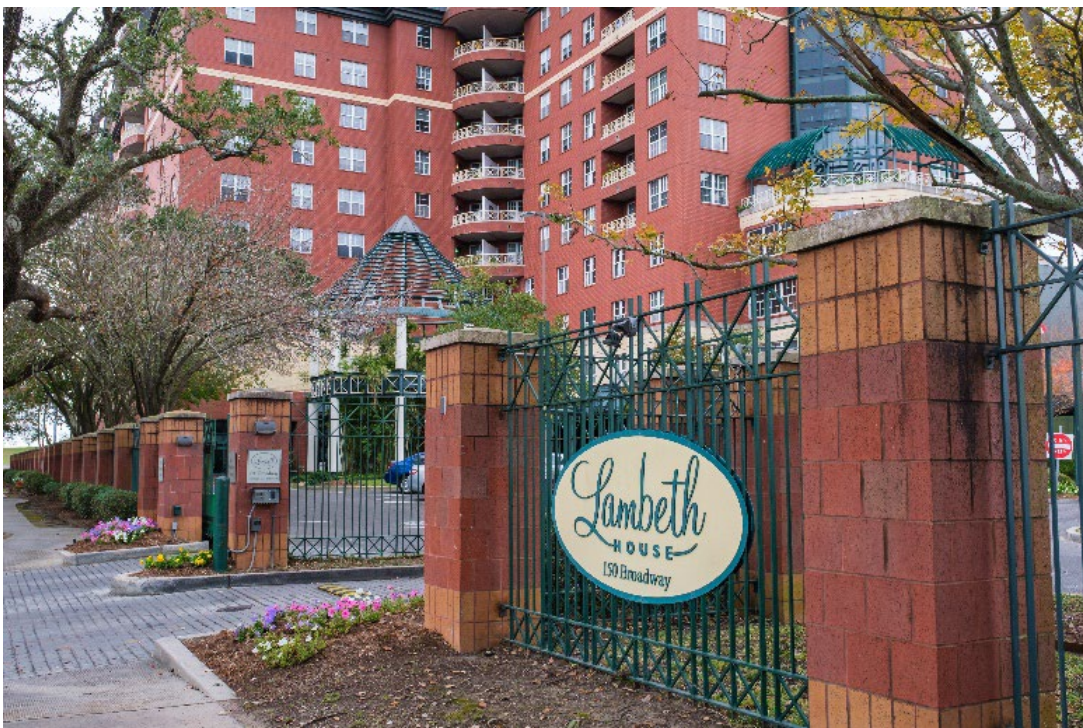


Figure 12: Example Illustration of a ground sign for a subdivision



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### 1157.7 Agricultural and Residential District Sign Regulations

- b) A maximum of two ground signs per development entrance (one sign is permitted on each side of the entrance drive). The maximum area of each sign shall not exceed 32 square feet and a maximum height of six feet. Such signs shall only be externally illuminated. The sign shall be set back five feet from the right-of-way and shall not block sight visibility.



Figure 13: Example Illustration of a ground sign for a subdivision

- (B) **Multi-Family Residential Districts.** The following permanent signs shall be permitted in the R-2, R-3, and R-4 districts:

- 1) Non-residential uses are permitted to have a maximum of one ground sign or building wall sign per street frontage, not to exceed 24 square feet in area and six feet in height.
- 2) Multi-family developments are permitted either of the following, but not both:
  - a) A maximum of one building wall sign per street frontage not to exceed a maximum area of one square foot per dwelling unit, up to a maximum of 50 square feet and a maximum height of six feet. Building wall signs may be located on a building or a decorative wall or fence. Such building wall sign shall only be externally illuminated. The building wall sign shall be set back a minimum of five feet from the right-of-way and shall not block sight visibility. Building wall signs that are for the purpose of identifying addresses are exempt from these regulations but shall not exceed 12 square feet in area.
  - b) A maximum of one ground sign per street frontage and not to exceed a maximum area of one square foot per dwelling unit, up to a maximum of 50 square feet and maximum height of six feet. Such ground sign shall only be externally illuminated. The ground sign shall be set back a minimum of five feet from the right-of-way and shall not block sight visibility.
- 3) Single-family subdivisions located in the R-2, R-3, or R-4 district are permitted signage as stipulated in Section 1155.6(A)(2).

**1157.8 Non-Residential District Sign Regulations****(A) B-1 Institutions and Office District and C-1 Neighborhood Business District**

- 1) The total permitted aggregate sign area for uses in the B-1 and C-1 districts shall be computed on the basis of one square foot of sign area for each lineal foot of building frontage on its principal street, or 0.5 square foot of sign area for each lineal foot of lot frontage on its principal street, whichever is greater, with a maximum of 200 square feet and a minimum of 25 square feet.
- 2) The total sign area shall apply to all building wall, ground, menu board, awning, canopy, electronic message center, and projecting signs, unless specifically excluded.
- 3) One ground sign is permitted for properties having 100 lineal feet or greater of continuous lot frontage on the principal street. For corner lots, two ground signs are permitted, one on each frontage, for properties having 100 lineal feet or greater of continuous lot frontage on each street.
- 4) No ground sign shall exceed 50 square feet in area.
- 5) If a property meets the definition of a shopping center, the following standards apply:
  - a) Ground signs can be increased to 75 square feet provided the ground sign contains the names of the tenants and/or center name.
  - b) Building wall signage shall be computed on the basis of building frontage for each tenant space per Section XXXX (shopping center signs).
- 6) Electronic message centers not to exceed 25 square feet in area and may be installed on a ground sign on properties having 100 lineal feet or greater of continuous lot frontage on a principal street.

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### 1157.8 Non-Residential District Sign Regulations

#### **(B) C-2 Central Business District**

- 1) The total permitted aggregate sign area for uses in the C-2 district shall be computed on the basis of 1.5 square feet of sign area for each lineal foot of building frontage on its principal street, or 0.75 square foot of sign area for each lineal foot of lot frontage on its principal street, whichever is greater, with a maximum of 300 square feet and a minimum of 40 square feet.
- 2) The total sign area shall apply to all building wall, ground, menu board, gas price panel, awning, canopy, electronic message center, and projecting signs, unless specifically excluded.
- 3) One ground sign is permitted for properties having 100 lineal feet or greater of continuous lot frontage on the principal street. For corner lots, two ground signs are permitted, one on each frontage, for properties having 100 lineal feet or greater of continuous lot frontage on each street.
- 4) No ground sign shall exceed 50 square feet in area.
- 5) If a property meets the definition of a shopping center, the following standards apply:
  - a) Ground signs can be increased to 100 square feet provided the ground sign contains the names of the tenants and/or center name.
  - b) Building wall signage shall be computed on the basis of building frontage for each tenant space per Section XXXX (shopping center signs).
- 6) Electronic message centers not to exceed 25 square feet in area and may be installed on a ground sign on properties having 100 lineal feet or greater of continuous lot frontage on a principal street.

#### **(C) C-4 Commercial Transition District**

- 1) The total permitted aggregate sign area for uses in the C-4 district shall be computed on the basis of one square foot of sign area for each lineal foot of building frontage on its principal street, or 0.5 square foot of sign area for each lineal foot of lot frontage on its principal street, whichever is greater, with a maximum of 200 square feet and a minimum of 25 square feet.
- 2) The total sign area shall apply to all building, wall, ground, awning, canopy, and projecting signs, unless specifically excluded.
- 3) One ground sign is permitted for properties having 75 lineal feet or greater of continuous lot frontage on the principal street.
- 4) No ground sign shall exceed 20 square feet in area and four feet in height.
- 5) Electronic message centers are not permitted.

**(D) D-1 Downtown District**

- 1) The total permitted aggregate sign area for uses in the D-1 district shall be computed on the basis of 1.5 square feet of sign area for each lineal foot of building frontage on its principal street, or 0.75 square foot of sign area for each lineal foot of lot frontage on its principal street, whichever is greater, with a maximum of 300 square feet and a minimum of 40 square feet.
- 2) The total sign area shall apply to all building, wall, ground, menu board, gas price panel, awning, canopy, electronic message center, and projecting signs, unless specifically excluded.
- 3) One ground sign is permitted for properties having 75 lineal feet or greater of continuous lot frontage on the principal street. For corner lots, two ground signs are permitted, one on each frontage, for properties having 75 lineal feet or greater of continuous lot frontage on each street.
- 4) No ground sign shall exceed 50 square feet in area.
- 5) If a property meets the definition of a shopping center, the following standards apply:
  - a) Ground signs can be increased to 100 square feet provided the ground sign contains the names of the tenants and/or center name.
  - b) Building wall signage shall be computed on the basis of building frontage for each tenant space per Section XXXX (shopping center signs).
- 6) Electronic message centers not to exceed 25 square feet in area and may be installed on a ground sign on properties having 150 lineal feet or greater of continuous lot frontage on the principal street.

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**(E) General Business and Industrial Districts.** The following regulations apply to the C-3, C-3A, M-1, and M-2 Zoning Districts.

- 1) The total permitted aggregate sign area for uses in the C-3, C-3A, M-1 and M-2 districts shall be computed on the basis of two square feet of sign area for each lineal foot of building frontage on its principal street, or one square foot of sign area for each lineal foot of lot frontage on its principal street, whichever is greater, with a maximum of 450 square feet and a minimum of 80 square feet.
- 2) The total sign area shall apply to all building wall, ground, freestanding, menu board, gas price panel, awning, canopy, electronic message center, and projecting signs, unless specifically excluded.
- 3) One ground sign or freestanding sign is permitted for properties having 100 lineal feet or greater of continuous lot frontage on the principal street. For corner lots, two ground or freestanding signs are permitted, one on each frontage, for properties have 100 lineal feet or greater of continuous lot frontage on each street.
- 4) Ground signs are limited to a maximum height of eight feet and freestanding signs are limited to a maximum height of 12 feet.
- 5) If a property meets the definition of a shopping center, the following standards apply:
  - a) Ground signs can be increased to 150 square feet provided the ground sign contains the names of the tenants and/or center name.
  - b) Building wall signage shall be computed on the basis of building frontage for each tenant space per Section XXXX (shopping center signs).
- 6) Electronic message centers not to exceed 50 square feet in area may be installed on a ground or free-standing sign, on properties having 200 lineal feet or greater of continuous lot frontage on the principal street.
- 7) **Multi-story Buildings**
  - a) A building having four or more stories shall be allowed an additional one square foot sign area per lineal foot of building frontage on its principal street.
  - b) All signs shall be located on the ground floor, except for building or tenant identification signs which may be located on the uppermost story.

**(F) SE Suburban Entertainment District****1) Total Permitted Sign Area**

- a) The total permitted aggregate sign area for uses in the SE district shall be determined on the basis of the entire contiguous SE district zoned area, and shall be computed on the basis of four square feet of sign area for each lineal foot of building frontage on its principal street or two square feet of sign area for each lineal foot of lot frontage on its principal street whichever is greater, with a maximum of 450 square feet and a minimum of 80 square feet.
- b) The total sign area shall apply to all building wall, ground, free-standing, menu board, awning, canopy, electronic message center, and projecting signs, unless specifically excluded.
- c) When a business has a second or third building frontage and entrance facing an arcade or mall, an additional 0.5 square foot of sign area per lineal foot of building frontage facing the arcade or mall, and to be used only on such frontage is permitted subject to all other conditions contained in this subsection (1) if no other sign resulting from the other provisions of this chapter appears on such frontage.
- d) In a shopping center, where one or more of the businesses have no frontage on a public street, such businesses shall be permitted signs as allowed in Section XXXX (see shopping center section).
- e) A building having for or more stories shall be allowed an additional one square foot of sign area per lineal foot of building frontage on its principal street.

**2) Building Wall Signs**

- a) No individual sign or group of signs on one building wall shall exceed 300 square feet, except as provided below.
- b) **Bonus Area.** Attached signs may be permitted to exceed 300 square feet in accordance with the equation below where the building has in excess of 40,000 square feet of floor area, where such building is set back more than 150 feet from the street, and where the bottom of the attached sign is at least 16 feet above the average finished grade.
  - i)  $ASA = 300 + 2/3 (SB-150)$ , where ASA is the attached sign area in square feet and SB is the building setback from the principal street in lineal feet. The attached sign area shall not exceed 450 square feet.
  - ii) Under no condition shall the signs on any one elevation of the building exceed 10 percent of the total building surface of that elevation.

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- c) **Multi-Story Buildings.** All signs shall be located on the ground floor or in any area above the first floor specifically designed to display signs, provided the bottom of any sign shall be located within 15 feet of the ground level, except for building or tenant identification signs which may be located on the uppermost story.
- d) Where a single parcel or a group of abutting parcels are enclosed by a solid wall or fence along a public street, one unlit sign may be permitted thereon. Sign area shall be as determined in subsection one hereof, but not to exceed 50 square feet per sign.

#### 3) Pole Signs

- a) The total area of pole signs shall not exceed 50 percent of the total sign area allowed to the business.
- b) For those businesses not located in a shopping center, one pole sign shall be permitted for any one parcel or group of abutting parcels having 200 lineal feet of continuous lot frontage. One additional pole sign shall be permitted for properties with greater than 500 lineal feet of continuous lot frontage. The second pole sign shall be no closer than 200 feet from the first sign measured along the lot frontage abutting the street.
- c) In a shopping center, one pole sign shall be permitted for each lot frontage abutting a street upon which the shopping center has lot frontage exceeding 200 lineal feet.
- d) The area of a pole sign shall not exceed 300 square feet, except as provided by the following equation:  $PSA = 300 + SB/2$  where PSA is the pole sign area in square feet. SB is the sign setback from the principal street right-of-way in lineal feet. The pole sign area shall in no case exceed 450 square feet.
- e) The maximum height of a free-standing sign is 24 feet.
- f) Pole signs are not required to comply with the requirements stated in Section XXXX.5c.5&6 (free-standing signs).

#### 4) Ground Signs

- a) The total area of ground signs shall not exceed 50 percent of the total sign area allowed to the business.
- b) For those businesses not located in a shopping center, one ground sign shall be permitted for any parcel or group of abutting parcels having 100 feet of continuous lot frontage or greater. One additional ground sign shall be permitted for properties with greater than 500 lineal feet of continuous lot frontage. The second ground sign shall be no closer than 200 feet from the first sign measured along the lot frontage abutting the street.

- c) For those businesses in a shopping center, one ground sign shall be permitted for each lot frontage upon which the shopping center has lot frontage exceeding 100 lineal feet.
          - d) For any one parcel or group of abutting parcels permitted a freestanding sign, a ground sign may be permitted in lieu of that freestanding sign, but not in addition to it unless located on a lot frontage of 500 feet or greater and separated by 150 feet or more.
- 5) Electronic message display signs/variable message reader boards vs. electronic message centers.
- 6) The following are exempt from the signage regulations of this Chapter:
  - a) Entertainment displays, building ornamentation, statues, and other similar structures or devices which do not use letters or numbers as a means of conveying information or directing the public's attention to a product or location.
  - b) Separate areas of any statue, entertainment display, building ornamentation, structure, or device which use letters or numbers to convey information or direct the public's attention to a product or location and which do not exceed 20 square feet in area.
  - c) Any areas using letters or numbers to convey information or direct the public's attention to a product or location which are painted or permanently affixed on outdoor amusement rides or transportation vehicles.
  - d) Signs which contain or are illuminated by lights which are intermittently on and off, scintillate, oscillate, move, change color, or appear to change color, change in intensity, or which create the illusion of flashing in any manner such as rotating a light source are only permitted with the approval of the Planning Commission.
  - e) Signs located over the roof or parapet above the roof line of any building are only permitted with the approval of the Planning Commission.



## **1157.9 Temporary Signs**

### **(A) General Temporary Sign Regulations**

- 1) A permit is required for all temporary signs, except as set forth in this zoning code.
- 2) It shall be the applicant or the owner's responsibility to remove all temporary signs when the time limit for the sign has expired.
- 3) Temporary ground signs shall not be illuminated.

### **(B) Prohibited Temporary Signs.** The following types of temporary signs are prohibited in the City of Fairfield, unless specifically exempted or otherwise regulated.

- 1) Portable signs;
- 2) Pennants;
- 3) Streamers;
- 4) Gas inflatables;
- 5) Paper signs;
- 6) Cardboard signs;
- 7) Cabinet signs;
- 8) Freestanding changeable copy signs;
- 9) Air dancers; and
- 10) Flashing or moving signs.

- (C) **Agricultural and Residential Temporary Yard Sign Regulations.** The following temporary signs shall be permitted in the A-1, R-0, R-1, R-2, R-3, and R-4 districts.
- 1) **Non-Residential and Multi-Family Uses Temporary Signs.** Temporary signs for non-residential uses and multi-family developments (greater than two units) located in agricultural or residential zoning districts are subject to the regulations in Section XXX.
  - 2) **Residential Temporary Yard Signs.** Temporary yard signs located on residential or agricultural properties shall comply with the following:
    - a) A temporary yard sign permit is not required for single-family residential temporary yard signs.
    - b) Temporary yard signs must be ground mounted signs and shall not be attached to a structure, fence, wall, or roof.
    - c) The maximum cumulative sign area for temporary yard signage on a property is 24 square feet. There is no limit to the quantity of temporary yard signs as long as the signs cumulatively do not exceed 24 square feet.
    - d) The maximum height of any one sign is four feet.
    - e) There is no time limit for residential temporary yard signage.
    - f) Temporary yard signs shall be located a minimum of five feet from the right-of-way.



Figure 14: Graphic Illustration of a Residential Temporary Sign

## CHAPTER 1157. Signage

### 1157.9 Temporary Signs

#### 3) Agricultural and Residential Construction Signs

- a) For residential developments, up to two construction signs are permitted on property where there is active construction. Such signs shall:
  - i) Not exceed 32 square feet in size and eight feet in height.
  - ii) Be located a minimum of 10 feet from the right-of-way and all property lines.
- b) For individual residential lots, construction signs shall conform to the temporary sign regulations of subsection (C).
- c) A temporary sign permit is not required for construction signs.



Figure 15: Example Illustration of a Residential Development Construction Sign

(D) **Non-Residential Temporary Sign Regulations.** The following temporary signs shall be permitted in the non-residential zoning districts.

- 1) **Residential Temporary Yard Signs.** Temporary yard signs for residential uses (one-two family) located in a non-residential zoning district are subject to the regulations in Section XXX.
- 2) **Temporary Freestanding Signs.** Temporary signs located on multi-family and non-residential properties shall comply with the following:
  - a) Types of temporary freestanding signs include, but are not limited to, A-frame signs, post and panel signs, ground mounted signs and freestanding changeable copy signs.
  - b) Freestanding changeable copy signs shall also meet the following requirements:
    - i) The sign frame must be square or rectangle in shape only.
    - ii) Illumination of any part of the sign is prohibited.
    - iii) The sign can only include one color of changeable copy on one color background.
    - iv) The changeable copy must contain a cover that is locked at all times to prevent the letters or graphics from being changed.



*Figure 16: Example Illustration of a Nonresidential Changeable Copy Sign*

- c) A temporary sign permit is required for freestanding commercial temporary signs.
- d) No banners or feather/flutter flags are permitted if temporary freestanding signage is used.
- e) The maximum cumulative sign area for temporary freestanding signage on a property is 24 square feet.
- f) The maximum sign height is six feet.

## CHAPTER 1157. Signage

### 1157.9 Temporary Signs

- g)** Such signs are permitted a maximum of 12 periods per calendar year. Each period shall not exceed 10 days. A minimum of 10 days between each period is required.
- h)** The sign must be designed with one color of lettering and one color background, however, a multi-colored corporate logo and color picture with inlaid text of any color(s) is permitted.
- i)** The sign shall be manufactured, and the lettering is to be digitally printed, machine cut, or vinyl press on letters. The lettering is not to be hand painted.
- j)** The sign is not to be reflective or illuminated.



*Figure 17: Example Illustration of a Temporary Freestanding Sign*

**3) Banners**

- a) A temporary sign permit is required for banner signs.
- b) Banners are permitted only upon existing buildings, canopies, canopy supports, and existing sign supports.
- c) Only one banner is permitted at any one time. No temporary freestanding sign or feather/flutter flags are permitted if a banner is used.
- d) The maximum area of a banner is 30 square feet.
- e) Such signs are permitted a maximum of 12 periods per calendar year. Each period shall not exceed 10 days. A minimum of 10 days between each period is required.
- f) Lettering on banners must be professionally silkscreened, stenciled, created with vinyl letters, or sewn into fabric or material. The lettering is not to be hand painted.



*Figure 18: Example Illustration of a Banner Sign*

## CHAPTER 1157. Signage

### 1157.9 Temporary Signs

#### 4) Feather/Flutter Flags

- a) A temporary sign permit is required for feather/flutter flags.
- b) A maximum of two feather/flutter flags are permitted per business at any one time. No other temporary freestanding sign or banner is permitted if feather/flutter flags are used.
- c) Such signs are permitted a maximum of 12 periods per calendar year. Each period shall not exceed 10 days. A minimum of 10 days between each period is required.
- d) Such signs shall be placed at least two feet from the right-of-way and 20 feet from the roadway edge if the business fronts on a regional or primary thoroughfare.
- e) Such signs shall be adequately secured and anchored to the ground.
- f) The maximum size of the signs is three feet at their widest dimension and cannot extend any higher than 15 feet from the immediate grade/pavement at the base.



Figure 19: Example of a Feather/Flutter Flag Sign

## 5) Non-Residential Construction Signs

- a) A temporary sign permit is not required for construction signs.
- b) Up to two construction signs are permitted on a parcel(s) where there is active construction.
- c) Such signs shall not exceed 32 square feet in size, eight feet in height, and shall be located a minimum of 10 feet from the right-of-way and all property lines.



Figure 20: Example illustration of a Construction Sign

## 6) Grand Opening Signs

- a) Banners, pennants, portable signs, streamers, gas inflatables, air dancers, and other temporary signs may be utilized only for new businesses that are hosting grand openings.
- b) A temporary sign permit is required for grand opening signage.
- c) The maximum time period for such signs is 60 days.
- d) The maximum sign area is 32 square feet.
- e) No additional temporary signage is allowed on the premises until 30 days have lapsed since the grand opening signage has been removed.
- f) Air dancers, if utilized, shall be placed a minimum of 25 feet from the roadway edge of pavement and at no time may be placed in the right-of-way.
- g) Change in ownership or management does not constitute a new business unless the business has been closed for at least 60 days.



## CHAPTER 1157. Signage

### 1157.10 Sign Measurement Standards

#### 1157.10 Sign Measurement Standards

##### (A) Sign Area

- 1) The total area of a sign shall be measured as:
  - a) The area enclosed by one rectangle, the sides of which contact the extreme point or edges of the sign.
  - b) The area of a sign composed of channel letters or similar method of standalone characters or words, without framing or an additional backdrop, shall be the smallest box which encloses the entire group of characters or words.
  - c) If the sign includes a separate logo or graphic element that is detached from the primary sign text, then two rectangles shall be used to calculate the total sign area.

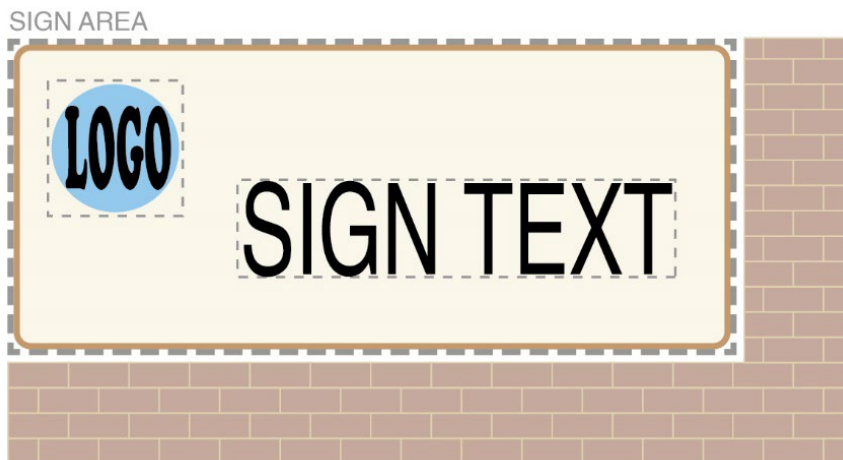


Figure 21: Example Illustration of signage area.

- d) For signs with internal illumination, the entire lighted surface shall be considered the message area.
- e) Letter descenders, which extend below the baseline of a font (for example, lower case letters such as “j”, “g”, “p” and “y”) shall not be included in the rectangle that is used to determine sign size as long as the descending letters are the only thing outside of the measurement rectangle.



Figure 22: Example Illustration of letter descenders that are not counted toward the sign area

- 2) Sign area calculations shall exclude the supportive structure if such structure does not form or include a part of the advertisement of the sign.
- 3) Where a sign has two or more display faces, the area of all faces of the sign shall be included in determining the area of the sign unless two display faces join back-to-back, are parallel to each other and not more than 24 inches apart, or for a V-angle of less than 45 degrees.
- 4) The entire translucent area of an internally illuminated or backlit awning, canopy or other exterior area of a building or an attachment to the building which is located outside of the enclosed building and is visible from any public street shall be included in the sign area calculation, whether or not it has lettering or other symbols or illustrations thereon.

#### (B) Sign Height

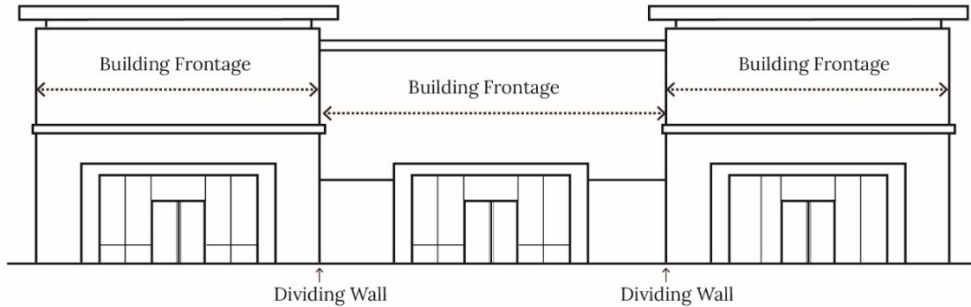
- 1) The height of the sign for ground or freestanding signs shall be determined by measuring the vertical distance between the highest point of the sign to the elevation of the ground beneath the sign at the point that the sign is located the closest to the public right-of-way. If mounding is used for the purpose of raising up the base height of the sign, the ground elevation shall be determined from the established line and not the grade at the top of the mound.
- 2) In the event that the elevation beneath the proposed sign, at the point of the sign, located the closest to the public right-of-way, is below the elevation at the centerline of the adjacent street, the applicant may request a sign height determination from the Director of Development Services or their designee to determine if it is permitted to measure the height of the sign from the elevation of the street centerline and not the elevation beneath the proposed sign.

## CHAPTER 1157. Signage

### 1157.10 Sign Measurement Standards

#### (C) Shopping Centers and Multi-Tenant Development Signs

- 1) For buildings in a shopping center or a multi-tenant development, the sign area shall be based on the building frontage of each tenant or business.



*Figure 23: Measurement of Building Frontage for Individual Businesses in a Multi-Tenant Building*

- 2) Signs are calculated from one building or business frontage, even if unused, shall not be allocated to another building or business unless a master sign plan is submitted for all signs in the shopping center and approved by the Planning Commission.
- 3) A business or group of businesses which do not front on a public street shall be permitted per the following:
  - a) A single composite sign, equal in area to 0.5 square foot per lineal foot of the building face, to be erected adjacent to the nearest public street. The area allocated for the sign shall be as in subsection (2) above. The sign shall further conform to the requirements of the appropriate zone classification.
  - b) Individual wall, canopy, or attached signs as allowed in the various zoning districts.

**1157.11 Sign Illumination Standards**

(A) **Lighting.** Lighting used for illumination of any signs is permitted only when such lighting is installed on private property and is hooded or shielded so that the light source is not visible beyond 200 feet of the sign from public streets, alleys, or highways or any residentially zoned property, including hotel or motel guest rooms. Lighting intensity shall conform to the following table.

*Table 1157.11 -1: Maximum Sign Illumination Levels*

Sign Type	B-1, D-1, C-3, C-3A, SE, M-1, and M-2 Zoning Districts	R-3, R-4, C-1, and C-2 Zoning Districts
Flood lights and indirectly illuminated signs	50 footcandles	25 footcandles
All other signs	25 footcandles	10 footcandles

(B) **Signs Facing Residentially Zoning Property.** No internally illuminated signs or electronic message centers shall be permitted within 200 feet of any A or R district. Further, internally illuminated signs or electronic message centers shall be screened so as not to be visible from adjoining residentially zoned property.

(C) Light sources for illuminated signs shall be maintained constant in intensity and color at all times.

## CHAPTER 1157. Signage

### 1157.12 Sign Landscaping

#### 1157.12 Sign Landscaping

Ground signs for new developments or major redevelopments shall include landscaping at the base of the ground sign subject to the following:

- (A) Landscaping at the base of ground signs is not required for industrial properties within the M Districts.
- (B) The minimum landscaped area shall maintain a minimum width of three feet around the perimeter of the base of the sign, including all points where sign structural supports are attached to the ground.
- (C) Where the required landscaped area is adjacent to a paved surface accessible to vehicular traffic, a raised, non-mountable curb suitable to prevent encroachment of vehicles shall be required.
- (D) The landscaped areas shall include vegetative plantings aesthetically located and maintained. The use of concrete, asphalt, or any other paved surface inside the required landscaped area shall be prohibited.
- (E) Landscaping materials shall be fully installed on the site by completion of construction. If that is not feasible due to weather conditions, the Development Services Director or their designee may grant an extension of the planting time frame.
- (F) All landscaping shall be maintained in accordance with Section XXXX (landscaping chapter).

**1157.13 Sign Permitting and Construction Standards**

- (A) **Building Code Requirements.** Every sign and all parts, portions, units, and material comprising the same, together with the electrical supply, the frame, the background, supports or anchorage thereof, shall be manufactured, fabricated, assembled, constructed, and erected in compliance with all applicable rules, regulations or other limitations imposed by the city, state or federal agencies. In cases where there is a conflict between agency rules, the more restrictive shall apply.
- (B) **Construction Requirements**
- 1) All signs shall be painted, placed, attached, posted, printed, tacked, fastened, constructed, erected, and maintained as provided in this Chapter.
  - 2) All metal parts used in a sign or sign structure, including supports and braces, shall be galvanized or of non-corrosive material or painted with rust and corrosion-resistant paint.
  - 3) When existing poles or structures are used for new sign installation, any wrapping or material used to cover the pole or structure shall be brought to like-new condition and be free of deterioration.
  - 4) When a sign is removed for any reason, a new sign permit for the future installation of any sign shall be obtained. All mast arms, cables, guys of any nature, clips, brackets, and all structure of the old sign shall be removed with the sign.
  - 5) Glass in any sign shall be either double strength, plate, or wired glass.
  - 6) Only those materials of construction, approved by the Development Services Director or their designee as complying with standard engineering practices shall be used in the manufacturing and erection of signs.
- (C) **Building Permit.** No permanent sign shall be erected, constructed, painted, or printed without obtaining a permit issued by the Development Services Director or their designee. The applicant for the permit shall set forth the location at which the sign is proposed to be erected, the advertising structure or surface, the dimensions, shape, materials of construction for the sign, type of sign, and where applicable, the method of any sign illumination.

## CHAPTER 1157. Signage

### 1157.14 Maintenance of Signs

(D) **Sign Erection.** All signs shall be erected by a licensed sign erector as stated in Section 1333.03(a) of the Building Code, except the following:

- 1) Temporary signs;
- 2) Window signs;
- 3) Building wall signs that are not internally illuminated, are one inch or less in thickness, and do not exceed nine square feet;
- 4) Building wall signs that are painted on the wall of the structure itself;
- 5) Construction signs;
- 6) Property improvement signs; and
- 7) Awning or canopy signs but only if a permit for the awning or canopy itself is issued at the time of the erection of the sign.

### 1157.14 Maintenance of Signs

- (A) Every sign shall be maintained in a safe and good condition at all times, including the repair or replacement of damaged or defective parts, painting, repainting, cleaning, and other acts required for the maintenance of the sign.
- (B) The Development Services Director or their designee shall require compliance with all standards of this Code. If the sign is not made to comply with adequate safety and maintenance standards, the Development Services Director or their designee shall require its removal in accordance with this section.
- (C) It shall be the responsibility of the applicant or owner of the property to maintain all temporary signage on the premises. Signs or banners that are torn, damaged, faded, or otherwise in a state of disrepair shall be immediately replaced or removed. All banners shall be stretched to full length to ensure full readability.
- (D) The lighting in electronic message centers and internally illuminated signs shall be fully functional at all times. If at any time there is a malfunction with the lighting of the sign, such as a burned-out bulb, the sign shall be turned off until it has been repaired or removed by the owner or operator of the sign.

## 1157.15 Removal of Signs

- (A) **Removal and Disposal of Signs.** The Superintendent of Building and Zoning shall cause to be removed any sign that is not properly maintained in accordance with Section XXX(Maintenance), or which is hazardous or obsolete.
- 1) The Superintendent of Building and Zoning shall prepare a notice to the owner of any such signs and/or the occupant of the premises on which any such sign is located, which notice shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within ten days the sign shall be removed in accordance with the provisions of this section.
  - 2) All notices by the Superintendent of Building and Zoning under this section shall be sent by certified mail or hand delivered. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail or the last date of notice of delivery of the certified mail by the postal authorities or the date of hand delivery.
  - 3) Notwithstanding the above, in cases of emergency, presenting an imminent danger to the public safety, the Superintendent of Building and Zoning may cause the immediate removal of a dangerous or defective sign or correction of the danger or defect without notice to the owner of the sign and/or occupant of the premises upon which the sign is located.
  - 4) Any sign removed by the Superintendent of Building and Zoning pursuant to the provisions of this section shall become the property of the City and may be disposed of in any manner deemed appropriate by the City. The cost of removal of the sign by the City shall be considered a debt owed to the City by the owner of the sign and/or the owner of the property and may be recovered in an appropriate court action by the City. The cost of removal shall include any and all incidental expenses incurred by the City in connection with the removal of the sign.
  - 5) When a sign has been removed from a building or structure, the anchor/post holes from the previous sign shall be repaired and any discoloration on the building or structure from the previous sign shall be removed by either cleaning or repainting to match the existing background color.



## CHAPTER 1157. Signage

### 1157.15 Removal of Signs

#### (B) Obsolete Signs

- 1) Signs pertaining to enterprises or occupants that are no longer using the premises to which the sign relates shall be completely removed. All obsolete or vacant signs must be completely removed, or the existing sign may be replaced with a blank replacement face panel. Any internal lighting of the sign shall remain off while the sign is not active.
- 2) Painting over existing sign faces left in place is not in compliance with this section.
- 3) Turning the sign around is not in compliance with this section. A new blank sign panel shall be installed.
- 4) Painted wall signs shall be removed within 60 days.
- 5) Permitted temporary signs such as construction signs shall be removed within fourteen days following the occurrence or completion of the event or other purpose served by the sign. In the case of construction signs, issuance of a certificate of occupancy shall be deemed completion of event in the case of new buildings.

(C) Hazardous Use of Signs. No sign shall be erected at or near any intersection of any streets or thoroughfares, streets, or alleys, or street and railway, in such manner as to obstruct free and clear vision, or at any location whereby reason of position, shape, or color, it may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device. Use of the words, stop, look, danger or other word, phrase, or symbol in such manner as to interfere with, mislead or confuse traffic is similarly prohibited. No sign shall be erected in such a way as to obstruct sight distance.

**(D) Nonconforming Signs**

- 1) Any nonconforming sign erected prior to the enactment of this Chapter and not conforming to the provisions of this Chapter shall be deemed legally nonconforming.
- 2) Any sign that is altered, relocated, or replaced shall be brought into compliance with all provisions of this Code within 60 days.
- 3) The repainting of existing non-conforming signs shall not be considered an alteration within the meaning of this section. Refacing an existing nonconforming sign shall not be considered an alteration.
- 4) A nonconforming sign shall be brought into compliance if it is determined that 60 percent or more of the fair market value of the sign has been destroyed or taken down. Nonconforming signs that are damaged, but that are not required to be brought into compliance pursuant to this subsection, shall be repaired within 60 days.
- 5) Any nonconforming sign which has not been used for a continuous period of one year for any reason shall not be reused unless or until it has been made to comply with the standards of this Chapter.
- 6) If a nonconforming sign is voluntarily removed by the owner

# TITLE SEVEN

## *Administrative Regulations*

### **CHAPTER 1176. ADMINISTRATION AND PROCEDURES**

#### **1176.1 Purpose and Scope**

The zoning code is enacted for the purpose of promoting public health, safety, convenience, comfort, prosperity and general welfare by regulating and restricting the location, bulk and height of buildings and structures and the use of the premises for trade, industry, residential or other specified uses, all in accordance with a comprehensive plan for the desirable future development of the community; and to provide a method of administration and to prescribe penalties for the violations of provisions hereafter described.

**1176.2 Summary Table of Procedures**

*Table 1176.2 -1: Summary Table of Procedures*

Procedure	Section Reference	Development Services Department	Planning Commission	City Council	Board of Zoning Appeals	Court of Common Pleas
Zoning Text or Map Amendment		Review	Recommendation	Decision	Appeal	
Conditional Use		Review	Recommendation	Decision	Appeal	
Variance		Review			Decision	Appeal
Site Plan		Review and Decision				
Overlay District Site Plan		Review and Decision <sup>1</sup>	Decision <sup>1</sup>		Appeal	
PUD Zone Map Amendment and Concept Plan/Major Modification		Review	Recommendation	Decision	Appeal	
PUD Final Development Plan/PUD Minor Modification		Review	Decision		Appeal	
Preliminary Plat		Review	Decision		Appeal	
Improvement Plans		Review and Decision			Appeal	
Final Plat		Review	Decision			
Lot Line Adjustment/ Minor Subdivision		Review and Decision			Appeal	

**FOOTNOTES:**

1 – Development Service Department decisions relating to Overlay District Plan Review can be appealed to the Planning Commission, and the Planning Commission decision can be appealed to City Council.

2 – This table includes common planning and zoning processes but is not inclusive of all requests and processes within the city.

## CHAPTER 1176. Administration and procedures

### 1176.3 Common Review Requirements

#### 1176.3 Common Review Requirements

(A) **Authority to File Applications**<sup>3</sup>. Unless otherwise specified in this code, development applications may be initiated by:

- 1) The owner(s) of the property that is the subject of the application or the authorized agent of the owner.
- 2) The developer of the property, with written approval of the property owner.
- 3) Business owner or tenant, with written approval of the property owner.
- 4) A representative of the City of Fairfield.

(B) **Fees**

- 1) City Council shall establish a schedule of fees applicable to all development applications and procedures pertaining to the administration and enforcement of this zoning code.
- 2) The schedule of fees shall be amended only by City Council.
- 3) Until all such appropriate fees, charges, and expenses have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

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<sup>3</sup> New

## 1176.4 Zoning Text or Map Amendment

### (A) Process Flow Chart

- 1) Submit application;
- 2) First reading initiated by City Council;
- 3) Joint public hearing by City Council and Planning Commission;
- 4) Planning Commission;
- 5) Second reading by City Council; and
- 6) Third reading and decision by City Council.

### (B) Applicability. The zoning text and map amendment procedure is applicable for the following:

- 1) Proposals to change the zoning of a property or properties within the city to another zoning district or to a planned unit development.
- 2) Proposals to change the text of the zoning code.

### (C) Authority

- 1) City Council may, by ordinance, after receipt of recommendation thereon from the Planning Commission, and subject to the procedures provided by the charter, amend, supplement, change, or repeal the regulations, restrictions, and boundaries of the zoning districts.
- 2) In reviewing a proposed zoning amendment, City Council shall assure that any changes will not be detrimental to adjacent property owners, structures, or uses, and will maintain the health, safety, and general welfare of the community.

## CHAPTER 1176. Administration and procedures

### 1176.4 Zoning Text or Map Amendment

**(D) Initiation of Zoning Text or Map Amendment.** Amendments to the zoning code text or zoning map may be initiated in one of the following ways:

- 1) Ordinances or resolutions establishing, amending, revising, changing, or repealing zoning classifications, districts, uses or regulations shall be initiated by a member of City Council.
- 2) A petition requesting amendment or change in the district boundaries or regulations herein may be considered by Council. Such petition shall be duly signed by the owners of 50 percent or more of the area of lots included in such proposed change, and 50 percent of all lots or proportions thereof within 200 feet in every direction from the boundaries of the proposed change. Such petition shall not be accepted or presented or considered at any meeting of Council unless and until the person or persons requesting the amendment shall have filed a receipt from the Development Services Department showing the payment into the City Treasury of the sum of 25 dollars to cover the cost of advertisement of the proposed change.

**(E) Application Requirements.** Applications for zoning text and map amendments shall be on forms supplied by the Development Services Director or their designee and shall include the following:

- 1) A completed application form;
- 2) A map of land to be rezoned, drawn by a registered surveyor or engineer with supporting legal descriptions; or the text of a proposed amendment to the language of the zoning code; and
- 3) A fee established by the City Council.

**(F) Approval Process.** The following is the approval process for a zoning text or map amendment.

- 1) *Submit Completed Application*
  - a) Upon receipt of an application, the Development Services Director or their designee shall determine if the application is complete. If it is not complete, the applicant shall be notified of the additional materials or information that are needed.
  - b) When the application is deemed complete, if the application proposes to change the zoning classification of any property, written notice of the proposed rezoning ordinance or resolution shall be mailed by the Clerk of Council by first class mail at least 10 days before the first reading of such ordinance or resolution to the owner(s) of the property proposed to be rezoned, unless such notice is waived by the property owner(s) in writing. Such notices shall be sent to the addresses of the owners appearing on the County Auditor's current tax list or to the residence addresses of such owners. The failure of such notice shall not invalidate any ordinance or resolution.

- 2) *First Reading by City Council.* Immediately after the first reading of the ordinance or resolution, the City Council shall set a joint public hearing date.
- 3) *Joint Public Hearing*
  - a) The Clerk of Council shall cause notice of the public hearing to be published one time in a newspaper of circulation with the city. Such publication shall be made at least seven days prior to the date of the joint public hearing.
  - b) ii. When the amendment revision, change or repeal involves 10 or less parcels of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council by first class mail at least seven days before the date of the joint public hearing, to the owners of the property within, contiguous to, and directly across the street from the affected parcel or parcels. Such notices shall be sent to the addresses of owners appear on the County Auditor's current tax list or to the residence address of such owners. Failure of delivery of the notice shall not invalidate any ordinance or resolution.
  - c) iii. A public hearing notice shall be posted on the property proposed to be rezoned by the applicant in accordance with the requirements on file in the Development Services Department office.
  - d) iv. Following the joint public hearing, the City Council shall refer such measure to the Planning Commission for its consideration and recommendation.
- 4) *Planning Commission Recommendation*
  - a) Within 45 days after receipt of referral, the Planning Commission shall return to the Clerk of Council the written recommendation of a majority of the members of the Planning Commission. The 45 days begins the proceeding day after the first reading of the ordinance or resolution by City Council.
- 5) *Action of Council*
  - a) A concurring vote of at least the majority of the membership of City Council shall be required in order to pass a zoning ordinance or resolution. A concurring vote of at least two-thirds of the membership of City Council shall be necessary to pass any zoning ordinance or resolution which differs from the written recommendations of the Planning Commission.
- 6) *Effective Date.* Amendments shall become effective 30 days after the date of such adoption.



## 1176.5 Conditional Use

- (A) **Process Flow Chart.** Applications for conditional uses shall follow the specific procedure outlined in subsection XXXX (below), which is summarized in the below flow chart.
- (B) **Applicability**
- 1) The potentially diverse characteristics and impacts of a number of new and unique uses, as well as conventional uses, require the development of regulations designed to accommodate these activities in a reasonable and equitable manner, while safeguarding both the property rights of all individuals and the health, safety, and general welfare of the community.
  - 2) Proposed conditional uses shall receive an individual consideration with respect to such considerations as location, design, size, method(s) of operation, intensity of use, public facility requirements, and traffic generation as well as the review criteria listed below in Section 4.
- (C) **Conformance with District Regulations.** A conditional use, except as specifically otherwise provided in this section, shall conform to such district regulations, and to other substantive requirements of this zoning code including use-specific standards as well as satisfying the conditions, standards, and requirements of this section.
- (D) **Review Criteria**<sup>4</sup>. A conditional use, and uses accessory to such conditional use, shall be permitted in a zoning district only by application to and specific approval by the Planning Commission in each specific instance when specified in Table XXXX: Use Table as a permitted conditional use in such district. The Planning Commission shall consider the following standards in addition to any specific conditions, standards, and regulations for such use:
- 1) The conditional use will be in general accord with the purpose, intent, and basic planning objectives of this zoning code, and with the objectives for the district in which the use is located.
  - 2) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
  - 3) The conditional use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area.

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<sup>4</sup> New

- 4) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish and impair property values within the neighborhood.
- 5) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 6) Adequate utilities, ingress/egress, drainage, and necessary facilities have been or are being provided.
- 7) The establishment of the conditional use should not be detrimental to the economic welfare of the community or create additional public expense.
- 8) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located as well as the specific supplemental conditions that may apply.

**(E) Approval Process**

- 1) *Submit Application.* Every application for a conditional use shall be made to the Development Services Director or their designee and shall include the following:
  - a) A completed application.
  - b) Plans, drawn to scale, showing the shape and dimensions of the lot, existing buildings, proposed and existing streets, existing and intended use of each building and/or proposed building, parking areas, walkways, curb cuts, and other such information with regard to the lot and adjacent lots as may be necessary to determine and provide for the proper hearing of the application.
  - c) Plans, drawn to scale, showing the floor plan of how the building space is proposed to be used.
  - d) Building elevations, landscape plan and other plans deemed necessary by the Development Services Director or their designee.
  - e) Payment of a fee as established by City Council, which shall not be refundable.

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### 1176.5 Conditional Use

#### **2) *Planning Commission Public Hearing and Decision***

- a)** Once the Development Services Director or their designee determines that the conditional use application is complete, the application will be forwarded to Planning Commission.
- b)** The Planning Commission shall review the application and the evidence presented to determine if the requested use complies with the review criteria and the intent and specific standards of subsection XXXX.
- c)** Following review of the application, the Planning Commission shall approve or disapprove the request for a conditional use. The Planning Commission may impose additional conditions, stipulations, and safeguards it finds necessary for the protection of nearby property and the public health, safety, morals, and general welfare of the community.

#### **3) *Conditional Use Approval***

- a)** The conditional use approval shall be void if the applicant has not received a building permit, or similar applicable approvals, within 12 months of the date of the conditional use approval.
- b)** The breach by the applicant of any condition, safeguard, or requirement expressed or referred to on the conditional use shall render the use void and shall constitute a violation of the zoning code.
- c)** The approved conditional use shall apply to the subject property regardless of ownership as long as the conditions of the conditional use are still being met.

## 1176.6 Variances

- (A) **Process Flow Chart**. Applications for variances shall follow the specific procedure outlined in subsection XXXX, which is summarized in the below flow chart.
- (B) **Applicability**. A variance is a request to deviate from current requirements of this zoning code. If granted, a variance allows an applicant to use land in a manner not otherwise permitted by the code.
- (C) **Review Criteria**
- 1) *Area/Size Variance*. No area/size variance shall be authorized by the Board of Zoning Appeals unless the Board has considered and weighed the following factors to determine if the property owner requesting a variance has encountered practical difficulties:
    - a) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
    - b) Whether the variance is substantial.
    - c) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance.
    - d) Whether the variance would adversely affect the delivery of governmental services, including, but not limited to, water, sewer, and garbage services.
    - e) Whether the property owner purchased the property with knowledge of the zoning restrictions.
    - f) Whether the property owner's predicament can be obviated through some method other than a variance.
    - g) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

## CHAPTER 1176. Administration and procedures

### 1176.6 Variances

- 2) *Use Variance.* No use variance shall be authorized by the Board of Zoning Appeals unless the Board finds, beyond reasonable doubt, that all of the following facts and conditions exist:
  - a) The requested variance stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district.
  - b) The hardship condition described in Section XXXX (definitions) is not created as a result of actions by the applicant.
  - c) The granting of such variance will not adversely affect the rights of adjacent property owners.
  - d) The granting of such variance will not adversely affect the public health, safety, or general welfare.
  - e) Such variance will be consistent with the general spirit and intent of the zoning code.
  - f) The variance sought is the minimum which will afford relief to the applicant.
  - g) There is no other economically viable use which is permitted in the zoning district.

#### **(D) Approval Process**

- 1) *Submit Application.* Every application for a variance shall be made to the Development Services Director or their designee and shall include the following:
  - a) A completed variance application.
  - b) Plans, drawn to scale, showing the location of existing buildings and structures, new building additions or structures, all pertinent dimensions, and any additional information needed to illustrate the variance request.
  - c) Building or structural drawing, drawn to scale.
  - d) Payment of a fee as established by the City Council, which shall not be refundable.

**2) *Board of Zoning Appeals Public Hearing and Decision***

- a)** Once the Development Services Director or their designee determines that the variance application is complete, the application will be forward to the Board of Zoning Appeals.
- b)** The Board of Zoning Appeals shall hold a public hearing on the application. The public hearing shall following the policies and procedures adopted by the Board.
- c)** At the hearing, the Board of Zoning Appeals, shall review the application and the evidence presented at the public hearing to determine if the requested variance complies with the review criteria set forth in subsection XXXX.
- d)** Following review of the application, the Board of Zoning Appeals shall approve or disapprove the variance request. The Board may impose additional conditions, stipulations, and safeguards it finds necessary for the protection of nearby property and the public health, safety, morals, and general welfare of the community.

**3) *Variance Issued***

- a)** No order of the Board of Zoning Appeals permitting the erection or alteration of a building, or the use of a building or premises, shall be valid for a period longer than six months, unless a building permit for such erection or alteration is obtained and the work is started within such period, or where no erection or alteration is necessary, the permitted use is established within such period.
- b)** The decision of the Board of Zoning Appeals shall not become effective until the expiration of five days from the date of the decision unless otherwise specified by the board.
- c)** The approved variance shall apply regardless of ownership as long as the terms of the variance are still being met.

## 1176.7 Site Plan Review

- (A) **Process Flow Chart.** Applications for site plan review shall follow the specific procedure outlined in subsection XXXX, which is summarized in the below flow chart.
- (B) **Applicability.** Except as provided in this zoning code, no building shall hereafter be located, constructed, reconstructed, enlarged, or structurally altered nor shall any site or infrastructure work be started until a site plan has been approved by the Development Services Director or their designee, which certifies that such proposed work complies with all provisions of this zoning code and the Design, Construction, and Materials Specification Handbook.
- (C) **Approval Process**
- 1) *Submit Application.* Every application for a site plan shall be made to the Development Services Director or their designee and shall include the following:
    - a) A completed site plan application
    - b) Site plans that include the required information as identified on the city's Site Plan Review Checklist on file in the Development Services Department office.
    - c) Payment of a fee as established by City Council, which shall not be refundable.
  - 2) *Development Services Director Review.* The Development Services Director or their designee shall review the site plan review application and decide on the conformity of the site plan review application with the zoning code and the Design, Construction, and Materials Specification Handbook.

**1176.8 Single-Family Infill Review.**

- (A) **Process Flow Chart.** Applications for single-family infill permits shall follow the specific procedure outlined in subsection XXXX, which is summarized in the below flow chart.
- (B) **Applicability.** All new principal residential structures constructed on infill parcels shall conform to the architectural character of the surrounding area and shall require specific review and prior approval of the Planning Commission before issuance of any building permit.
- (C) **Architectural Standards for Principal Residential Structures on Infill Parcels.** The purpose of these architectural standards is to ensure that principal residential structures built on infill parcels respect and are responsive to their physical context and preserve the architectural character and property values of the surrounding areas. Elements that define architectural character of the surrounding area include, but are not limited to:
- 1) Building size and mass
  - 2) Building materials
  - 3) Building colors
  - 4) Architectural style
  - 5) Roof styles
  - 6) Foundation style
  - 7) Ancillary elements such as setback and private deed or subdivision restrictions.
- (D) **Approval Process**
- 1) *Submit Application.* Every application for single family infill review shall be made to the Development Services Director or their designee and shall include the following:
    - a) A completed application.
    - b) A plot plan, drawn to scale.
    - c) Rendered building elevations.
    - d) Payment of a fee as established by City Council, which shall not be refundable.



## **CHAPTER 1176. Administration and procedures**

### 1176.8 Single-Family Infill Review.

#### **2) *Planning Commission Decision***

- a)** Once the Development Services Director or their designee determines the application is complete, the application will be forwarded to the Planning Commission.
- b)** The Planning Commission shall review the application to determine if the request meets the architectural standards set forth in Section XXX (3 above).
- c)** Following the review of the application, the Planning Commission shall approve or disapprove the application. The Planning Commission may impose additional conditions it finds necessary for the protection of nearby property and the public health, safety, morals, and general welfare of the community.

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## 1176.9 Subdivision Procedures

- (A) **Preliminary Subdivision Plan.** Refer to Section XXXX (subdivision chapter) for the preliminary subdivision plat procedures.
- (B) **Final Subdivision Plat.** Refer to Section XXXX (subdivision chapter) for the final subdivision plat procedures.
- (C) **Minor Subdivisions and Lot Splits.** Refer to Section XXXX (subdivision chapter) for minor subdivision plat and lot split procedures.

## 1176.10 Overlay District Plan Review

Refer to Section XXXX for the overlay district plan review and approval process.

## 1176.11 Planned Unit Development Procedures

Refer to Section XXXX for the procedures and application requirements for Planned Unit Development Zone Map Amendments, Concept Plans, Final Development Plans, and Modifications to Planned Unit Developments.

## CHAPTER 1176. Administration and procedures

### 1176.12 Appeals of a Decision by an Official

#### 1176.12 Appeals of a Decision by an Official

- (A) **Process Flow Chart.** Appeals of a decision by a City Official shall follow the specific procedure outlined in subsection XXXX, which is summarized in the below flow chart.
- (B) **Applicability**
- 1) An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the city affected by any decision of the Zoning Inspector. Such appeal shall be taken within 20 days after the decision by filing with the Development Services Department a notice of appeal specifying the grounds thereof.
  - 2) In considering an appeal from an alleged error on the administration of the zoning code, the Board of Zoning Appeals shall consider the intent and purpose of the provisions of the zoning code that apply and the effect of the desired interpretation upon neighboring properties and the public interest. In exercising its power to review such allegation the Board may, in conformity with the provisions of statute and of the zoning code reverse or affirm, wholly or partially, or may modify the order, decision, or determination made, and to that end shall have all powers of the officer from whom the appeal is taken.
- (C) **Application Requirements.** Except as otherwise permitted in this code, no appeal shall be considered by the Board of Zoning Appeals unless the Board shall find that the written application for the requested appeal contains the following requirements:
- 1) A completed appeals application.
  - 2) Description or nature of appeal requested.
  - 3) Narrative statements establishing and substantiating the justification of the grounds for appeal.
  - 4) Payment of a fee as established by City Council, which shall not be refundable.
- (D) **Approval Process**
- 1) An appeal shall stay all proceedings in furtherance of the action appealed from unless the Development Services Department certifies to the Board of Zoning Appeals after the notice of appeal is filed with him that, by reason of facts stated in the certificate, a stay would in their opinion case imminent peril to life or property. In such cases, proceedings shall not be stayed unless directed by the Board.
  - 2) The Development Services Department shall transmit to the Board of Zoning Appeals all papers constituting a record upon which the action appealed from was taken.

## **CHAPTER 1176. Administration and procedures**

### 1176.12 Appeals of a Decision by an Official

- 3) Before making any decision on an appeal, the Board of Zoning Appeals shall hold a public hearing. Such hearing shall be held within 60 days of acceptance of the application for appeal by the Development Services Department. The Board shall fix the date for the public hearing.
- 4) The Board of Zoning Appeals may reach a decision on the appeal at the hearing and shall reach a decision on the appeal within 45 days of the date of such hearing. The Development Services Department shall notify the applicant in writing of the decision of the Board and shall maintain a detailed report of the proceedings and decisions of the Board
- 5) The decision of the Board of Zoning Appeals can be appealed further to the City Council. Any further appeals shall be filed with the court of common pleas.
- 6) If the Board of Zoning Appeals fails to act within 45 days after completion of the hearing, the determination of the Development Services Department, Zoning Board of Appeals, or Planning Commission, shall be final and the appeal denied.
- 7) A member of the Board of Zoning Appeals shall not be qualified to vote if they have not attended the public hearing of if they have had direct or indirect interest in the issue appealed.

## CHAPTER 1176. Administration and procedures

### 1176.13 Zoning Certificate

#### 1176.13 Zoning Certificate

- (A) **Process Flow Chart.** Applications for zoning certificates shall follow the specific procedure outlined in subsection XXXX, which is summarized in the below chart.
- (B) **Zoning Certificate Requirement.** A zoning certificate is required under the following circumstances:
- 1) *Start of Construction.* No owner, lessee, tenant, or person shall begin any excavation or the construction, reconstruction, extension, conversion or structural alteration of any building or structure, or any part thereof, without first obtaining a zoning certificate, which may be a part of the building permit, from the Development Services Director or their designee.
  - 2) *Changes in Use of Buildings or Land.* No person shall establish or alter the use of land or structure without first obtaining a zoning certificate under this section.
- (C) **Filing Plans**
- 1) *Applicability.* A building permit must be filed with the Development Services Department office and include preliminary and final development plans for principal and accessory building uses which meet the requirements of the zoning district in which they are located. All other applications for zoning certificates shall include both a preliminary and final development plan with the required information identified in subsection (XXXX) hereof for the respective zoning districts in which the property is located. If an applicant so desires, they may submit only a final development plan to the Development Services Department office in order to comply with the requirements for receipt of a zoning certificate per this article.
  - 2) *Review & Approval Process*
    - a) The Development Services Director or their designee shall act upon such applications within 30 days after the application is filed in full compliance with all the applicable requirements.
    - b) The Development Services Director or their designee shall either issue the zoning certificate within 30 days or shall notify the applicant in writing of outstanding items that need to be addressed before a certificate can be issued. If the outstanding items are not resolved by the applicant, the certificate shall be denied. Such written notice of refusal shall be mailed by regular U.S. mail, delivered to the applicant personally, or hand delivered to the applicant's address within the 14 day period.

- 3) *Evaluation Standards.* The standards by which the zoning certificate application is evaluated shall include the following:
  - a) The Comprehensive Plan of the City
  - b) The Thoroughfare Plan of the City
  - c) iii. The Design, Construction, and Materials Specification Handbook
  - d) iv. Any applicable ordinances relative to access and traffic control
  - e) v. The zoning code
  - f) vi. Any other applicable ordinances of the city.
- 4) *Appeals.* An applicant may appeal the decision of the Development Services Director or their designee with regard to the Zoning Certificate in accordance with the provisions of Section XXXX.
- 5) *Certificate of Health Officer.* In every case where the lot is not provided and is not proposed to be provided with public water supply and/or the disposal of sanitary wastes by means of public sewers, the application shall be accompanied by a Certificate of Approval by the Butler County General Health District of the proposed method of water supply and/or disposal of sanitary wastes.

## CHAPTER 1176. Administration and procedures

### 1176.14 Certificate of Occupancy

#### 1176.14 Certificate of Occupancy

- (A) **Process Flow Chart.** Applications for a certificate of occupancy shall follow the specific procedure outlined in subsection XXXX, which is summarized in the below flow chart.
- (B) **Required for All New and Altered Buildings and Land Uses.** No owner, lessee, tenant, or person shall occupy, use or permit the use of any structure, building or part thereof, hereafter created, erected, changed, converted, or enlarged, wholly or partly, or of any land when no building or structure are involved until a Certificate of Occupancy has been issued by the Development Services Director or their designee, after inspection. Such Certificate of Occupancy shall show and certify that such building, structure or premises, or part thereof, and the proposed use thereof are in conformity with the provisions of the Zoning Code, the Building Code and all other applicable codes or ordinances and all conditions and requirements, if any, stipulated by the Board of Zoning Appeals, Planning Commission, or other proper authority. The requirement of a Certificate of Occupancy under this section shall be in addition to any other requirements of the Zoning Code including but not limited to a zoning certificate under Section **1135.03**.
- (C) **New Buildings and Alterations**
- 1) A Certificate of Occupancy for a building hereafter erected, constructed, reconstructed, converted, or otherwise altered, shall be applied for coincident with the application for a building permit, and shall be issued within seven days after the erection or alteration of such building has been completed in conformity with the provisions of the Zoning Code.
  - 2) It shall be the obligation of the applicant to notify the Development Services Director or their designee when the building is ready for occupancy. All final inspections shall be approved before an occupancy certificate can be granted.
- (D) **Changes in Use of Buildings or Land.** A Certificate of Occupancy for a change in the use of a building or land or for a change in ownership shall be applied for before any such building or land is occupied or used, and a Certificate of Occupancy shall be issued within seven days after application has been made, provided such use is in conformity with all the provisions of the Zoning Code.
- (E) **Records and Copies.** A record of all Certificates of Occupancy shall be kept on file in the office of the Development Services Director or their designee, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the land or a building affected.

**1176.15 Review and Decision Making Bodies****(A) Development Services Department.**

The Development Services Department shall have the following powers and duties.

- 1) To receive all applications and fees for zoning amendments, site plan review, conditional uses, variances, and other requests, and collect all applicable fees. The Development Services Department shall review each application that is submitted to determine compliance with the applicable zoning code regulations and submission requirements. If the application is deemed insufficient, the Development Services Director or their designee shall notify the applicant of necessary changes. If the application is deemed sufficient, the Development Services Department shall officially accept the application on that date for consideration of the action(s) requested and proceed to process the application per the appropriate process as identified in Table XXXX (summary tables of procedures).
- 2) To maintain a record of all administrative and legislative proceedings under this code.
- 3) Maintain a current copy of the city's official zoning map.
- 4) Conduct inspections of buildings and uses of land to determine compliance with this ordinance. For the purpose of the zoning code, the Development Services Director or the Superintendent of Building and Zoning or their designee shall be and are hereby designated and authorized to act as the Zoning Inspector. It shall be the duty of the Zoning Inspector to enforce the zoning Code in accordance with the administrative provisions of the Building Code of the city and the zoning Code.
- 5) All departments, officials, and public employees of the city vested with the duty or authority to issue permits or approve applications, shall comply with the provisions of the zoning Code and shall issue no permit or license for any use, building, or purpose in conflict with the provisions of the zoning code.



## CHAPTER 1176. Administration and procedures

### 1176.15 Review and Decision Making Bodies

**(B) Planning Commission.** In addition to the powers and duties established in the City Charter and the zoning code, the Planning Commission shall have the following functions, powers, and duties.

- 1) To review and approve, approve with conditions, or disapprove applications which require Planning Commission's recommendation or decision.
- 2) To adopt policies and procedures for the holding of regular and special meetings, for the transaction and disposition of its businesses, and the exercise of its powers.
- 3) To authorize plans and map amendments, and modification.
- 4) To develop and recommend a comprehensive plan, and modifications thereof, to City Council.
- 5) To recommend modifications to any or all parts of the zoning code to City Council.
- 6) To consider and make recommendations to change the zoning classification of any property.
- 7) To act as the platting commission of the city and to carry out the powers and duties related to platting.
- 8) To hear and decide conditional uses.
- 9) Such other duties as may be required by the provisions of the zoning code and City Charter.

- (C) **Board of Zoning Appeals.** In addition to the powers and duties established in the City Charter and the zoning code, the Board of Zoning Appeals shall have the following functions, powers, and duties.
- 1) To review and approve, approve with conditions, or disapprove applications which require the Board of Zoning Appeals decision.
  - 2) To adopt policies and procedures for the holding of regular and special meetings, for the transaction and disposition of its businesses, and the exercise of its powers.
  - 3) Hear and decide appeals where it is alleged there is an error in any order, requirement, or decision of determination by an administrative official in the enforcement of the zoning code;
  - 4) Authorize, upon appeal, a variance as defined in Section XXXX (variance).
  - 5) Permit the extension or substitution of a nonconforming use as provided in Chapter XXXX (nonconformities).
  - 6) Permit 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 the zoning code 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, and further provided that a zoning certificate for such use shall be granted in the form of a temporary and revocable permit, for not more than a 12 month period, subject to such conditions as shall safeguard the public health, safety, morals and general welfare.
  - 7) Authorize the restoration or reconstruction of a nonconforming building or structure as provided in Section XXXX (nonconformities)
  - 8) Interpret the provisions of the zoning code.
  - 9) *Authorize or Prohibit Additional Uses*
    - a) *Additional Uses.* Uses other than those specifically mentioned in the zoning code as permitted uses in each of the districts may also be allowed therein, provided that if, in the judgment of the Board as evidenced by resolution of record, such other uses are of similar character to those mentioned and shall have no adverse influence on adjacent properties, the neighborhood or the community than the permitted uses specifically mentioned for the district.

## CHAPTER 1176. Administration and procedures

### 1176.15 Review and Decision Making Bodies

- b) *Additional Prohibited Uses.*** Uses other than those specifically prohibited in the zoning code in any district shall also be permitted therefrom, provided that if, in the judgment of the Board, as evidence by resolution of record, such other uses are similar in character to those specifically prohibited in that they would have a similar or more serious adverse influence on adjacent properties, the neighborhood or the community than the uses specifically mentioned as prohibited in the district.
- 10) *Interpretation of the Zoning Map.*** Where the street or lot layout on the ground, or as recorded, differs from the street and lot lines as shown on the zoning map, the Board, after notice to the owners of the property and after a public hearing, shall interpret the map in such a way as to carry out the intent and purpose of the zoning code. In case of any question as to the location of any boundary line between zoning districts, a request for interpretation of the zoning map may be made to the Board and a determination shall be made by the Board. In considering an interpretation of the zoning map, the Board shall give due regard to the nature and condition of all adjacent uses and structures.
- 11) Such other duties may be required by the provisions of the zoning code.**
- 12) *Decision of the Board of Zoning Appeals***

  - a)** The Board of Zoning Appeals shall decide all applications and appeals within 45 days after the final hearing unless the applicant requests and is granted an extension by the Board.
  - b)** A copy of the Board of Zoning Appeal's decision shall be transmitted to the applicant or appellant. Such a decision shall be binding and shall incorporate the terms and conditions of the same in the zoning certificate to the applicant or appellant, whenever a certificate is authorized by the Board.
  - c)** A decision by the Board of Zoning Appeals shall not become final until the expiration of five days from the date such decision is made, unless the Board shall find the immediate taking effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.
  - d)** Any party adversely affected by the decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Butler County on the ground that the decision was unreasonable or unlawful. Such Court may affirm, reverse, vacate or modify the decision complained of in the appeal.

**(D) Board of Building Appeals.** The powers, duties and functions as provided in the City Charter and the ordinances and resolutions of the city for the Board of Building Appeals shall be assumed and performed in all respects by the Board of Zoning Appeals.

**(E) City Council.**

The City Council has the powers and duties established in the City Charter and such additional powers as set forth in this zoning code.

## **1176.16 Pre-Existing Developments and Nonconformities**

### **(A) Purpose**

Within the districts established by this zoning code, or by amendments thereto, there may be lots, uses of land, structures, and uses of structures and land in combination which were lawful before this zoning code was adopted or amended, but which now are prohibited, regulated, or restricted under the terms of this code. Nevertheless, while it is the intent of this code that such nonconformities be allowed to continue until they are removed, they should not be encouraged to survive. Therefore, no nonconformity may be moved, extended, altered, or used for any other use or structure not permitted elsewhere in the district except as otherwise specifically provided for in this code.

### **(B) Continuation of Existing**

- 1) Any use, building, structure, sign, land, or premises that existed at the time of the effective date of this code, which was legally established under a previous code amendment or versions, may be continued even if such use, building, structure, land, or premises does not conform to the provisions of this code.
- 2) Passage of this code in no way legalizes any illegal uses existing at the time of its adoption and such illegal uses shall not be considered a legal nonconforming use subject to the provisions of this chapter.
- 3) An applicant for any development review procedure that deals with a nonconformity shall bear the burden of proof in demonstrating that the use was a legal nonconformity on the effective date of this code.

### **(C) Nonconforming Uses**

- 1) No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this zoning code unless it complies with the provisions of Section (e) hereof.
- 2) No nonconforming use shall be moved, in whole or in part, to any lot or portion of a lot other than the area occupied by such use at the effective date of adoption or amendment of this zoning code.
- 3) No additional structures shall be constructed on a lot with a nonconforming use unless such new structure complies with the requirements of this zoning code and the applicable zoning district.

**4) *Change or substitution of nonconforming use***

- a)** If structural alterations are made to an existing building or structure that increases a nonconformity as determined by the Development Services Director or their designee, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted use, as determined by the Board of Zoning Appeals. Such determination shall be made at a public hearing held in the same manner as a variance (Section XXXX), including notice, but the variance review criteria of XXXX shall not apply. At the hearing, the Board shall decide if the proposed use is similar in nature and intensity, or is a more restricted use, allowable as a change or substitution under this section. If the Board makes such a determination, the substitution of the nonconforming use shall be permitted. In permitting any such change, the Board may impose appropriate conditions and safeguards to protect adjacent properties and safeguard the public health, safety, morals, and general welfare.
- b)** Whenever a nonconforming use is changed to a less intensive nonconforming use, such use shall not thereafter be changed to a more intensive nonconforming use.
- c)** Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the applicable zoning district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- d)** In permitting such a change, the Board of Zoning Appeals may impose appropriate conditions and safeguards to protect adjacent properties.

**5) *Expansion of a Nonconforming Use***

- a)** Notwithstanding the foregoing provisions to the contrary, a structure or structure and land combination containing a nonconforming residential use may be increased or improved, regardless of the applicable zoning district, provided the structure or structure and land in combination continues to be used for residential purposes only and meets all required setbacks of the R-1 District.
- b)** Any nonconforming, nonresidential use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of this code, but no such use shall be extended to occupy any land outside such building.
- c)** Variances to expand a nonconforming use into a required setback or to otherwise vary a regulation that applies to the subject site shall be prohibited.

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### 1176.16 Pre-Existing Developments and Nonconformities

- 6) *Existing Use Reclassified as a Conditional Use.* In the event an existing use that was a permitted use at the time the use was established is thereafter reclassified as a conditional use in the applicable district, such use shall be considered to be an approved conditional use without any further action. However, any subsequent change to such use shall require review and approval by the **Planning Commission** in accordance with this chapter and Section XXXX. Such use, provided it is conditionally permitted in the applicable district, shall not be considered a nonconforming use.

#### **(D) Discontinuance of a Nonconforming Use**

If operation of a nonconforming use of land, buildings and/or structures is voluntarily discontinued for any period of six months or more, such non-conforming use shall not thereafter be reestablished and any subsequent use or occupancy of such land, buildings, and/or structures shall conform to the regulations of the district in which it is located. When evaluating if a use has been discontinued, the following criteria shall be considered:

- 1) Failure to maintain regular business hours, typical or normal for the use (past operations of the use and/or industry standards may be used to determine typical or normal hours);
- 2) Failure to maintain equipment, supplies, or stock-in-trade which would be used for the active operation of the use;
- 3) Failure to maintain utilities which would be required for the active operation of the use;
- 4) Failure to pay taxes and assessments or enter into a repayment plan, including but not limited to sales taxes, workers' compensation taxes, corporate taxes, etc., that would be required for active operation of the use;
- 5) Failure to maintain required local, state, or federal licenses or other approvals that would be required for the active operation of the use;
- 6) Failure to maintain building, signage, or site in a manner that would be necessary for the active operation of the use.

**(E) Nonconforming Structures**

A nonconforming building or structure that existing at the time on the effective date of this zoning code, which was legally established under a previous code amendment or versions, may continue to be used for a permitted use in the applicable zoning district so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:

- 1) Any nonconforming structure may be enlarged, maintained, repaired, or altered provided, however, no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure or site, unless otherwise specified in this code.
- 2) A nonconforming structure shall not be relocated in whole or in part to any other location on the same lot or any other lot unless the entire structure shall thereafter conform to the regulations of the applicable zoning district after being relocated.
- 3) The principal use of a nonconforming building may be changed to any other permitted use in the applicable zoning district as long as the new use complies with all regulations of this zoning code specified for such use.
- 4) The governmental acquisition of a portion of a lot for a public purpose that results in reduction in a required yard or setback below that required in the applicable zoning district shall not render a structure nonconforming.
- 5) *Damage or Destruction of a Nonconforming Structure Containing a Conforming Use*
  - a) If a nonconforming structure is damaged, but not to an extent greater than 60% of the structure's value, as determined by the county auditor, such structure and use may be reestablished on the same lot to the same size and intensity of use as was previously existing immediately prior to the damage. Such reestablishment of the use shall require the issuance of a certificate of zoning compliance. If an owner rebuilds a legally nonconforming structure under this provision, they may expand the structure provided, as stated in Section (a) hereof, any expansion or change does not increase the nonconformity that existed prior to the damage.
  - b) If a nonconforming structure is damaged beyond 60% of the structure's value as determined by the county auditor, such structure shall only be rebuilt in compliance with the requirements of this zoning code and the use shall comply with the requirements of the zoning code.
  - c) If the owner voluntarily removes a structure that hasn't been damaged or destroyed or reduces the nonconformity the owner shall not be permitted to rebuild the structure to the original height, size, or setback.



## CHAPTER 1176. Administration and procedures

### 1176.16 Pre-Existing Developments and Nonconformities

- 6) *Repairs and Alterations.* On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the footprint and height of the structure as it existed, when it became nonconforming, shall not be increased.

**(F) Nonconforming Lots of Record.** A nonconforming lot of record may be used in accordance with this section.

- 1) If an existing nonconforming lot of record is occupied by a building with a use that complies with the code, such building shall be maintained and may be repaired, modernized, or altered, provided that:
  - a) The building shall not be enlarged in floor area unless the enlarged section complies with all regulations of this code, with the exception of the lot area and the lot width regulations.
  - b) The number of dwelling units, if applicable, shall not be increased unless in conformance with this code.
- 2) In any residential district, a single-family dwelling, and its customary accessory uses, may be erected on a nonconforming vacant lot of record after the effective date of this zoning code provided the buildings comply with the minimum setbacks to the maximum extent practical.
- 3) In any nonresidential district, a use that is permitted in the applicable district and its customary accessory uses, may be erected on a nonconforming vacant lot of record after the effective date of this zoning code provided the buildings comply with the minimum setbacks to the maximum extent practical.

**(G) Nonconforming Signs.** This section provides for the continuation of legally nonconforming signs.

- 1) *Maintenance.*** Non-conforming signs shall be maintained in good condition and may continue until such time that the owner removes such sign, or the sign is required to be removed per this Section.
- 2) *Alteration, Relocation, or Replacement.*** A non-conforming sign shall not be structurally altered, relocated, or replaced unless it is brought into compliance with the provisions of this code.
- 3) *Reconstruction of Damaged Sign.*** If a sign is damaged, the regulations in Section XXX shall apply.
- 4) *Termination.*** A nonconforming sign shall immediately lose its legal conforming status, and shall be brought into conformance with this code or removed, when any of the following occur:
  - a)** The sign is enlarged, relocated, or replaced.
  - b)** The sign is part of a use that has been abandoned subject to the Obsolete Sign regulations in Section XXXX.

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### 1176.17 Enforcement and Penalties

#### 1176.17 Enforcement and Penalties

(A) All permits and applications shall comply with the provisions of the zoning code and no permit or certificate shall be issued for any use, building, or purpose in conflict with the provisions of the zoning code.

(B) **Enforcement by Zoning Inspector**

- 1) For the purpose of the zoning code, the Development Services Director or the Superintendent of Building and Zoning or their designee shall be and are hereby designated and authorized to act as the Zoning Inspector. It shall be the duty of the Zoning Inspector to enforce the zoning code in accordance with the administrative provisions of the Building Code of the City and the zoning code.
- 2) The Zoning Inspector shall conduct inspections of buildings and uses of land to determine compliance with this zoning code, and, in the case of any violation, to notify in writing the person(s) responsible, specifying the nature of the violation, and ordering corrective action.
- 3) The Zoning Inspector shall determine the existence of any violations of this zoning code and cause such notifications, revocation notices, or orders for removal of violations to be issued, or initiate such other administrative or legal action as needed, to address such violation.

(C) **Penalty**

- 1) No person, corporation or organization shall locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or land in violation of any provision of the zoning code, or any amendment or supplement thereto adopted by the City Council. Any person violating any provision of the zoning code, or any amendment or supplement thereto, shall be guilty of a third-degree misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than 60 days or both. Any corporation or other organization violating any provision of the zoning code, or any amendment or supplement thereto, shall be guilty of a third-degree misdemeanor and, upon conviction thereof, shall be fined not more than three thousand dollars (\$3,000). Each and every day during which such violation continues shall constitute a separate offense.

- 2) 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 the zoning code, or any amendment or supplement thereto, the City Manager, City Council, the Law Director, the Development Services Director or their designee, or any adjacent or neighboring property owner who would be specifically damaged by such violation may, in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance, or use; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.