City of Xenia, Ohio
Official Land Development Code

Effective July 9, 2016
Ordinance #16-26

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Chapter 1218: General Provisions

1218.01 Purpose

It is the purpose of this land development code to promote and protect the public health, safety, comfort, convenience, prosperity, or general welfare of the people of Xenia through the establishment of minimum regulations governing the development and use of land. Furthermore, the intent of these regulations is:

(a) To implement the Xenia Comprehensive Plan and other policies or plans adopted by the City as it relates to the development of land;
(b) To encourage and facilitate orderly, efficient, and appropriate growth and development;
(c) To preserve the character and quality of residential neighborhoods and business activity areas;
(d) To protect private investment into properties and the resulting property values;
(e) To establish appropriate development density and intensity in order to prevent or reduce congestion and to secure the economy in the cost of providing water supply systems, electricity, sewerage systems, streets, and highways, fire and police protection, schools, parks and recreation facilities, and other governmental services;
(f) To provide for adequate access to all areas of the City by people of all abilities and by varied modes of transportation;
(g) To improve the quality of life through protection of the City’s total environment, including, but not limited to, the prevention of air, water and noise pollution;
(h) To protect residential, business, commercial and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses shall not be usurped by other inappropriate uses without limiting the potential for the mixture of compatible uses;
(i) To avoid the inappropriate development of lands and provide for adequate drainage, curbing of erosion, and reduction of flood damage; and
(j) To foster a more rational pattern of relationship between agricultural, conservation, residential, business, commercial industrial and institutional uses for the mutual benefit of all.

1218.02 Short Title

These regulations shall be known and may be cited as the “City of Xenia Land Development Code”, or referred to as the “development code” or the “code.” This code may also be referred to as Part 12 of the City of Xenia Code of Ordinances.

1218.03 Authority

(a) General Authority

The authority for the preparation, adoption, and implementation of this code is derived from Ohio Revised Code (ORC) Chapters 711 and 713, which permits the adoption of uniform rules and regulations governing the zoning and subdivision of land, and by the Charter of the City of Xenia.
Section 1218.04: Effective Date

This code was originally adopted by City Council on December 12, 1968 (Ordinance 68-43), as amended. This code shall become effective 30 days after the adoption by City Council.

1218.05 Applicability

(a) General Applicability

(1) The provisions of this code shall apply to all land, buildings, structures, and uses of land, buildings, and structures, or portions thereof, located within the municipal boundaries of the City of Xenia. The provisions of this code are the minimum requirements adopted to meet the purposes of this code as established in Section 1218.01: Purpose.

(2) The regulations established for each district in this code shall apply uniformly to each class or type of use, land, building, or structure, unless modified, varied or waived as provided herein.

(3) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(b) Essential Services Exempted

(1) The erection, construction, alteration, or maintenance by public utilities or municipal departments, boards, or commissions, of overhead, surface or underground gas, electrical steam, or water, distribution or transmission systems, collection, communications (except for wireless telecommunication facilities as regulated in this code), supply or disposal systems, including mains, sanitary sewers, water lines, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substation, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department, board, or commission or for the public health, safety, or general welfare, shall be exempt from the regulations of this code, except as otherwise provided herein. Provided, however, that the installation shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and those of other authorities having jurisdiction, where applicable.

(2) Buildings required in conjunction with an essential service identified in Subsection (1) above shall be subject to the regulations of this code and shall be reviewed in a manner as determined in Section 1222.04: Principally Permitted Uses.

(3) Utility Structures

A. Large ground-mounted utility structures or cabinets that exceed six square feet of surface area on any one side shall not be exempt from the provisions of this code.
B. Such structures or cabinets, that may include Video-Ready Access Device (VRAD) cabinets, shall be classified and reviewed as “utility structures” in Section 1222.04: Principally Permitted Uses, regardless if the structure is a principal use or accessory use on the subject site.

1218.06 Comprehensive Plan

The administration, enforcement, and amendment of this code should be consistent with the most recently adopted version of a comprehensive plan for the City of Xenia, as amended and herein referred to as the “comprehensive plan.” Such plan, or references to such plan, shall also include other adopted plans within the City that relate to development including, but not limited to, a thoroughfare plan, parks and recreation plan, etc. Amendments to this code should maintain and enhance the consistency between this code and the comprehensive plan.

1218.07 Interpretation and Conflict

(a) Interpretation of Provisions
The provisions of this code shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, comfort, morals, convenience, prosperity, or general welfare.

(b) Conflict with Other Public Laws, Ordinances, Regulations, or Permits
This code is intended to complement other City, State, and Federal regulations that affect land use and the division of land. This code is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this code are more restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions of this code shall govern.

(c) Repeal of Conflicting Ordinance
All ordinances or parts of ordinances in conflict with this code or inconsistent with the provisions of this code are hereby repealed to the extent necessary to give this code full force and effect.

1218.08 Relationship with Third-Party Agreements

(a) This code is not intended to interfere with or abrogate any third party private agreements including, but not limited to, easements, covenants, or other legal agreements between third parties. However, where this code proposes a greater restriction or imposes higher standards or requirements than such easement, covenant, or other private third-party agreement, then the provisions of this code shall govern.

(b) Nothing in this code shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this code.

(c) In no case shall the City be obligated to enforce the provisions of any easements, covenants, or agreements between private parties unless the City is a named party in the agreement.

1218.09 Severability

(a) If any court of competent jurisdiction invalidates any provision of this code, then such judgment shall not affect the validity and continued enforcement of any other provision of this code.
Chapter 1218: General Provisions
Section 1218.10: Transitional Rules
Subsection (a): Purpose

(b) If any court of competent jurisdiction invalidates the application of any provision of this code to a particular property, structure, or situation, then such judgment shall not affect the application of that provision to any other property, structure, or situation not specifically included in that judgment.

(c) If any court of competent jurisdiction judges invalid any condition attached to the approval of a development review application, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

1218.10 Transitional Rules

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

(b) Violations Continue
(1) Any violation that existed at the time this amendment became effective shall continue to be a violation under this code and is subject to penalties and enforcement under Chapter 1242: Enforcement and Penalties unless the use, development, construction, or other activity complies with the provisions of this code.
(2) Payment shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered to be a violation under this code.

(c) Nonconformities Continue
(1) Any legal nonconformity that existed at the time this amendment became effective shall continue to be a legal nonconformity under this code as long as the situation that resulted in the nonconforming status under the previous code continues to exist, and shall be controlled by Chapter 1240: Nonconformities.
(2) If a legal nonconformity that existed at the time this amendment became effective becomes conforming because of the adoption of this amendment, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.

(d) Processing of Applications Commenced or Approved Under Previous Regulations
(1) Pending Projects
   A. Any complete application that has been submitted or accepted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this code, shall be reviewed in accordance with the provisions of the regulations in effect on the date the application was deemed complete by the City.
   B. If a complete application is not filed within the required application filing deadlines in effect prior to the adoption of this code, the application shall expire and subsequent applications shall be subject to the requirements of this code.
   C. Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
   D. An applicant with a pending application may waive review available under prior regulations through a written letter to the City and request review under the provisions of this code.
(2) **Approved Projects**

A. Approved planned unit developments, site plans, variances, certificates of appropriateness, conditional uses, zoning permits, or other approved plans or permits that are valid on the effective date of this code shall remain valid until their expiration date, where applicable.

B. Any building or development for which a permit or certificate was granted prior to the effective date of this code shall be permitted to proceed to construction, even if such building or development does not conform to the provisions of this code, as long as the permit or certificate remains valid.

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

(e) **Vested Rights**

The transitional rule provisions of this section are subject to Ohio’s vested rights laws.

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### 1218.11 Restoration of Unsafe Buildings

Nothing in this code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

### 1218.12 Use of Graphics, Illustrations, Figure, and Cross-References

(a) Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.

(b) In some instances, cross-references between chapters, sections, and subsections are provided that include the chapter, section, or subsection number along with the name of the reference. Where a conflict may occur between the given cross-reference number and name, the name shall control.

(c) A table shall be considered text for the purposes of this code unless specifically identified as a figure.

### 1218.13 Burden of Proof

The burden of demonstrating that an application or any development subject to this code complies with applicable review and approval standards is on the applicant. The burden is not on the City or other parties to show that the standards have been met by the applicant or person responsible for the development.
Chapter 1220: Administration and Procedures

1220.01 Review and Decision-Making Authorities

(a) City Council
In addition to any other authority granted to the City Council by charter, ordinance, or State law, the City Council shall have the following powers and duties, as it relates to this code.

(1) Appoint members to the Planning and Zoning Commission and the Board of Zoning Appeals, in accordance with the charter and this code;
(2) Initiate, hear, review, and make decisions related to amendments to the text of this code, the zoning map, or planned unit developments;
(3) Review and accept, where appropriate, any proposed dedication of street, utilities, and other public improvements required by these regulations;
(4) Establish fees for development review and permits; and
(5) Perform any other duties related to the administration and enforcement of this code as authorized by the charter, this code, and the ORC.

(b) Planning and Zoning Commission (PZC)

(1) Establishment
A. The Xenia Planning and Zoning Commission (PZC) is hereby established by City Council pursuant to the Charter of the City of Xenia, Ohio.
B. The Planning and Zoning Commission may be hereafter referred to as the “City Planning Commission,” “Planning Commission, or “PZC.”

(2) Membership
The membership of the PZC shall be as follows:
A. The City Council shall appoint members of the PZC.
B. The PZC shall be composed of five members, all of whom shall be residents of the City.
C. Each member shall serve four-year terms.
D. In addition to the five members above, one member of City Council shall be selected by the President of City Council to serve as the chair of the PZC. The chair appointment shall be for a one-year term.
E. Members of the PZC may be removed for misfeasance, malfeasance, or nonfeasance by City Council.
F. A vacancy occurring during the term of any member of the PZC shall be filled, by appointment from City Council, for the unexpired term in a manner authorized for the original appointment.

(3) Roles and Powers of the PZC
The PZC shall have the following roles and powers:
A. Initiate, hear, review, and make recommendations to City Council related to amendments to the text of this code, the zoning map, or PUD concept plans and related zoning map amendments;
B. Hear, review, and make decisions related to the PUD Final Development Plans;
C. Hear, review, and make decisions on conditional uses in the respective zoning district;
D. Review and make decisions on alternative equivalent review applications;
E. Hear, review, and decide on any proposed major amendments to previously approved planned unit development plans and documents;
F. Review and make decisions on minor subdivisions when such application is forwarded to the PZC by the City Planner;
G. Review and make decisions on the preliminary plat of major subdivisions;
H. Review, and make decisions on certain Certificates of Appropriateness (COAs);
I. Review and make decisions on the final plat and improvement drawings of major subdivisions;
J. Review and make decisions on requests for subdivision modifications; and
K. Perform any other duties related to the administration and enforcement of this code as authorized by the charter, this code, and the ORC.

(4) **Bylaws, Rules, and Regulations**
The City Council, may, by a majority vote of its entire membership, adopt bylaws for the governance of the PZC provided they are consistent with State law and with any other ordinances of the City.

(5) **Meetings**
A. The PZC shall hold such meetings as it may require for conducting its business.
B. The Chairperson of the PZC shall establish an agenda for the PZC meetings.
C. At the first meeting of each year, the PZC shall elect a Vice-Chairperson who shall serve for one year. These officers shall be elected from among the members of the PZC. During the temporary absence of the Chairperson, the Vice-Chairperson shall fulfill the duties of the Chairperson.
D. All meetings shall be open to the public, except as exempted by law.

(6) **Quorums and Decisions**
A. Any combination of three or more regular or alternate members of the PZC shall constitute a quorum.
B. The Chairperson of the PZC shall have no voting privileges, except in the event of a tie.
C. The PZC shall act when at least three members concur.
D. Non-decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.

(c) **Board of Zoning Appeals (BZA)**

(1) **Establishment**
The City of Xenia Board of Zoning Appeals (hereafter referred to as the “BZA”) is hereby established by City Council pursuant to the Charter of the City of Xenia, Ohio.

(2) **Membership**
The membership of the BZA shall be as follows:
A. The City Council shall appoint members of the BZA.
B. The BZA shall be composed of five members, all of whom shall be residents of the City.
C. Each member shall serve four-year terms.
D. In addition to the five members above, one member of City Council shall be selected by the President of City Council to serve as the chair of the BZA. The chair appointment shall continue through the length of the council member’s term.
E. Members of the BZA may be removed for misfeasance, malfeasance, or nonfeasance by City Council.
F. A vacancy occurring during the term of any member of the BZA shall be filled, by appointment from City Council, for the unexpired term in a manner authorized for the original appointment.

(3) Roles and Powers of the BZA

The BZA shall have the following roles and powers to:

A. Hear, review, and decide on appeals of any administrative decision where it is alleged there is an error in any administrative order, requirement, decision, or determination made by the City Planner, Code Enforcement Officer, PZC, City Engineer, or other staff member authorized to make such decisions or orders, unless another appeals board is established by this code;
B. Hear, review, and decide on variance requests; and
C. Perform any other duties related to the administration and enforcement of this code as authorized by the charter, this code, or the ORC.

(4) Bylaws, Rules, and Regulations

A. The City Council, may, by a majority vote of its entire membership, adopt bylaws for the governance of the BZA provided they are consistent with State law and with any other ordinances of the City.
B. The privilege of cross-examination of witnesses shall be accorded all interested parties or their counsel in accordance with the rules of the BZA.
C. The Chairperson, or, in his or her absence, the Vice-Chairperson, shall administer oaths and compel the attendance of witnesses.

(5) Meetings

A. The BZA shall hold such meetings as it may require for conducting its business.
B. The Chairperson of the BZA shall establish an agenda for the BZA meetings.
C. At the first meeting of each year, the BZA shall elect a Vice-Chairperson who shall serve for one year. These officers shall be elected from among the members of the BZA. During the temporary absence of the Chairperson, the Vice-Chairperson shall fulfill the duties of the Chairperson.
D. All meetings shall be open to the public, except as exempted by law.
E. The BZA shall act by resolution or motion and shall keep minutes of its proceedings, showing the vote of each member or if any member is absent or fails to vote, the facts of each application considered by the BZA, and, where applicable, the section of this code, under which the BZA has considered the application, petition or other matter brought before the BZA.
F. The BZA shall make and enter findings and conclusions which support all of its decisions. The findings and conclusions shall set forth and demonstrate the manner in which the decision recommended carries out and helps to implement the goals and objectives of the comprehensive plan, the purpose of this code, and other official policies and objectives of the City, and that the granting of the request for which application is made will not be unreasonably incompatible with or detrimental to the affected properties and to the general public.

6 Quorums and Decisions
   A. Any combination of three or more regular or alternate voting members of the BZA shall constitute a quorum.
   B. The Chairperson of the BZA shall have no voting privileges, except in the event of a tie.
   C. The BZA shall act when at least three members concur.
   D. Non-decision items, such as continuance or approval of minutes, shall require a majority of the quorum to concur.

(d) City Planner
   (1) Establishment
   The City of Xenia City Planner shall be established to aid in the administration and enforcement of this code. The City Planner may be provided with the assistance of such other persons as the City Manager may direct. The City Planner may delegate any of their duties to other staff persons, including, but not limited to, the Code Enforcement Officer.

   (2) Roles and Powers of the City Planner
   The City Planner shall have the following roles and powers to:
   A. Enforce the provisions of this code. All officials and employees of the City may assist the City Planner by reporting to the City Planner any new construction, reconstruction, land uses, or violations that are observed;
   B. Review and prepare a staff report, as needed, for the various procedures where the PZC, BZA, or City Council reviews an application;
   C. Review and make decisions on zoning permit and administrative waiver applications;
   D. Review, and make decisions on certain Certificates of Appropriateness (COAs);
   E. Review and make decisions on questions of interpretation related to this code;
   F. Review and decide on any proposed minor amendments to previously approved planned unit development plans and documents;
   G. Participate in any pre-application conferences as may be requested by a property owner or potential applicant in accordance with this code;
   H. Review and make decisions on minor subdivision applications;
   I. Refer requests for appeals of decisions to the BZA pursuant to the procedures established in Section 1220.12: Appeals;
   J. Maintain permanent and current records of all applications and the decisions related to those applications;
   K. Review, inspect property, and make decisions on compliance with the provisions of this code;
Chapter 1220: Administration and Procedures
Section 1220.01: Review and Decision-Making Authorities
Subsection (e): City Engineer

L. Investigate complaints and issue citations or other forms of enforcement and penalties for any violations and keep adequate records of all violations;
M. Order discontinuance of any illegal work being done;
N. Revoke a permit or approval issued contrary to this code or based on a false statement or misrepresentation on the application; and
O. Take any other action authorized by this code to ensure compliance with or to prevent violation(s) of this code.

(3) Decisions of the City Planner
A decision of the City Planner may be appealed to the BZA in accordance with Section 1220.12: Appeals unless another appeals board is established by this code.

(e) City Engineer
(1) Establishment
The City of Xenia City Engineer shall be established to aid in the administration and enforcement of this code. The City Engineer may be provided with the assistance of such other persons as the City Manager may direct.

(2) Roles and Powers of the City Engineer
In addition to any other authority granted to the City Engineer by charter, ordinance, or State law, the City Engineer shall have the following powers and duties related to these regulations:
A. Develop and recommend the City of Xenia Construction Standard Drawings, and the City of Xenia Material and Specifications Manual and other documents as may be approved by City Council related to subdivision improvement specifications;
B. Review and make recommendations to the City Planner on minor subdivision applications;
C. Review and make recommendations to the PZC and City Council on major subdivision applications;
D. Participate in any pre-application conferences requested by a property owner or potential applicant in accordance with this code;
E. Act as the floodplain administrator for the City of Xenia and perform the following related duties:
   i. Evaluate applications for permits to develop in special flood hazard areas;
   ii. Interpret floodplain boundaries and provide flood hazard and flood protection elevation information;
   iii. Issue flood development permits to develop in special flood hazard areas when the provisions of this code have been met, or refuse to issue the same in the event of noncompliance;
   iv. Inspect buildings and lands to determine whether any violations of this code have been committed;
   v. Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances and records of enforcement actions taken for violations of these regulations;
vi. Enforce the provisions of these regulations;
vii. Provide information, testimony, or other evidence as needed during variance hearings;
viii. Coordinate map maintenance activities and FEMA follow-up; and
ix. Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

F. Maintain permanent and current records of all public improvements and improvement drawings that are part of major subdivision applications; and

G. Inspect, or cause to be inspected, all construction or installation work related to public improvements as required by these regulations.

(3) Decisions of the City Engineer
A decision of the City Engineer with regard to this code may be appealed to the BZA in accordance with Section 1220.12: Appeals unless another appeals board is established by this code.

1220.02 Common Review Requirements
The requirements of this section shall apply to all applications and procedures subject to development review under this code, unless otherwise stated.

(a) Authority to File Applications
(1) Unless otherwise specified in this code, development review applications defined in this code may be initiated by:
   A. At least one owner of the property that is subject of the application; or
   B. An agent authorized by the owner, which may include a lessee of the property.
(2) Property owners of all the lots subject to the review or submittal shall be required to sign the application.
(3) The PZC or City Council may initiate code text and map amendments under this code with or without written authorization or application from the property owner who may be affected.

(b) Application Submission Schedule
The schedule for the submission of applications in relation to scheduled meetings and hearings of the review bodies shall be established by the City of Xenia Planning and Zoning Department, and made available to the public.

(c) Application Contents
(1) Applications required under this code shall be submitted in a form and in such numbers as established by the Planning and Zoning Department, and made available to the public.
(2) Applications shall be accompanied by a fee as established by City Council pursuant to Section 1220.02(f): Fees.
(3) Complete Application Determination
   A. The City Planner shall only initiate the review and processing of applications submitted under this chapter if such application is determined to be complete.
Chapter 1220: Administration and Procedures
Section 1220.02: Common Review Requirements
Subsection (d): Simultaneous Processing of Applications

B. An application shall be determined to be complete if the applicant has submitted all of the forms, maps, fees, and other submittal requirements required for the specified application.
C. The City Planner shall make a determination of application completeness within five business days of the application filing.
D. If the application is determined to be complete, the application shall then be processed according to the procedures and timelines set forth in this code.
E. If an application is determined to be incomplete, the City Planner shall provide written notice to the applicant along with an explanation of the application’s deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected and the City Planner determines that the application is complete.
F. The City shall not be required to process an incomplete application, forward an incomplete application to any decision-making body, or be subject to any required timelines of review for incomplete applications.
G. If the applicant fails to correct all deficiencies and submit a complete application within 60 days of the notice provided by the City Planner, the incomplete application shall not be reviewed, the applicant’s original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. The City Planner may grant one 60 day extension if just cause is shown.
H. No reconsideration of an incomplete application shall occur after expiration of the 60-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements this chapter, submit a new application, and submit a new filing fee.
I. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(d) Simultaneous Processing of Applications
(1) Whenever two or more forms of review and approval are required under this code, the City Planner shall determine the order and timing of review.
(2) The City Planner may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.

(e) Pre-application Conferences or Meetings
(1) Prior to filing an application, an applicant is encouraged to request a meeting with the City Planner or City Engineer for a pre-application conference to discuss the proposed application or project.
(2) The purpose of the pre-application conference shall be to discuss the proposed application or project, review submittal requirements, and discuss compliance with the provisions of this code and the comprehensive plan prior to the submission of an application.
(3) No action can be taken by the staff and/or any boards until the applicant submits an actual application and/or plan to the City pursuant to the laws and policies of the City. Therefore, all discussions that occur between the applicant and/or applicant’s representative(s) and staff, and/or City boards, that occur prior to the date the applicant submits an actual application and/or plan including, but not limited to, any informal meetings with City staff, boards, any pre-application conferences or meetings, are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.
(f) Fees

(1) Any application for development review under this code shall be accompanied by such fee as shall be specified from time to time by ordinance of City Council. There shall be no fee, however, in the case of applications filed by City Council or the PZC.

(2) The fees shall be in addition to any other fees that may be imposed by the City, State, Greene County, or other agency having jurisdiction.

(3) Such fees are adopted to cover the cost to the City for investigations, legal advertising, postage, and other expenses resulting from the administration of the respective zoning activities.

(4) Unless otherwise identified in the fee schedule adopted by City Council, no application shall be processed or determined to be complete until the established fee has been paid.

(5) If the City determines that the costs of a particular application will exceed the filing fee as established by City Council as a result of preparation of legal descriptions, maps, studies, or other required information, or as a result of the need for professional expert review, study, or testimony, the City Planner is authorized to collect such additional costs from the applicant.

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

(7) Subdivision Related Fees

All application fees established in Section 1220.02(f): Fees are due upon submission of the application. Additional fees related to the subdivision process are due as established below or otherwise approved as part of the preliminary plat.

A. Fees for inspections made during and upon completion of all public improvements for subdivisions shall be paid, in full, at the time the final plat is submitted to City Council.

B. All required engineering review fees shall be paid, in full, at the time the final plat is submitted to City Council.

(g) Public Notification for Public Meetings

For all public meetings required by this code, the City shall comply with Chapter 206 of the City of Xenia Codified Ordinances and all applicable State requirements.

(h) Public Notification for Public Hearings

(1) Applications for development approval that require public hearings shall comply with all applicable State requirements and the public meeting notice requirements established in Section 1220.02(g): Public Notification for Public Meetings, above.

(2) The City Planner shall be responsible for providing the required notice as specified by this subsection.

(3) Content

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

A. Identify the address or location of the property subject to the application and the name of the applicant or the applicant’s agent;

B. Indicate the date, time, and place of the public hearing;

C. Describe the land involved by street address, Greene County parcel identification number, or by legal description;
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Section 1220.02: Common Review Requirements
Subsection (h): Public Notification for Public Hearings

D. Describe the nature, scope, and purpose of the application or proposal;
E. Identify the location (e.g., the offices of the Planning and Zoning Department) where the public may view the application and related documents;
F. Include a statement that the public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application; and
G. Include a statement describing where written comments will be received prior to the public hearing.

(4) Notice Requirements
Published and mailed notice for public hearings shall be provided as defined in Table 1220-1.

<table>
<thead>
<tr>
<th>Development Review Procedure</th>
<th>Published Notice</th>
<th>Written (Mailed) Notice</th>
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<tr>
<td>Code Text Amendment</td>
<td>Published notice required a minimum of 15 days before the initial public hearing of PZC and City Council</td>
<td>No written notice is required for a text amendment.</td>
</tr>
<tr>
<td>Zoning Map Amendment and PUD Concept Plan</td>
<td>Published notice required a minimum of 15 days before the initial public hearing of PZC and City Council</td>
<td>Written notice shall be sent to all owners of property within 300 feet from the boundary of all properties subject to the rezoning application. The notice shall be required a minimum of 15 days before the initial public hearing of PZC and City Council. Written notice shall not be required where the application involves more than 10 separate lots.</td>
</tr>
<tr>
<td>Conditional Use or Major PUD Modification</td>
<td>Published notice required a minimum of 10 days before a public hearing</td>
<td>Written notice to the applicant and all property owners contiguous and directly across the street or public right-of-way from the subject property shall be required a minimum of 10 days prior to the hearing.</td>
</tr>
<tr>
<td>Variance and Subdivision Modifications</td>
<td></td>
<td></td>
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</tbody>
</table>

(5) Published Notice
A. Published notice shall be provided by electronic media including, at a minimum, posting online at the City’s website. The notice shall also be posted in a publicly visible and accessible location at a City administrative building.
B. The content and form of the published notice shall be consistent with the requirements of this section and State law.

(6) Written (Mailed) Notice
A. Written notification of property owners shall apply only to the initial presentation of the application for the public hearing in front of the applicable review board.
B. Written notice shall be postmarked no later than the amount of days specified in Table 1220-1 prior to the hearing date at which the item will be considered.
(7) Constructive Notice

A. Minor defects in any notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage, none of which impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the department having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this code, and such finding shall be made available to the decision-making body prior to final action on the request.

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

(i) Conduct of Public Hearing

(1) Rights of All Persons

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state his or her address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

(2) Continuance of a Public Hearing or Deferral of Application Review

A. An applicant may request that a review or decision-making body’s consideration of an application at a public hearing be deferred by submitting a written request for deferral to the City Planner prior to the publication of notice as may be required by this code. The City Planner may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.

B. A request for deferral of consideration of an application received by the City Planner after publication of notice of the public hearing as required by this code shall be considered as a request for a continuance of the public hearing, and may only be granted by the review or decision-making body.

C. The review or decision-making body conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place.

(j) Withdrawal of Application

(1) Any request for withdrawal of an application shall be either submitted in writing to the City Planner or made through a verbal request by the applicant prior to action by the review or decision-making body. The City Planner shall approve a request for withdrawal of an application.

(2) Examination and Copying of Application and Other Documents. Documents and/or records may be inspected and/or copied as provided for by State law.

(k) Effect of any Approvals

(1) The issuance of any approval or permit under this code shall authorize only the particular development, alteration, construction, or use approved in the subject application.
(2) All approvals shall run with the land or use, are not personal to the owners of the land associated with such approvals, and shall not be affected by changes in ownership of the land or use associated with such approvals.

(i) Amendments of Approved Applications

Unless otherwise stated, any approval granted through the provisions of this code may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

(m) Subsequent Development

(1) Development authorized by any approval under this section and this code shall not be carried out until the applicant has secured all other approvals required by this code or any other applicable provisions of the City.

(2) The granting of any approval or permit shall not guarantee the approval of any other required permit or application.

(3) The City shall not be responsible for reviewing the application for compliance with any permits, certificates, or other approvals that may be required by the Greene County, State, or other agencies having jurisdiction.

(n) Computation of Time

(1) In computing any period of time prescribed or allowed by this code, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by the City of Xenia where the City administrative offices are closed for the entire day.

(2) When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).

(3) When the City offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by the City of Xenia in which the City administrative offices are closed for the entire day.

1220.03 Code Text and Map Amendments

(a) Purpose

The purpose of the code text and zoning map amendment procedure is to provide a process for amending the zoning map and text of this code.

(b) Applicability

This section shall apply to requests to amend the text of this code or amend the Official Zoning Map of the City of Xenia, Ohio, hereafter referred to as the “zoning map.”

(c) Initiation

(1) For a zoning map amendment of a specific property, any person who has authority to file an application (See Section 1220.02(a): Authority to File Applications.) for such property may initiate an amendment by filing an application with the City Planner.
(2) Only City Council or the PZC may initiate code text amendments.

(3) City Council may initiate a code text or map amendment by referring a recommendation on an amendment to the PZC.

(4) The PZC may initiate a code text or map amendment by adopting a motion to make such amendment.

(d) Code Text or Map Amendment Review Procedure

The review procedure for a code text or map amendment shall be as follows:

(1) Step 1 – Application
   A. For amendments that are not initiated by the PZC or City Council, the applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.
   B. Amendments initiated by City Council shall be referred to the PZC for review.

(2) Step 2 – Staff Review and Staff Report
   A. Upon determination that a text or zoning map amendment application is complete, the City Planner shall refer the application to the PZC.
   B. Prior to the PZC hearing for the text or map amendment, the City Planner shall review the application and prepare a staff report.

(3) Step 3 – PZC Review and Recommendation
   A. In accordance with the applicable submission deadlines (See Section 1220.02(b): Application Submission Schedule.), the PZC shall hold a public hearing on the code text or map amendment at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.
   B. Notification of the public hearing shall be provided in accordance with Section 1220.02(h): Public Notification for Public Hearings.
   C. In reviewing the application, the PZC shall at a minimum, consider the staff report from the City Planner, the review criteria of this section, and any reliable probative and/or substantial evidence/testimony presented at the public hearing.
   D. Within 45 days of the close of the public hearing, the PZC shall make a recommendation to City Council on the application. In making its recommendation, the PZC may recommend approval, approval with some modification, or denial of the application. If the PZC fails to make a recommendation within the established timeframe, the application will move forward to Step 4 with a recommendation of approval.

(4) Step 4 – City Council Review and Decision
   A. Following receipt of the recommendation from the PZC (Step 3), the application shall be placed on City Council’s agenda for the next regularly scheduled meeting, if in compliance with notification requirements, or City Council shall set a time for a public hearing on the proposed amendment that is no more than 60 days from receipt of the PZC’s recommendation.
   B. Notification of the public hearing shall be provided in accordance with Section 1220.02(h): Public Notification for Public Hearings.
C. City Council shall review a text or zoning map amendment application during a public hearing. In reviewing the application, City Council shall at a minimum, consider the staff report from the City Planner, recommendation from PZC, and the review criteria of this section.

D. City Council shall adopt, adopt with some modification, or deny the recommendation of the PZC. The action of City Council shall be done by ordinance or resolution in accordance with the terms of the charter and state law.

E. The effective date of any amendment shall be in accordance with the City Charter.

(e) Review Criteria

Recommendations and decisions on code text or map amendment applications shall be based on consideration of the following review criteria. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.

(1) The proposed amendment is consistent with the comprehensive plan, other adopted City plans, and the stated purposes of this code as established in Section 1218.01: Purpose.;

(2) The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;

(3) The proposed amendment, if amending the zoning map, is consistent with the stated purpose of the proposed zoning district;

(4) The proposed amendment, if to the zoning map, follows lot lines or the centerlines of streets, railroads, or other rights-of-way.

(5) The proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

(6) The proposed amendment will not constitute spot zoning where special treatment is given to a particular property or property owner that would not be applicable to a similar property, under the same circumstances; and

(7) The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract.

1220.04 Planned Unit Developments

(a) Purpose

The purpose of the planned unit development procedure is to provide a special review process for developments that are subject to Section 1222.06: Planned Unit Developments of this code.

(b) Applicability

This section shall apply to all applications for the creation of a Planned Unit Development in accordance with Section 1222.06: Planned Unit Developments of this code.

(c) Initiation

Any person who has authority to file an application (See Section 1220.02(a): Authority to File Applications.) for such property may initiate an application for a Planned Unit Development by filing an application with the City Planner.

(d) Planned Unit Development Review Procedure

The review procedure for planned unit development shall be as follows:
Chapter 1220: Administration and Procedures  
Section 1220.04: Planned Unit Developments  
Subsection (d): Planned Unit Development Review Procedure

(1) **Step 1 – Application (Concept Plan and Zoning Map Amendment)**
The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.

(2) **Step 2 – Staff Review and Staff Report**
   A. Upon determination that a Planned Unit Development application and related concept plan is complete, the City Planner shall refer the application to the PZC.
   B. Prior to the PZC hearing for the PUD concept plan and zoning amendment, the City Planner shall review the application and prepare a staff report.

(3) **Step 3 – PUD Concept Plan and Zoning Map Amendment**
   A. The PUD concept plan approval procedure involves a zoning map amendment to rezone the subject property to a PUD with an approved PUD concept plan.
   B. The procedure for this stage shall comply with the requirements of Section 1220.03: Code Text and Map Amendments.
   C. The PZC shall review the PUD Concept Plan and make a recommendation to City Council to approve, approve with modifications, or deny the application. The recommendation shall be made based on review of the application using the criteria contained in this section.
   D. The PZC may, in its recommendation to City Council, require that the final PUD plan be submitted in stages corresponding to different units or elements of the development. It may do so only upon evidence assuring completion of the entire development in accordance with the PUD concept plan and stage development schedule.

(4) **Step 4 – Final PUD Plan Approval**
   A. Within one year after the approval of the PUD concept plan, the applicant shall file a final PUD plan for the entire development, or when submitting in stages was authorized by the PZC during the PUD concept plan review (Step 3), for the first phase of the development.
   B. If more than one year passes from the date of approval of the PUD concept plan and the final PUD plan has not been submitted for approval or a request for an extension not to exceed 12 months has been filed with PZC, the PUD concept plan shall be deemed expired and the applicant will have to resubmit such plan. In no case shall PUD concept plan be valid for more than two years. After the PUD concept plan has expired, the PUD zoning designation shall remain in place but no development shall be authorized unless the property owner, or authorized agent, submits a new PUD concept plan for review pursuant to this section, or submits an application for a zoning map amendment to a base zoning district.
   C. Preliminary plat approval may occur concurrently with the PUD final plan approval.
   D. In accordance with the applicable submission deadlines (See Section 1220.02(b): Application Submission Schedule.), the PZC shall review the PUD final plan at its next regularly scheduled meeting, or at a special meeting, after the submission is determined to be complete.
   E. The PZC will review the PUD final plan to determine whether it conforms to all substantial respects to the previously approved PUD concept plan and to all other applicable standards of this code.
      i. The PZC may approve, approve with modifications, or deny the PUD final plan.
ii. In its decision, the PZC may impose such conditions of approval as are in its judgment necessary to insure conformity to the applicable criteria and standards. In so doing, the PZC may permit the applicant to revise the plan and resubmit it as a PUD final plan within 60 days of such action.

(e) Review Criteria

(1) Review Criteria for the PUD Concept Plan and Zoning Map Amendment

The following criteria shall serve as conditions that should generally be satisfied before the approval of the PUD concept plan and zoning map amendment:

A. The proposed development is consistent with the comprehensive plan, other adopted City plans, and the stated purposes of this code and Section 1222.06: Planned Unit Developments;

B. The proposed development is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;

C. The proposed development will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved as well under other zoning districts;

D. The proposed development will support the purpose of this code as stated in Section 1218.01: Purpose.

E. The proposed development is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated; and

F. The concept plan has been transmitted to all other agencies and departments charged with responsibility of review.

(2) Review Criteria for the PUD Final Plan

The following criteria shall serve as conditions that should generally be satisfied before the approval of the PUD final plan:

A. Where greenspace is required, appropriate arrangements with the applicant have been made which will ensure the reservation of common greenspace as indicated on the PUD concept plan and PUD final plan. Furthermore, the PUD final plan shall demonstrate how the greenspace shall be duly transferred to a legally established homeowner's association or has been dedicated to the City or another public or quasi-public agency;

B. Appropriate agreements with the applicant have been made to ensure the proper completion of public improvements in compliance with Chapter 1238: Subdivision Design;

C. The proposed PUD final plan for the individual section(s) of the overall PUD is consistent in contents (building location, land uses, densities and intensities, yard requirements, and area and frontage requirements) with the approved PUD concept plan;

D. Each individual phase of the development can exist as an independent unit that is capable of creating an environment of sustained desirability and stability, or that adequate assurance will be provided that such objective can be obtained;

E. That any exception from the design standards provided in the PUD concept plan is warranted by the design and amenities incorporated in the detailed PUD final plan;
F. That the internal streets and thoroughfares proposed are suitable and adequate to accommodate the anticipated traffic within and through the development; and

G. The PUD final plan has been transmitted to all other agencies and departments charged with responsibility of review.

(f) Zoning Permit Issuance
Zoning permits shall not be issued until the lot or applicable subdivision has been fully recorded in the office of the Greene County Recorder’s Office and public improvements have been installed in accordance with this code.

(g) Time Limit
(1) Any PUD final plan shall be valid for a period of three years after the date of approval by the City Council. If no development has begun (development being defined as the start of construction of the required public/private improvements as shown on the approved final development plan for one or more phases of the project) in the PUD within three years from the date of approval, such approval shall lapse and be of no force and effect.

(2) Two one-year extensions of the time limit set forth in subsection (1) hereof may be granted by the PZC, provided that such extension is not in conflict with the most current comprehensive plan and that such extension is in the best interests of the entire community. The developer/owner shall apply for an extension and shall state the reason for the extension. The City Council shall be notified of all extensions granted.

(3) If an approved PUD final plan lapses as provided in subsection (1) hereof, the originally approved PUD concept plan shall also be considered void. Notice of such lapse shall be filed by the PZC and forwarded to the City Council. The City Council may initiate a rezoning to a base zoning district in accordance with Section 1220.03: Code Text and Map Amendments.

(h) Changes to Approved Planned Unit Developments
(1) A planned unit development shall be constructed and completed in accordance with the approved PUD final plan and all supporting data. The PUD final plan and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assignees, and shall limit and control the use of premises (including the internal use of buildings and structures) and the location of structures in the planned unit development as set forth therein.

(2) Where a property owner on a lot in a PUD seeks a variance from the applicable standards for an individual property that will not apply to any other property in the PUD, the property owner shall request such variance in accordance with Section 1220.10: Variances.

(3) Any request to change or otherwise modify the approved PUD final plan as it applies to more than one property owner, shall be reviewed based on whether the change is consider major or minor, in accordance with this subsection.

(4) Major Change
A. Major changes to a PUD generally require the prior approval of the PZC and the City Council. The City Planner shall have the authority to determine if a proposed change is a major change. Such changes include, but are not limited to:
   i. Expansion of the PUD project beyond the original tract coverage;
   ii. Removal or subtraction of land from the original tract coverage; and
   iii. Proposed changes that will result in an increase in residential density or an aggregate increase of more than 10 percent in nonresidential square footage.
B. Changes that require the approval of only the PZC include, but are not limited to, the following:
   i. Changes in the site plan relative to the size and arrangement of buildings, the layout of streets or circulation patterns, the size, configuration and location of common open space, and changes in any approved elements of the PUD; and
   ii. Amendments to the conditions that were attached to the original PUD approval.

(5) Minor Changes
A. Minor changes are those proposed by the developer/owner which do not disturb or affect the basic design and approved concept plan of the PUD and which are essentially technical in nature, as determined by the City Planner.
B. Examples of minor changes include, but are not limited to, change in the intensity of lighting, changes in the size and location of water and sewer lines within approved easements and changes in the location and number of fire hydrants.
C. The City Planner shall notify the PZC of all such approved minor changes.

1220.05 Conditional Uses

(a) Purpose
The purpose of a conditional use procedure is to allow consideration for certain uses that due to their unique and special nature relative to location, design, size, operations, circulation, and general impact on the community, need to be evaluated on an individual basis.

(b) Applicability
This section shall apply to all applications for establishment of a conditional use as may be identified in this code.

(c) Conditional Use Review Procedure
The review procedure for a conditional use review shall be as follows:

(1) Step 1 – Application
The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.

(2) Step 2 – Staff Review and Staff Report
A. Upon determination that a conditional use application is complete, the City Planner shall refer the application to the PZC.
B. Prior to the PZC hearing for the conditional use application, the City Planner shall review the application and prepare a staff report.

(3) Step 3 – PZC Review and Decision
A. In accordance with the applicable submission deadlines (See Section 1220.02(b): Application Submission Schedule.), the PZC shall hold a public hearing on the conditional use application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.
B. In reviewing the application, the PZC shall at a minimum, consider the staff report from the City Planner, the review criteria of this section, and any reliable probative and/or substantial evidence/testimony presented at the public hearing.
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Section 1220.05: Conditional Uses
Subsection (d): Review Criteria

C. Notification of the public meeting or hearing shall be provided in accordance with Section 1220.02(h): Public Notification for Public Hearings.

D. Within 45 days of the close of the public hearing, the PZC shall make a decision on the application.

E. In making its decision, the PZC may approve, approve with modifications or supplementary conditions, or deny the application.

(d) Review Criteria

Decisions on a conditional use application shall be based on consideration of the following review criteria. All conditional uses shall be subject to review under the criteria of this section, as applicable, and may be subject to additional use-specific standards.

(1) The proposed conditional use is established as an allowed conditional use in the applicable zoning district;

(2) The proposed use is consistent with the spirit, purpose and intent of the comprehensive plan and the general purpose of this code;

(3) The proposed use complies with any use-specific standards as may be established for the use;

(4) Any building or structure constructed, reconstructed, or altered as part of a conditional use in a residential zoning district shall, to the maximum extent feasible, maintain the exterior appearance of residential buildings of the type otherwise permitted and shall have suitable landscaping, screening, and fencing wherever deemed necessary by the PZC;

(5) The proposed use will comply with all applicable development standards;

(6) The proposed use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;

(7) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;

(8) The circulation on and access to the property shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

(9) The design of the buildings, structures, and site will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance;

(10) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and

(11) Wherever no specific areas, frontage, height, or setback requirements are specified in provision for a specific conditional uses, then such use shall be subject to the site development standards for the applicable zoning district.

(e) Additional Criteria and Conditions

(1) The PZC shall be authorized to waive or modify requirements that apply to the conditional use as may be necessary to achieve compatible development with adjacent land areas as well as in the interest of the community in general where the PZC finds that such waiver or modification will further the protection of the general welfare, protect individual property rights, and ensure that the conditional use will meet the intent and purposes of this code.

(2) The PZC may also impose additional conditions, guarantees, and safeguards as it deems necessary to protect the general welfare and individual property rights, and to ensure that the conditional use will meet the intent and purposes of this code.
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Section 1220.06: Minor Subdivisions

Subsection (f): Revocation of a Conditional Use Approval

(f) **Revocation of a Conditional Use Approval**

The breach of any condition, safeguard, or requirement shall automatically invalidate the conditional use approval, and shall constitute a violation of this code. Such violation shall be punishable as specified in Chapter 1242: Enforcement and Penalties.

(g) **Time Limit**

1. A conditional use approval shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than two years.
2. The applicant shall submit a completed application for a zoning permit within one year of the date the conditional use was approved or the approval shall expire.
3. Upon expiration of a conditional use approval, a new application, including all applicable fees, shall be required before a conditional use application will be reviewed.
4. Upon written request, one extension of six months may be granted by the City Planner if the applicant can show good cause for a delay.
5. As part of the conditional use approval, the PZC may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(h) **Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the PZC shall have the right to appeal the decision to the BZA as established in Section 1220.12: Appeals.

1220.06 **Minor Subdivisions**

(a) **Purpose**

The purpose of the minor subdivision process is to allow for small subdivisions of land, consolidation of lots, or transfer of a portion of a lot to an adjacent lot where there will not be the creation of a new street, dedication of right-of-way, or a need for any public improvements.

(b) **Applicability**

1. For the purposes of these regulations, a minor subdivision is a lot split, lot consolidation, or transfer of land between adjacent property owners that complies with all of the following requirements:
   A. The subdivision shall not result in or create more than five lots, including the remainder of the original parcel;
   B. The subdivision shall be in compliance with all applicable site development standards in this code or with any approved variance from such standards;
   C. All lots resulting from the minor subdivision shall have frontage and access on an existing street and shall not require the construction, expansion, or improvement of any street;
   D. The subdivision shall not require any public improvements or the dedication of right-of-way;
   E. The property has been surveyed and a survey sheet or record plan, in the form provided for in this code, and a full legal description of the changes resulting from the split, are submitted with the application; and
   F. No landlocking of parcels shall occur as a result of the minor subdivision.
(2) A minor subdivision also includes the recombination of land, consolidation of lots, transfer of property from one lot to an adjacent lot, and for the dedication of additional land for the widening of existing streets, where no new lots are created.

(c) Sale of Land in Subdivisions; Start of Construction

(1) No owner, or authorized agent, of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, by exhibition of, or by the use of, a plan or plat of a subdivision, nor proceed with any construction work before such plan or plat has been approved and recorded in the manner prescribed in these regulations. Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.

(2) The City Planner shall not issue zoning permits for any structure or activity on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in these regulations.

(d) Minor Subdivision Review Procedure

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

(1) Step 1 – Application
   A. The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.
   B. The application shall include a deed or other instrument of conveyance in compliance containing an accurate and current legal description based on a boundary survey, of each proposed new lot.
   C. If the minor subdivision involves the transfer of land area from one lot to an adjacent lot, both property owners shall be required to authorize the application and deeds or other instruments of conveyance shall be submitted for both lots.

(2) Step 2 – Review and Comment by Applicable Agencies
   A. Upon determination that the application for a minor subdivision is complete, the City Planner may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer and any other agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.
   B. Such agencies may supply comments, recommendations, and approvals as applicable, to the City Planner for consideration prior to the City Planner’s decision (Step 3).

(3) Step 3 – Review and Decision by the City Planner
   A. Within seven days of the determination that the application (Step 1) is complete, the City Planner shall review the application and approve or deny the application for a minor subdivision based on the review criteria established below. An extension on the decision may be granted with approval from the applicant.
   B. In reviewing the minor subdivision, the City Planner, on recommendation of the City Engineer, and/or the Public Service Director, may require the addition of easements and/or setbacks as part of a transfer of land area between two lots.
   C. If the City Planner denies an application for a minor subdivision, the City Planner shall provide the applicant with written finding for the denial.
D. If the application is approved, the City Planner shall be required to sign the minor subdivision/plat.

(e) Review Criteria
In order to approve a minor subdivision, the City Planner shall determine the following:

(1) That the minor subdivision complies with all applicable provisions of this code;
(2) That the minor subdivision complies with all other applicable regulations and plans of the City; and
(3) That the applicable review agencies have no objections that cannot be resolved by the applicant.

(f) Recording
(1) The City Planner shall sign and date the minor subdivision/plat.
(2) The subdivider shall then be responsible for submitting the signed conveyance with the Greene County Auditor for the transfer of property and to the Greene County Recorder for the recording of the lots as legal lots of record and providing a copy of said minor subdivision/plat to the Planning and Zoning Department after recording.
(3) In the case of a transfer of land between two adjacent lots, the recording of the revised lots shall take place simultaneously.

(g) Administrative Waivers and Variances
If the proposed subdivision requires a deviation from the minimum site development standards (e.g., lot area, lot width, etc.) or other standards mandated by this code in Section 1226.01: Site Development Standards, the applicant will be required to apply for and received all the variance (See Section 1220.10: Variances.) or administrative waiver (See Section 1220.11(e): Administrative Waiver Requests.) approvals prior to approval of the minor subdivision.

(h) Time Limit
The minor subdivision approval shall expire one year after the City Planner signs and dates the minor subdivision unless the minor subdivision is recorded in the office with the Greene County Recorder during said period.

(i) Appeals
Any person or entity claiming to be injured or aggrieved by any final action of the City Planner shall have the right to appeal the decision to the BZA as established in Section 1220.12: Appeals.

1220.07 Major Subdivisions

(a) Purpose
The purpose of the major subdivision process is to provide a method of review for any subdivision that exceeds the scope of a minor subdivision and which includes multiple lots, the creation or expansion of new streets, and/or the installation of public improvements.

(b) Applicability
Any subdivision of land or replat of an existing subdivision that does not meet the applicability requirements of a minor subdivision in Section 1220.06(b): Applicability, shall be subject to the requirements of this section.
(c) Sale of Land in Subdivisions; Start of Construction

(1) No owner, or authorized agent, of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, by exhibition of, or by the use of, a plan or plat of a subdivision, nor proceed with any construction work before such plan or plat has been approved and recorded in the manner prescribed in these regulations. Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.

(2) The City Planner shall not issue zoning permits for any structure or activity on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in these regulations.

(d) Major Subdivision Review Procedure

The review procedure for a major subdivision shall be as set forth below. The applicant is not required to submit a preliminary plat (Steps 2 through 4) below in advance of a final plat. The preliminary plat option is conducted for the developer’s benefit pursuant to ORC Section 711.10 With the submission of the preliminary plat for review, the applicant waives any rights to an approval under ORC Section 711.10 until such time as application is made for final subdivision plat review and is submitted to the PZC (Step 5) for review and approval, as detailed in these regulations.

(1) Step 1 – Application and Filing of the Preliminary Plat
   A. The applicant shall submit an application along with a preliminary plat in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.
   B. The preliminary plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.
   C. Upon determination by the City Planner that the application is complete, the preliminary plat shall be accepted as being officially filed.

(2) Step 2 – Staff Review and Staff Report on the Preliminary Plat
   A. Upon determination that the application for a major subdivision is complete, the City Planner shall transmit copies of the application for review by applicable agencies including, but not limited to, the City of Xenia Traffic Commission, the City Engineer, City Manager, Xenia Fire Department, Xenia Police Department, agencies having jurisdiction for water and/or sanitary sewer, or other agencies the City Planner deems appropriate.
   B. Such agencies shall supply comments and recommendations to the City Planner prior to the regularly scheduled PZC meeting where the preliminary plat will be reviewed.
   C. Prior to the PZC meeting where the preliminary plat is scheduled for review, the City Planner shall review the preliminary plat and prepare a staff report.

(3) Step 3 – Review and Decision on the Preliminary Plat by the PZC
   A. In accordance with the applicable submission deadlines (See Section 1220.02(b): Application Submission Schedule.), the PZC shall review the preliminary plat application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.
B. In making its decision, the PZC shall approve, approve with conditions, or deny the preliminary plat. The PZC may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.

C. The PZC shall make a decision within 60 days of the filing of the preliminary plat (Step 2) unless the PZC and subdivider agree to an extension of this time frame.

D. If the PZC denies the preliminary plat, the applicant shall not move forward in the review process until a preliminary plat is approved by the PZC.

E. In the event the PZC denies the preliminary plat or approves with conditions, the City staff, on behalf of the PZC shall provide the subdivider with a statement in writing setting forth the reasons for the deny or the conditions of approval.

F. Approval of the preliminary plat by the PZC does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat and improvement drawings.

(4) **Step 4 – Submission of Improvement Drawings and Final Plat**

A. The applicant shall submit the final plat and related improvement drawings and specifications in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.

B. If a preliminary plat has been previously approved, the final plat shall have incorporated all changes in the preliminary plat approval.

C. The applicant shall submit all necessary improvement drawings and a final plat for review within one year of the decision on the preliminary plat (if a preliminary plat was submitted) unless an alternative schedule is approved as part of the preliminary plat approval or the subdivider can show just cause for extending the deadline. For phased subdivisions, the deadline shall apply to the first phase of the subdivision. Failure to submit the final plat within this time frame shall void the preliminary plat approval and the subdivider will be required to submit a new application in accordance with these regulations.

D. If the applicant proposes to provide a financial guarantee for the public improvements in-lieu of installing all public improvements prior to approval of the final plat, the applicant shall be required to provide all information required as part of Section 1238.03: Installation of Public Improvements and Financial Guarantees.

E. Upon determination by the City Planner that the final plat has been properly submitted, the final plat shall be accepted as being filed.

F. In cases where the applicant proposes to develop the subdivision in phases, the final plat and improvement drawings shall be submitted for each individual phase.

G. The final plat and improvement drawings shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.

(5) **Step 5 – Staff Review and Staff Report on the Final Plat and Improvement Drawings**

A. Upon determination that the submission of the final plat and improvement drawings is complete, the City Planner shall transmit copies of the application for review by applicable agencies including, but not limited to, the City of Xenia Traffic Commission, the City Engineer, City Manager, Xenia Fire Department, Xenia Police Department, agencies having jurisdiction for water and/or sanitary sewer, or other agencies the City Planner deems appropriate.
B. Such agencies shall supply comments and recommendations to the City Planner prior to the regularly scheduled PZC meeting where the final plat and improvement drawings will be subject to review.

C. Prior to the PZC meeting where the final plat and improvement drawings is scheduled for review, the City Planner shall review the final plat and improvement drawings and prepare a staff report.

D. Construction of Improvements
   i. Applicants shall have the choice to construct all public improvements prior to the approval of the final plat, without a financial guarantee, but such public improvements must be completed and then inspected and approved by the City Engineer before the City can approve the final plat. The improvements shall be constructed within a reasonable time as determined by the City Engineer, but not to exceed two years.
   
   ii. All required subdivision improvements shall be maintained in a satisfactory condition by the subdivider during any interim period between their construction and final approval and acceptance of the subdivision by the City. See Section 1238.03: Installation of Public Improvements and Financial Guarantees.
   
   iii. If the applicant requests approval of a final plat prior to installation of the public improvements, the applicant shall be required to provide a financial guarantee in accordance with the regulations of this code at the time the final plat is submitted for review.

(6) Step 6 – Review and Decision on the Final Plat and Improvement Drawings by the PZC

A. In accordance with the applicable submission deadlines (See Section 1220.02(b): Application Submission Schedule.), the PZC shall review the final plat and improvement drawings at its next regularly scheduled meeting, or at a special meeting, after the final plat is submitted and determined to be complete.

B. The PZC shall approve, approve with conditions, or deny the final plat. The PZC may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.

C. The PZC shall make a decision within 60 days of the filing of the final plat and improvement drawings (Step 5) unless the PZC has continued the meeting as authorized in Paragraph (A) above or if the PZC and subdivider agree to an extension of this time frame.

D. If the PZC denies the final plat and/or improvement drawings, the applicant shall not move forward in the review process until a final plat and the improvement drawings are approved by the PZC.

E. In the event the PZC denies the final plat and improvement drawings or approves with conditions, the PZC shall provide the subdivider with a statement in writing setting forth the reasons for the denial or the conditions of approval.

F. The PZC, with approval of the City Council, may give final approval on the final plat and improvement drawings before all required public improvements are installed, provided that a construction agreement and a financial guarantee (See Section 1238.03: Installation of Public Improvements and Financial Guarantees.) is provided and accepted by the City Council.
G. Approval of the final plat and improvement drawings by the PZC shall not be an acceptance by the public of the offer of dedication of any street, or other public ways or open space on the final plat unless they are accepted by the City Council in the form of the adoption of an ordinance.

H. No final plat shall be recorded until all areas offered for parks, open space, or public rights-of-way been accepted by the City Council.

(7) **Step 7 – Acceptance of Improvements by the City Council**

The City, through action by the City Council, may accept public improvements made by a subdivider which meet the following conditions:

A. The public improvements have been made in accordance with the requirements of this code, and any other manuals or documents referenced in Section 1238.02(b): Construction Procedures and Materials;

B. Installation of the public improvements has been completed in accordance with the applicable design standards;

C. All final inspections required by these regulations have been carried out by the City, and said public improvements were found to be acceptable by the City Engineer and the City Planner; and

D. After all public improvements have been installed to the satisfaction of the City, the subdivider shall submit an original copy of as-built improvement drawings (showing how all public improvements were actually installed) to the City Engineer on mylar and a digital copy of the same drawings in a format acceptable to the City.

E. After all public improvements have been installed in accordance with the construction agreement and these regulations and the subdivider has complied with this section, the City Council may, by ordinance, accept the public improvements for maintenance with any applicable guarantee.

(8) **Step 8 – Disposition of Approved Plat and Recordation**

A. After approval of the original drawing of the final plat by the PZC, such final plat shall be transmitted to the City Council or other appropriate public body for necessary acceptance of all public dedications.

B. After approval of the final plat and after acceptance of all land to be dedicated on the plat by the City Council or other appropriate public bodies, the original tracing and three signed prints shall be returned to the subdivider for filing with the Greene County Recorder. The plat shall be filed within 60 days after date of final approval and after all necessary certifications have been noted thereon. Failure to record the approved final plat within the 60 days shall result in the final plat being considered void.

C. The subdivider shall also furnish to the City Engineer with the original tracing and one reproducible mylar/tracing of the plat and digital copy of the plat in a format acceptable to the City. Such information shall be submitted to the City Engineer within five working days after the plat recording.

(e) **Review Criteria**

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

1. That the major subdivision complies with all applicable provisions of this code;
2. That the major subdivision does not conflict with other regulations, plans, or policies of the City;
(3) That applicable review agencies have no objections that cannot be resolved by the applicant; and

(4) That the final plat and improvement drawings conform to the approved preliminary plat, if submitted and approved.

(f) Amendments and Withdrawal of Application

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

(2) If the applicant finds, in the process of preparing improvement drawings, that the approved preliminary plat, if submitted, is not workable and changes in layout are required, the applicant shall inform the City Planner and City Engineer. The City Planner may require that a revised preliminary plat be submitted for re-approval following the review procedure in Section 1220.07(d): Major Subdivision Review Procedure, above if the changes significantly alter the design of the subdivision.

(3) During the final plat process, the City Planner and City Engineer are authorized to allow minor changes related to the public improvements or design where there is minimal impact to the overall design of the subdivision. This shall not give the City Planner or City Engineer the authority to vary the requirements of this code.

(4) Before approval of the final plat, the submitted plat may be withdrawn or modified. If modified, the review process shall be repeated. If the application is withdrawn, any application fees shall be forfeited.

(5) If during the course of construction, any changes or modifications are encountered that are not in conformance with the original approved improvement drawings, the subdivider shall submit the modified improvement drawings (which have now become as-built drawings) to the City Engineer, who, if in agreement with such modifications, shall affix their signature to these drawings indicating approval of the modifications.

(g) Subdivision Modifications

(1) Purpose

The purpose of a subdivision modification is to provide limited relief from standards that apply to the subdivision of land including standards for improvements. Subdivision modifications are intended for those cases where strict application of a particular requirement will create a practical difficulty or extraordinary hardship prohibiting the use of land in a manner otherwise allowed under these regulations. It is not intended that modifications be approved merely to remove inconveniences or financial burdens that the requirements of these regulations may impose on property owners or subdividers in general.

(2) Applicability

A. If the proposed subdivision requires a deviation from the minimum site development standards (e.g., lot area, lot width, etc.) or other standards identified in Section 1226.01: Site Development Standards, the applicant will be required to apply for and receive all the necessary variance (See Section 1220.10: Variances,) or administrative waiver (See Section 1220.11(e): Administrative Waiver Requests,) approvals through prior to approval of a preliminary plat.

B. If the applicant seeks a modification of standards required by Chapter 1238: Subdivision Design, then the request for a modification shall be accomplished through the procedure outlined in this section.
Chapter 1220: Administration and Procedures
Section 1220.08: Certificate of Appropriateness (COA)

Subsection (h): Appeals

(3) **Subdivision Modification Review**
   A. A request for a subdivision modification shall be reviewed as part of the preliminary plat review procedure.
   B. The PZC shall review the request and may approve, approve with conditions, or deny the request to modify any or all of the modifications.
   C. In approving a modification, the PZC may impose conditions on the approval as it determines are required to ensure compliance with the provisions and purpose of these regulations.
   D. If the preliminary plat is denied or if the approval of the preliminary plat expires, so does the approval of the subdivision modification. Any future request for preliminary plat approval that includes the same modifications shall require a new review and decision on the request for modifications.

(4) **Review Criteria**
   The review criteria for a subdivision shall be the same as those for a variance as established in Section 1220.10(d): Review Criteria.

(h) **Appeals**
   Any person or entity claiming to be injured or aggrieved by any final action of the PZC shall have the right to appeal the decision to the BZA as established in Section 1220.12: Appeals.

**1220.08 Certificate of Appropriateness (COA)**

(a) **Purpose**
   The purpose of the COA is to provide a procedure by which to review construction, renovation, expansion, and demolition projects within a locally or nationally designated historic district or for locally or nationally designated historic properties. In an effort to preserve the character of these properties and districts, the City has established reasonable development standards and design guidelines for buildings and structures and this procedure allows for a comprehensive review of the activities against the adopted standards and guidelines.

(b) **Applicability**
   (1) No person shall make any exterior construction, reconstruction, alteration, or demolition of a structure on any property within a locally or nationally designated historic district or on a locally or nationally designated historic property unless a COA has been issued by the City Planner.
   (2) Site improvements such as the establishment of a parking lot or structure, landscaping, or other site work shall also be subject to this section unless otherwise waived by the PZC.
   (3) Projects and activities that are exempt from the COA review procedure include:
      A. Painting or general maintenance of a structure that does not alter exterior architectural features;
      B. Changes in occupancy not involving structural or exterior work; and
      C. Any interior renovations which will not alter and/or affect the exterior elevations and facade of the building or structure or any architectural features that are visible from the outside.
(c) **Review Authority**

(1) All applications for a COA that include any of the following work shall be subject to review by the PZC:

A. Construction, expansion, or demolition (partial or complete) of all new or existing buildings and structures with the exception of the following structures that shall be reviewed by the City Planner in accordance with this section:
   i. Fences and walls;
   ii. Signs;
   iii. Awnings; and
   iv. The replacement of existing materials and architectural elements with the same materials and designs.

B. Any application that includes a related alternative equivalent review application; or

C. Any substantial change in building materials, building elements (e.g., doors, windows, architectural ornamentation, etc.) as may be determined by the City Planner.

(2) All other applications for a COA shall be reviewed by the City Planner.

(3) The City Planner shall have the authority to forward a COA application to the PZC for review pursuant to Section 1220.08(e)(3) if the City Planner finds:

A. That the proposed use or development could potentially create significant impacts on an adjacent property based on the intensity or proximity of the proposed use, construction, alteration, or other modification; or

B. There is difficulty in interpreting the application of a standard or regulation as it pertains to the subject site and the applicable standards.

(d) **COA Review Procedure by the City Planner**

Any COA application subject to review by the City Planner shall be done simultaneously with, and in the same manner as, the zoning permit procedure in Section 1220.11.

(e) **COA Review Procedure by the PZC**

(1) **Step 1 - Application**

A. The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.

B. In making application, the City Planner or the PZC may request that the applicant provide exhibits, sketches, examples of materials, renderings, or other documentation to assist in their decision.

(2) **Step 2 - Staff Review and Staff Report**

A. Upon determination that a COA application is complete, the City Planner shall refer the application to the PZC.

B. Prior to the PZC meeting for the subject application, the City Planner shall review the application and prepare a staff report.

(3) **Step 3 – PZC Review and Decision**

A. In accordance with the applicable submission deadlines (See Section 1220.02(b).), the PZC shall review the COA application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.

B. The PZC shall at a minimum, consider the staff report from the City Planner, the applicable standards, and the review criteria of this section.
C. The PZC may review any related alternative equivalent compliance applications simultaneously with the COA application.

D. Within 45 days after the COA application is determined to be complete or is forwarded to them by the City Planner, the PZC shall hold a public meeting to review the application and make a decision on the application. In making its decision, the PZC may approve, approve with modifications, or deny the application.

E. If a zoning permit is required for the subject work, the applicant may proceed with applying for the zoning permit following approval of the COA. Such zoning permit applications shall comply with the COA approval and any related modifications.

(f) Determining the Significance of a Structure

(1) When making decisions or recommendations about changes to structures in the applicable historic districts or on historic properties, the PZC shall have the authority to make a determination of the historical or architectural significance of the structure based on this section.

(2) For structures that the PZC finds are not historically or architecturally significant, the PZC may relax or waive the standards or guidelines that apply to the project.

(3) If the PZC finds that the structure is historically or architecturally significant, the standards and guidelines of this code may be fully applied at the discretion of the PZC.

(4) The PZC shall determine whether a structure or site is significant based on the structure's:
   A. Value as a reminder of the cultural, historical, or archaeological heritage of the City, State, or nation;
   B. Location as a site of a significant local, State, or national event;
   C. Identification with a person or persons who significantly contributed to the development of the City, State, or nation;
   D. Identification as the work of a master builder, designer, or architect whose individual work has influenced the City, State, or nation;
   E. Value as a building that is recognized for the quality of its architecture and that it retains sufficient elements showing such architectural significance;
   F. Example of an architectural style or period; and/or
   G. Character as a contributing element in a locally or nationally designated historic district.

(g) Standards and Guidelines

The City Planner and/or the PZC shall utilize the following standards, based on the Secretary of the Interior’s Standards for the Treatment of Historic Properties, Standards for Rehabilitation developed by the U.S. Department of the Interior, when considering construction, expansion, or demolition (partial or complete) of all new or existing buildings and structures subject to COA review.
(1) A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.

(2) The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

(3) Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

(4) Changes to a property that have acquired historic significance in their own right will be retained and preserved.

(5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.

(6) Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.

(7) Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.

(8) New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

(9) New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(h) Review Criteria

Decisions on a COA application shall be based on consideration of the following criteria:

(1) The proposed development is in compliance with all the requirements of this code and other related codes and ordinances enforced by the City;

(2) The proposed development incorporates any applicable standards or guidelines (See Section 1220.08(g)), to the maximum extent feasible; and

(3) The proposed development meets all the requirements or conditions of any applicable development approvals (e.g., PUD approvals, conditional use approvals, variance approvals, etc.).

(i) Time Limit

(1) The applicant shall submit a completed application for a zoning permit within one year of the date the COA was approved or the approval shall expire. The date of approval shall be the date the City Planner issues the COA.

(2) Upon expiration of a COA, a new application, including all applicable fees, shall be required before a new application will be reviewed.

(3) Upon written request, one extension of one year may be granted by the City Planner if the applicant can show good cause for a delay.
(4) The PZC may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(j) **Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the City Planner or PZC, as applicable, shall have the right to appeal the decision to the BZA as established in Section 1220.12: Appeals.

# 1220.09 Alternative Equivalent Review

**(a) Purpose**

Alternative equivalent review is a procedure that allows applicants to propose unique design options as an alternative to a development standard established in this code provided it meets or exceeds the intent of the design-related provisions of this code. It is not a variance, waiver or weakening of regulations; rather, this procedure permits a site-specific plan that is equal to or better than the strict application of a design standard specified in this code. Alternative equivalent compliance shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.

**(b) Applicability**

The alternative equivalent review procedure shall be available only for the following sections of this code:

1. Section 1226.05: Outdoor Lighting Standards;
2. Chapter 1228: Architectural Standards;
3. Chapter 1232: Landscaping and Buffering;
4. Chapter 1234: Parking, Access, and Mobility; and
5. Any design standards that apply to development in a nationally or locally designated historic district or on nationally or locally designated historic properties.

**(c) Review Timing**

A request for alternative equivalent review shall be made concurrently with a zoning permit or a COA application, whichever is applicable.

**(d) Alternative Equivalent Review Procedure**

The review procedure for any alternative equivalent review application shall be as follows:

1. **Step 1 – Application**
   
   The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.

2. **Step 2 – Staff Review and Staff Report**
   
   A. Upon determination that an alternative equivalent review application is complete, the City Planner shall refer the application to the PZC.
   
   B. Prior to the PZC hearing for the alternative equivalent review application, the City Planner shall review the application and prepare a staff report.
Chapter 1220: Administration and Procedures
Section 1220.09: Alternative Equivalent Review
Subsection (e): Review Criteria

(3) Step 3 – PZC Review and Decision

A. In accordance with the applicable submission deadlines (See Section 1220.02(b)), the PZC shall consider the alternative equivalent review at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete. If the alternative equivalent review application is related to a COA application, conditional use application, PUD application, or other application subject to review by the PZC, both reviews may take place simultaneously.

B. In reviewing the application, the PZC shall at a minimum, consider the staff report from the City Planner and the review criteria of this section.

C. Notification of the public meeting or hearing shall be provided in accordance with Section 1220.02: Common Review Requirements.

D. The PZC shall make a decision on the application. In making its decision, the PZC may approve, approve with modifications or supplementary conditions, or deny the application.

E. If approved, any zoning permit or other related applications shall demonstrate compliance with the alternative equivalent review approval.

(e) Review Criteria
Decisions on an alternative equivalent review application shall be based on consideration of the following criteria:

(1) That the proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;

(2) That the proposed alternative achieves the goals and policies of the comprehensive plan to the same or better degree than the subject standard;

(3) That the proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and

(4) That the proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this code.

(f) Conditions
The PZC may impose conditions on an approval for alternative equivalent review provided such conditions are related to ensuring the performance of the alternative equivalent review to meet or exceed the subject standard. Such conditions may include, required timeframes, amendments or revisions to the proposal, or the ability to revoke an approval for alternative equivalent review.

(g) Decisions
Any decision on an alternative equivalent review application shall not be binding on the City related to future applications requesting an alternative to any of the applicable standards. Each case shall be review and decided upon based on the individual circumstances.

(h) Time Limit

(1) An approval of an alternative equivalent review application shall expire if the zoning permit expires.

(2) Upon expiration of an alternative equivalent review approval, a new application, including all applicable fees, shall be required before a new application will be reviewed.
Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the PZC shall have the right to appeal the decision to the BZA as established in Section 1220.12: Appeals.

1220.10 Variances

(a) Purpose

The purpose of a variance is to provide limited relief from the requirements of this code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this code. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose of property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant’s act or omission.

(b) Prohibition of Certain Variance Requests

(1) Variances from standards of this code may be considered in most cases with the exception that variances are prohibited in any designated floodway if there will be any increase in flood levels during the base flood discharge.

(2) Applications for a use variance are prohibited. Use variances are defined as a variance application to request allowing a use in a zoning district where it is otherwise prohibited. Such requests shall be reviewed as a zoning map or code text amendment as established in Section 1220.03: Code Text and Map Amendments.

(c) Variance Review Procedure

The review procedure for variances shall be as follows:

(1) Step 1 – Application

The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.

(2) Step 2 – Staff Review and Staff Report

A. Upon determination that a variance application is complete, the City Planner shall refer the application to the BZA.

B. Prior to the BZA hearing for the variance application, the City Planner shall review the application and prepare a staff report.

(3) Step 3 – BZA Review and Decision

A. In accordance with the applicable submission deadlines (See Section 1220.02(b).), the BZA shall hold a public hearing on the variance application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.

B. The BZA shall review the variance application during a public hearing. In reviewing the application, the BZA shall at a minimum, consider the staff report from the City Planner, the review criteria of this section, and any reliable probative and/or substantial evidence/testimony presented at the public hearing.

C. Notification of the hearing shall be provided in accordance with Section 1220.02(h).
D. Within 60 days of the close of the public hearing, the BZA shall make a decision on the application. In making its decision, the BZA may approve, approve with modifications or supplementary conditions, or deny the application.

E. The decision of the BZA shall become effective immediately.

F. In approving a variance, the BZA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to be ensure compliance with the standards of this section and the purpose of this code. Any conditions established by the PZC shall relate directly to the requested variance. Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of Chapter 1242: Enforcement and Penalties.

(d) Review Criteria

(1) Decisions on variance applications shall be based on consideration of the following criteria unless the variance is related to the floodplain regulations in this code, in which case, the application shall be based on consideration of the review criteria in Section 1220.10(d)(2):

A. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this code will result in practical difficulty for an area/dimensional variance as further defined below.

B. The following factors shall be considered and weighed by the BZA to determine practical difficulty:
   i. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;
   ii. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
   iii. Whether the special conditions and circumstances are a direct result from the actions of the applicant, his or her agents, or prior property owners;
   iv. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
   v. 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;
   vi. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, electric, refuse pickup, or other vital services;
   vii. Whether the property owner's predicament can feasibly be obviated through some method other than a variance;
   viii. Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance; and/or
   ix. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.
Chapter 1220: Administration and Procedures
Section 1220.10: Variances
Subsection (d): Review Criteria

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

(2) Variance Review Criteria Related to Floodplain Development

A. The ZBA shall have the authority to review variances to the floodplain development regulations of Section 1226.06: Floodplain Regulations, provided such request is not inconsistent with federal regulations and in such cases when the request will not be contrary to the public interest where, owning to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

B. In considering such variance applications, the ZBA shall consider the following factors. Not all factors may be applicable in each case so each case shall be determined on its own facts.

i. The danger that materials may be swept onto other lands to the injury of others;

ii. The danger to life and property due to flooding or erosion damage;

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

iv. The importance of the services provided by the proposed facility to the community;

v. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

vi. The necessity to the facility of a waterfront location, where applicable;

vii. The compatibility of the proposed use with existing and anticipated development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;

x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

C. A variance to the floodplain development regulations shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations do not constitute an exceptional hardship to the applicant;

iii. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, or conflict with existing local laws;

iv. A determination that the structure or other development is protected by methods to minimize flood damages; and
Chapter 1220: Administration and Procedures
Section 1220.11: Zoning Permit

Subsection (e): Time Limit

The applicant shall submit a completed application for a zoning permit within one year of the date the variance was approved or the approval shall expire.

Upon expiration of a variance approval, a new application, including all applicable fees, shall be required before a new variance will be reviewed.

Subsection (f): Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision the court of common pleas as provided in ORC Chapters 2505 and 2506.

1220.11 Zoning Permit

(a) Purpose

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

(b) Applicability

(1) No building or other structure shall be erected, moved, altered or added to, nor shall any building, structure or land be used or changed in use without a zoning permit issued by the City Planner. A change in tenancy or ownership of a residential dwelling unit shall be exempt from the zoning permit requirement.

(2) A zoning permit may be required for the establishment of certain temporary or accessory use as established in Chapter 1224: Accessory and Temporary Use Regulations.

(3) The use of vacant land shall require the issuance of a zoning permit.

(4) Unless otherwise specifically exempted in Section Chapter 1236: Signage, signs shall require a zoning permit.

(5) Demolition of any building or structure that has a footprint of 700 square feet or more in a locally or nationally designated historic district shall require a zoning permit. Structures that are subject to a City-issued order to demolish shall be exempt from the demolition permit requirements of this section, except that the Greene County Historical Society may be invited to photograph and document the structures for historical recording.
(6) **Zoning Permits for Activities in Special Flood Hazard Areas**

**A.** It shall be unlawful for any person to begin construction or other development activity including, but not limited to, filling, grading, construction, alteration, remodeling, or expanding any structure, or alteration of any watercourse wholly within, partially within, or in contact with any identified special flood hazard area, as established in Section 1226.06: Floodplain Regulations, until a zoning permit is obtained in accordance with this section.

**B.** Where it is unclear whether a development site is in a special flood hazard area, the City Engineer may require an application for a floodplain development permit to determine the development’s location.

**C.** An application for a zoning permit in a special flood hazard area shall not be required for:

   - i. Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities, except for filling and grading;
   - ii. Development activities in an existing or proposed manufactured home park. Such activities are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code §3701;
   - iii. Major utility facilities permitted by the Ohio Power Siting Board under ORC Chapter 4906;
   - iv. Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under ORC Chapter 3734;
   - v. Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 - Floodplain Management; and
   - vi. Any other exemptions from the flood protection regulations of Section 1226.06: Floodplain Regulations.

(7) Zoning permits shall be issued only in conformity with the provisions of this code unless the application is subject to an approval by the BZA or PZC providing for additional standards, conditions, or modifications, in which case, the zoning permit shall be issued in conformity with the provisions of those approvals, as applicable.

(8) Failure to obtain a zoning permit shall be a violation of this code subject to the provisions of Chapter 1242: Enforcement and Penalties.

**c) Zoning Permit Review Procedure**

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

1. **Step 1 – Application**
   The applicant shall submit an application in accordance with Section 1220.02: Common Review Requirements, and with the provisions of this section.

2. **Step 2 – City Planner Review and Decision**
   **A.** The City Planner may distribute the application to other staff members and other City departments to solicit comment on the zoning permit application.
   **B.** For any zoning permit application for development or applicable activities in a special flood hazard area, the City Engineer shall be required to also review and make a decision on the zoning permit application. In such cases, if either the City Planner or the City Engineer deny the application, the entire application shall be denied.
C. Within 30 days after the application is determined to be complete, the City Planner shall make a decision on the zoning permit application. In making its decision, the City Planner may approve or deny the application. The City Planner shall have 60 days to make a decision on zoning permit applications for demolition to allow for proper notice to other agencies have review authority. In both cases, an extension on the decision may be granted with approval from the applicant.

D. Prior to finalizing approval of the application, the City Planner shall have the authority to provide comments to the applicant regarding necessary revisions to bring the application into full compliance. The application shall not be deemed formally approved until the applicant makes all of the appropriate changes and submits all necessary revised forms, maps, and documents to the City Planner.

(d) **Review Criteria**

(1) **Review Criteria for All Zoning Permits**
In order to approve any zoning permit, the City Planner shall determine the following:

A. The application complies with all applicable provisions of this code and the applicable zoning district; and

B. The application complies with all approved plans, conditions, or other development approvals.

(2) **Additional Review Criteria for Zoning Permits in a Special Flood Hazard Area**
Zoning permit applications for development or applicable activities in special flood hazard areas shall demonstrate:

A. That the application complies with Section 1226.06: Floodplain Regulations of this code; and

B. That all necessary permits have been received from those Federal, State or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under § 10 of the Rivers and Harbors Act, being 33 U.S.C. § 577, and § 404 of the Clean Water Act, being 33 U.S.C. § 1344, and the Ohio Environmental Protection Agency under § 401 of the Clean Water Act, being 33 U.S.C. § 1341.

(3) **Additional Review Criteria for Zoning Permits for Demolition**
In addition to the general review criteria applicable to all zoning permits in Section 1220.11(d)(1), any zoning permit application for demolition shall be subject to the following conditions.

A. Demolition may not commence until a demolition permit has also been issued from the Greene County Department of Building Regulation.
B. The Greene County Historical Society shall be given the opportunity to review each demolition permit application for a period not exceeding 30 days, to determine if the structure proposed for demolition is a contributing or significant structure as defined in Section 1220.08(f). If the Greene County Historical Society determines that the structure is a contributing structure, and it is of aesthetic interest that continues to contribute to the historic development or heritage of the City, it shall advise the City Planner. The applicant shall then be requested to use available rehabilitation funds, if any, to repair and restore the structure or offer the structure for relocation or seek alternatives to save the structure. If all avenues and available resources have been exhausted and the only recourse is to demolish the structure, then a demolition permit shall be issued.

(e) Administrative Waiver Requests

(1) Applicability
   A. The City Planner may grant administrative waivers for any area or dimensional regulation that does not exceed 10 percent of the applicable minimum or maximum regulation. Area and dimensional regulations include, but are not limited to, minimum front, side, and rear yard setbacks; maximum height of structures; maximum sign height; maximum sign area, etc.
   B. An administrative waiver for a minimum lot area or lot width requirement is prohibited.
   C. The applicant shall be required to apply for a variance for any waiver request that exceeds 10 percent or other variations from the code that do not qualify for administrative waivers.

(2) Administrative Waiver Review Procedure and Decision
   A. Administrative waivers shall be reviewed as part of the zoning permit review procedure.
   B. In making a decision on the administrative waiver, the City Planner may approve or deny the application.

(3) Review Criteria
   Decisions on an administrative waiver shall be based on consideration of the following criteria:
   A. The waiver will allow the proposed development to reflect the predominant development character of surrounding, similar uses and properties (e.g., similar setbacks, similar sign areas, etc.).
   B. Special circumstances exist that make the precise compliance with the subject standards impractical or unreasonable;
   C. The waiver request is minor in nature;
   D. The waiver request does not substantially alter characteristics found in the development character of the surrounding properties; and
   E. The waiver request does not deviate from the overall purpose of this code or the intent and objective of the original regulation.

(f) Time Limit and Abandoned or Suspended Work

(1) The applicant shall obtain an approved building permit within one year of the date the zoning permit was approved or the approval shall be revoked. The date of approval shall be the date the City Planner provides a signed copy of the permit to the applicant.
For activities that do not require a building permit, the activity shall have been substantially begun within one year of approval and is thereafter pursued to completion, as determined by the City Planner.

The deadlines in paragraph (1) or (2) may be reduced if the work is mandated by this code or by order of the City Planner, City Engineer, Code Enforcement Officer, or BZA. In such cases, the deadline for construction shall be noted on the zoning permit.

Time limits for permitted temporary uses and structures shall be as authorized in Section 1224.02: Temporary Uses and Structures. An approval of a zoning permit for a temporary use shall include the approved start and end dates for the proposed temporary use.

If construction activities for which a zoning permit has been issued is abandoned or suspended for a period of six months after the time of commencing the work, the zoning permit approval shall be revoked. Abandonment shall be defined as the lack of building activity or progress towards achieving the scope of work defined in the zoning permit.

Upon written request, up to two extensions of six months may be granted by the City Planner if the applicant can show good cause for a delay.

The City Planner shall notify the application of the revocation of a zoning permit including notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.

Upon revocation of a zoning permit approval, a new application, including all applicable fees, shall be required before a new zoning permit application will be reviewed.

The above time limits shall not apply if alternative time limits that have been approved by the City Planner or PZC in accordance with the applicable review procedure.

For zoning permit activities subject to the flood regulations of this code, the City Engineer may make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

The following as-built certifications are required after a zoning permit has been issued subject to the flood regulations of this code.

A. For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency elevation certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner’s representative.

B. For all development activities subject to the standards of Section 1226.06(g)(1)Requirement to Submit New Technical Data, a letter of map revision is required.

A zoning permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the BZA in accordance with Section 1220.12: Appeals, of this code.
(i) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the City Planner shall have the right to appeal the decision to the BZA as established in Section 1220.12: Appeals.

1220.12 Appeals

(a) Purpose

This section sets out the procedures to follow when a person claims to have been aggrieved or affected by an administrative decision made in the administrator or enforcement of this code.

(b) Applicability

(1) An appeal may be made regarding any administrative decision made in the administration and enforcement of this code including administrative decisions by the City Planner, PZC, or City Engineer.

(2) An appeal may not be made to the BZA when the PZC is making a recommendation to City Council as part of a legislative action such as a code text or map amendment.

(c) Initiation

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

(d) Appeals Review Procedure

The review procedure for appeals shall be as follows:

(1) Step 1 – Submission of Appeal

Within 30 days of the administrative order, decision, determination, or interpretation, the person appealing the decision or their authorized agent shall submit all required information in accordance Section 1220.02: Common Review Requirements.

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

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

(3) Step 3 – BZA Review and Decision

A. The BZA shall hold a public hearing within 45 days of the filing of the appeal provided adequate notification is provided pursuant to Section 1220.02(h): Public Notification for Public Hearings.

B. Any person affected by the appeal may appear at the public hearing and testify in person, or by attorney or agent.

C. Within 60 days of the close of the public hearing, the BZA shall render a decision on the appeal. The City Planner shall notify the appellant in writing of the decision of the Board.

D. The decision of the BZA shall become effective immediately.
(e) **Review Criteria**

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

(f) **Stay**

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

(g) **Appeals of BZA Decisions**

Any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the court of common pleas as provided in ORC Chapters 2505 and 2506.

### 1220.13 Interpretation of the Code

It is the intent of this code that all questions of interpretation related to the administration and enforcement of this code shall be first presented to the City Planner, and that such questions shall be presented to the BZA only on appeal from the decision of the City Planner. Such appeals shall be in accordance with Section 1220.12: Appeals.
Chapter 1222: Zoning Districts and Principal Uses

1222.01 Establishment of Zoning Districts

(a) Districts Established

The City hereby establishes the following zoning districts to carry out the purposes of this code, and to assist in the implementation of the comprehensive plan.

<table>
<thead>
<tr>
<th>Table 1222-1: Zoning Districts</th>
</tr>
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<tbody>
<tr>
<td><strong>Abbreviation</strong></td>
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<tr>
<td>------------------</td>
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<tr>
<td><strong>Base Zoning Districts</strong></td>
</tr>
<tr>
<td>A-1</td>
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<tr>
<td>R-1A</td>
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<tr>
<td>R-1B</td>
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<td>R-1C</td>
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<td>R-1D</td>
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<td>I-1</td>
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<tr>
<td>I-2</td>
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<tr>
<td>P-1</td>
</tr>
<tr>
<td><strong>Planned Unit Development District</strong></td>
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<tr>
<td>PUD</td>
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</tbody>
</table>
(b) **References to Previous Zoning Districts**

Some of the district classification and names established within this code differs from previous versions of this code. In instances where there may be references to the previous zoning district nomenclature, Table 1222-2 identifies how each of the previous district classifications was renamed for this code. This section shall only be used for comparison purposes only.

<table>
<thead>
<tr>
<th>Zoning Districts in the Planning and Zoning Code Effective Prior to &lt;&gt;</th>
<th>Zoning Districts in the Land Development Code Effective After &lt;&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbrev.</td>
<td>District Name</td>
</tr>
<tr>
<td><strong>Base Zoning Districts</strong></td>
<td></td>
</tr>
<tr>
<td>A-1</td>
<td>Agricultural District</td>
</tr>
<tr>
<td>R-1A</td>
<td>One-Family Residential District</td>
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<tr>
<td>R-1B</td>
<td>One-Family Residential District</td>
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<tr>
<td>R-1C</td>
<td>One-Family Residential District</td>
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<tr>
<td>---</td>
<td>New District</td>
</tr>
<tr>
<td>R-2</td>
<td>Two-Family Residential District</td>
</tr>
<tr>
<td>R-3</td>
<td>Multi-Family Residential District</td>
</tr>
<tr>
<td>R-4</td>
<td>Multi-Family Residential District</td>
</tr>
<tr>
<td>R-O</td>
<td>Residential Office District</td>
</tr>
<tr>
<td>O-1</td>
<td>Office District</td>
</tr>
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<td>B-1</td>
<td>Convenience Business District</td>
</tr>
<tr>
<td>B-2</td>
<td>Central Business District</td>
</tr>
<tr>
<td>B-3</td>
<td>Highway-Oriented Business District</td>
</tr>
<tr>
<td>B-4</td>
<td>Shopping Center Business District</td>
</tr>
<tr>
<td>I-1</td>
<td>Light Industrial District</td>
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<td>I-O</td>
<td>Industrial Office District</td>
</tr>
<tr>
<td>I-2</td>
<td>Heavy Industrial District</td>
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<td>H-1</td>
<td>Hospital District</td>
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**Planned Unit Development Districts**

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<tr>
<th>Abbrev.</th>
<th>District Name</th>
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<tbody>
<tr>
<td>R-PUD</td>
<td>Residential Planned Unit Development District</td>
</tr>
<tr>
<td>O-PUD</td>
<td>Office Planned Unit Development District</td>
</tr>
<tr>
<td>C-PUD</td>
<td>Commercial Planned Unit Development District</td>
</tr>
<tr>
<td>I-PUD</td>
<td>Industrial Planned Unit Development District</td>
</tr>
<tr>
<td>MX-PUD</td>
<td>Mixed Use Planned Unit Development District</td>
</tr>
<tr>
<td>---</td>
<td>Modular Planned Unit Development District</td>
</tr>
</tbody>
</table>

**Overlay Zoning Districts**

<table>
<thead>
<tr>
<th>Abbrev.</th>
<th>District Name</th>
</tr>
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<tbody>
<tr>
<td>GRP</td>
<td>Ground Water Resource Protection Overlay District</td>
</tr>
<tr>
<td>---</td>
<td>Urban Design Overlay District</td>
</tr>
</tbody>
</table>
**Chapter 1222: Zoning Districts and Principal Uses**  
Section 1222.02: Official Zoning Map and District Boundaries  
Subsection (a): Official Zoning Map and District Boundaries

### 1222.02 Official Zoning Map and District Boundaries

**a)** Official Zoning Map and District Boundaries

1. All land within the City of Xenia shall be placed into at least one of the zoning districts established in Table 1222-1: Zoning Districts, and such zoning shall be shown on the Official Zoning Map of the City of Xenia, Ohio. This map, together with all explanatory data therein, including all changes thereof as hereinafter provided, shall be incorporated and made a part of this code.

2. The official zoning map shall be identified by the signature of the President of the City Council, attested by the Clerk of the City Council, and bear the seal of the City under the following words: “This is to certify that this is the official zoning map referred to in Section 1222.02 of the City of Xenia Land Development Code (include date of adoption).”

3. If, in accordance with the provisions of this code, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map within ten normal working days after the amendment has been approved by the City Council together with an entry on the official zoning map as follows: “On (date), by official action of the City Council, the following change(s) were made (brief description with reference number to PZC proceedings).”

4. The original and one copy of the official zoning map are to be maintained and kept up to date, one copy on public display in the municipal building and the original in the City Clerk’s office, accessible to the public, and such map shall be the final authority as to the current zoning status of lands, buildings and other structures in the City.

**b)** Interpretation of Zoning District Boundaries

The boundaries of the zoning districts are shown upon the Official Zoning Map. When uncertainty exists with respect to the boundaries of zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. Where zoning district boundary lines are indicated as approximately following a lot line, such lot line shall be the zoning district boundary.

2. Where zoning district boundary lines are indicated as approximately following a center line of a street or highway, alley, railroad easement, or other right-of-way, or a river, creek, or other watercourse, such centerline shall be the zoning district boundary. In the event of a natural change in the location of such streams, rivers, or other water courses, the zoning district boundary shall be construed as moving with the channel centerline.

3. Where zoning district boundary lines are indicated as approximately following City limits, such City limits shall be the zoning district boundary.

4. When the actual street, right-of-way, property line boundary or other existing ground condition is in conflict with that shown on the Official Zoning Map, the BZA shall review the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the City and to submit technical evidence if so desired pursuant to the appeals process as established in Section 1220.12: Appeals.

**c)** Annexed Land or Land Not Otherwise Designated

1. Any land located within the City of Xenia municipal boundaries that is not designated with a zoning district shall be included in the Agricultural District (A-1).
222.03  Base Zoning Districts

(a)  General Requirements

The following subsection establishes the purpose statement for each of the base zoning districts.

(1)  The purpose statement and district-specific standards for Planned Unit Development (PUD) districts are located in Section 1222.06: Planned Unit Developments.

(2)  In addition to all standards established within this chapter, development within the base zoning districts shall also be subject to any other applicable standards of this code.

(b)  Purpose Statements

(1)  Agricultural District (A-1)

The purpose of the A-1 District is to allow for agricultural uses within the City limits, particularly in areas of prime agricultural land, while recognizing that the land may be developed for non-agricultural uses in the near to long-term. It is designed specifically to protect current agricultural uses from the encroachment of development that is not in conformance with the City’s comprehensive plan.

(2)  One-Family Residential Districts (R-1A, R-1B, R-1C, and R-1D)

The purpose of the R-1A, R-1B, R-1C, and R-1D residential zoning districts is to provide for the development and use of land for primarily single-family, detached residential uses at a range of densities from the dense urban neighborhoods near the Downtown District, to the more suburban scale densities along the outer edges of the City. Furthermore, the purpose of these districts is to continue to support single-family detached dwellings within the existing character of the City’s neighborhoods that will ultimately provide a range of housing choices in Xenia.

(3)  Two-Family Residential District (R-2)

The purpose of the R-2 District is to recognize the existence of older residential areas of the City where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures, provide for a range of housing options, while also providing a method of encouraging the repair and modernization of older housing stock. This district also allows the construction of new two-family residences where slightly greater densities are permitted.

(4)  Attached Residential District (R-3)

The purpose of the R-3 District is to provide for residential areas in the City that provide for attached housing options that promote more diverse housing choices and that may serve as a transitional use between lower-density residential uses and the City’s business activity areas.
(5) **Office District (O-1)**
The purpose of the O-1 District is to provide for areas of the City that might be used or developed for economic development that is focused primarily on non-retail oriented business uses but where limited development of residential uses, in a live/work format, or small-scale retail uses may be appropriate. This district is also intended to provide development options for transitional areas in the City where residential uses are no longer viable but small-scale offices uses may be appropriate.

(6) **Convenience Business District (B-1)**
The purpose of the B-1 District is to provide areas for small-scale commercial development designed to provide a limited range of convenience goods and services to serve the day-to-day needs of those living in the City and surrounding region.

(7) **Downtown District (B-2)**
The purpose of the B-2 District is to sustain the historic downtown core and to augment and increase its viability and prosperity by allowing the development and redevelopment of a variety of uses and activities, made compatible through the enforcement of design standards. It is intended to allow for a wide mixture of shopping, office, professional services, government and institutional, entertainment, residential, and hospitality uses within a compact, pedestrian oriented environment. The district standards shall also facilitate the creation of a strong, distinctive sense of place through pedestrian orientation and preservation of an urban streetscape.

(8) **General Commercial District (B-3)**
The purpose of the B-3 District is to accommodate professional offices, general commercial uses, and larger scale businesses that sell goods and provide services to the general public in a setting that is focused around nonresidential activity areas. While pedestrian level activity and access is highly encouraged, the City recognizes that vehicular access is also important to the businesses in the City’s large-scale business areas.

(9) **Light Industrial District (I-1)**
The purpose of the I-1 District is to provide an area to accommodate manufacturing, general businesses, offices, service and repair businesses, and warehousing uses in a form that largely takes place within enclosed buildings to allow for quiet and clean industrial areas. It is the intent of this district to allow for a broad range of these light industrial type uses that are subject only to those regulations that will help protect adjacent residential and business activities.

(10) **Heavy Industrial District (I-2)**
The purpose of the I-2 District is to provide for industrial and other uses that, by virtue of their external effects, noise, glare, fumes, smoke, dust, odors and truck and/or rail traffic, should be isolated from residential uses. These uses perform essential functions for the City, including employment, and should be provided for in areas that are best suited for industrial development by reason of location, topography, soil conditions and the availability of adequate utilities and transportation systems.

(11) **Public and Institutional District (P-1)**
The purpose of the P-1 District is to establish and protect sites for various governmental, institutional, educational, or other public or quasi-public uses that are integral parts of the community while also ensuring compatibility with the surrounding neighborhoods.
1222.04 Principally Permitted Uses

(a) General Provisions

(1) Table 1222-3 lists the principal uses allowed within all base zoning districts and in the various PUD district types.

(2) All PUD approved plans shall include a list of the specific permitted principal uses allowed within the approved PUD. Such list of uses shall be based on those uses permitted in Table 1222-3: Permitted Principal Uses.

(b) Explanation of Table of Permitted Uses

(1) Organization of Table

Table 1222-3 organizes the uses by use categories and use types.

A. Use Categories

The use categories provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., household living, mixed use, eating and drinking establishment, etc.). The use categories then organize land uses and activities into specific “use types” based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.

B. Use Types

The use categories are divided into specific use types. The use types identify the specific uses that are considered to fall within characteristics identified in the broader use category. For example, single-family dwellings, two-family dwellings, and townhome clusters are some of the specific use types that fall under the “household living” use category.

C. Use Categories and Use Types Defined

All use categories and use types are defined in Chapter 1244: Definitions.

(2) Symbols in Table

The symbols used in Table 1222-3 are defined as follows:

A. Permitted Uses

i. A “P” in a cell indicates that a use type is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable standards of this code.

ii. Permitted uses are approved administratively by the City Planner through the zoning permit procedure unless subject to additional review (e.g., certificate of appropriateness, alternative equivalent compliance, variance, etc.).

B. Permitted Uses with Standards

i. A “PS” in a cell indicates that a use type is allowed by-right in the respective zoning district if it meets the additional standards as identified in the last column of Table 1222-3. Permitted uses with standards are subject to all other standards of this code.

ii. Uses permitted with standards are approved administratively by the City Planner through the zoning permit procedure unless subject to additional review (e.g., certificate of appropriateness, alternative equivalent compliance, variance, etc.).
Chapter 1222: Zoning Districts and Principal Uses
Section 1222.04: Principally Permitted Uses
Subsection (b): Explanation of Table of Permitted Uses

C. Conditional Uses
   i. A “C” in a cell indicates that a use may be permitted if approved by the PZC through the conditional use review procedure (See Section 1220.05: Conditional Uses). Conditional uses may be subject to use-specific standards as identified in the last column of Table 1222-3. Conditional uses are subject to all other applicable standards of this code.
   ii. The existence or lack of additional use-specific standards in this code shall not be implied to be the only standards the use is required to meet. Any conditional use listed in the table shall be subject to the general review standards for all conditional uses established in Section 1220.05(d): Review Criteria.

D. Prohibited Uses
   A “---” in a cell or a blank cell indicates that a use is prohibited in the respective zoning district.

E. Use-Specific Standards
   The numbers contained in the “Use-Specific Standards” column are references to additional standards and requirements that apply to the use type listed. Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated.

F. Use Determination and Unlisted Uses
   i. The City Planner shall make the determination if a proposed use is permitted, permitted with standards, a conditional use, or a prohibited use under the provisions of this section.
   ii. The City Planner may determine that a proposed use is substantially similar to a use that is permitted, permitted with standards, or a conditional use established in Table 1222-3 based on the proposed use activities, character of the business, similarity to existing uses within the City, or information on the use as may be available from third-party land use resources such as documentation from the American Planning Association, Urban Land Institute, or similar organizations. If the City Planner finds that the proposed use is substantially similar to a use established in Table 1222-3, the application shall be processed in the same manner as the similar use.
   iii. In finding that a proposed use is similar to a use established in Table 1222-3, the City Planner shall make a note of the similar use in the approved application form.
   iv. If the City Planner makes the determination that a use is prohibited, the application shall not be processed and the application fee shall be returned.
   v. If the applicant disagrees with the City Planner’s determination regarding the proposed use, the applicant may choose to take one of the following actions:
      a. The applicant may appeal the determination of the City Planner to the BZA pursuant to Section 1220.12: Appeals; or
      b. The applicant may present their case to the PZC and/or City Council to request that the City initiate a text amendment to address the proposed use and applicable standards.
### Chapter 1222: Zoning Districts and Principal Uses

Section 1222.04: Principally Permitted Uses

Subsection (b): Explanation of Table of Permitted Uses

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<tr>
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<td>PS</td>
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<tr>
<td>Farm Implement Sales and Service</td>
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<tr>
<td>ORC Section 5119.34(B)(1)(b) Residential Facility</td>
<td>PS</td>
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<td>PS or C</td>
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<tr>
<td>ORC Section 5123.19(A)(5) Residential Facility</td>
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<td>PS</td>
<td>PS or C</td>
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<td>Household Living</td>
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<tr>
<td>Dwelling, Multi-Family (Apartment Building with 9 or more units)</td>
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<tr>
<td>Dwelling, Multi-Family (Apartment House with 4 to 8 units)</td>
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<td>Household Living</td>
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<td>Dwelling, Multi-Family (Attached up to 6 units)</td>
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<td>Dwelling, Single-Family</td>
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<td>Dwelling, Two-Family</td>
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### TABLE 1222-3: PERMITTED PRINCIPAL USES

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<td>R-1A, R-1B, R-1C, or R-1D</td>
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<td>Bail Bonding Institutions</td>
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# Chapter 1222: Zoning Districts and Principal Uses

## Section 1222.04: Principally Permitted Uses

**Subsection (b): Explanation of Table of Permitted Uses**

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<td><strong>Use Type</strong></td>
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<td><strong>Use-Specific Standards in Section:</strong></td>
<td></td>
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<tr>
<td>P = Permitted Use</td>
<td></td>
<td>A-1 R-1A, R-1B, R-1C, or R-1D R-2 R-3 O-1 B-1 B-2 B-3 I-1 I-2 P-1 PUD</td>
<td></td>
<td></td>
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<tr>
<td>PS = Permitted Use with Standards</td>
<td></td>
<td></td>
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<td>1222.05(e)(1)</td>
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<tr>
<td>C = Conditional Use</td>
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<td>1222.05(e)(2)</td>
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<tr>
<td>--- = Prohibited Use</td>
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<td></td>
<td>1222.05(e)(3)</td>
</tr>
</tbody>
</table>

#### Industrial Uses

| Use Category                      | Use Type                               | A-1 | R-1A, R-1B, R-1C, or R-1D | R-2 | R-3 | O-1 | B-1 | B-2 | B-3 | I-1 | I-2 | P-1 | PUD | Use-Specific Standards in Section: |
|-----------------------------------|----------------------------------------|-----|---------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----------------------------------|
| Bulk Storage of Liquids           |                                        | --- | ---                        | --- | --- | --- | --- | --- | --- | PS | PS | --- | PS | 1222.05(e)(1)                      |
| Distribution Facilities          |                                        | --- | ---                        | --- | --- | --- | --- | --- | --- | P  | P  | --- | P  |                                 |
| Machinery and Heavy Equipment Sales, Leasing, and Storage | | --- | ---                        | --- | --- | --- | --- | --- | --- | C  | P  | P  | --- | P  |                                 |
| Manufacturing and Production (Indoors) |                                   | --- | ---                        | --- | --- | --- | --- | --- | --- | C  | C  | P  | P  | --- | P  |                                 |
| Manufacturing and Production (Heavy or Outdoors) | | --- | ---                        | --- | --- | --- | --- | --- | --- | --- | --- | --- | P  | P  |                                 |
| Manufacturing and Production with Caustic or Hazardous Materials | | --- | ---                        | --- | --- | --- | --- | --- | --- | --- | --- | --- | C  | --- |                                 |
| Research and Development or Laboratories | | --- | ---                        | --- | --- | --- | --- | --- | --- | C  | C  | C  | P  | P  | --- | P  |                                 |
| Junkyard or Salvage Center        |                                        | --- | ---                        | --- | --- | --- | --- | --- | --- | C  | C  | --- | --- | 1222.05(e)(2)                      |
| Towing Services                   |                                        | --- | ---                        | --- | --- | --- | --- | --- | --- | C  | PS | PS | --- | 1222.05(e)(3)                      |
| Outdoor Storage and Sales         |                                        | --- | ---                        | --- | --- | --- | --- | --- | --- | C  | P  | --- | --- | 1222.05(e)(4)                      |
| Self-Storage Facilities           |                                        | --- | ---                        | --- | --- | --- | --- | --- | --- | PS | PS | PS | --- | PS | 1222.05(e)(4)                      |
| Truck Storage, Logistics, and Parking |                                  | --- | ---                        | --- | --- | --- | --- | --- | --- | --- | P  | --- | --- | --- | 1222.05(e)(4)                      |
| Warehouses                        |                                        | --- | ---                        | --- | --- | --- | --- | --- | --- | P  | P  | --- | --- |                                 |
| Soil and Mineral Extraction Activities |                               | C   | ---                        | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | 1222.05(e)(5)                      |
# Chapter 1222: Zoning Districts and Principal Uses

## Section 1222.04: Principally Permitted Uses

**Subsection (b): Explanation of Table of Permitted Uses**

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<th>Use-Specific Standards in Section:</th>
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<td>C</td>
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<tr>
<td>Educational Facilities (Higher Education)</td>
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<td>C</td>
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<td>Fraternal, Charitable, and Service Oriented Clubs</td>
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<td>Hospitals</td>
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<tr>
<td>Religious Institutions</td>
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<td><strong>Public or Quasi-Public Facilities</strong></td>
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<td>Essential Public Infrastructure</td>
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<td>Improved Park and Recreational Facilities</td>
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<td>Public Use or Building</td>
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<td>Radio and Television Studios</td>
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<tr>
<td>Wireless Telecommunication Facilities (New Towers)</td>
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<td>Wireless Telecommunication Facilities (Antenna Only)</td>
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<td>Utility Structures</td>
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</table>
1222.05 Use-Specific Standards

(a) Purpose and Applicability

1. This section provides site planning, development, and/or operating standards for certain land uses that are permitted or conditionally permitted in Table 1222-3.

2. The land uses and activities covered by this section shall comply with the applicable standards for the specific use in all districts unless otherwise specified, in addition to all other applicable provisions of this code.

(b) Agricultural Uses

1. Agriculture (Livestock)

   A. The minimum lot area for the use shall be five acres.

   B. All structures designed to house livestock, either permanently or temporarily, shall be set back a minimum of 200 feet from all lot lines. All other structures related to the agricultural use of the property shall be set back a minimum of 50 feet from all lot lines with the exception of fences or walls.

   C. Livestock shall be contained on the property in accordance with Subsection 618.01(b) of the City of Xenia Code of Ordinances and through the use of structures and/or fencing.

   D. There shall be a maximum of nine animal units permitted for every five acres of land. Animal units are a unit of measure used to compare the differences in the production of animal wastes, the standard of which is the amount of waste produced on a regular basis by a slaughter steer or heifer. Slaughter steers and heifers are assigned the base unit of 1.0 animal unit. Table 1222-4 identifies the multipliers used to determine animal units for other types of animals. For all other animals, the City Planner shall have the authority to consult outside source information on the appropriate animal unit multiplier.

<table>
<thead>
<tr>
<th>Animal</th>
<th>Animal Unit Multiplier</th>
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<tbody>
<tr>
<td>Slaughter Steers and Heifers</td>
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<td>Cow-Calf</td>
<td>1.3</td>
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<tr>
<td>Dairy Cattle</td>
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<tr>
<td>Horse</td>
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<tr>
<td>Swine</td>
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<tr>
<td>Sheep</td>
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</tr>
<tr>
<td>All Fowl and Rabbits</td>
<td>0.05</td>
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</tbody>
</table>

2. Community Gardens

   Community gardens are subject to the following standards:

   A. Community gardens are permitted in any yard.

   B. The owner of the property shall have an established set of operating rules addressing the governance structure of the garden; hours of operation; maintenance and security requirements and responsibilities; and distribution of garden plots.

   C. The name and telephone number of the owner and any person designated as the person in-charge of the garden coordination along with a copy of the operating rules shall be kept on file with the City Planner.
D. The site shall be designed and maintained so that water and fertilizer will not drain onto adjacent properties.

E. There shall be no retail sales on site, except for produce grown on the site.

F. Benches, bike racks, raised/accessible planting beds, picnic tables, garden art, and rain barrel systems are permitted.

G. The community garden may include one storage shed and one farm market per lot (not per individual garden plot) for the purposes of communal storage and/or communal sales of produce that is grown on-site.

H. Fences and walls shall be subject to the provisions of Section 1224.01(e)(9): Fences, Walls, and Hedges.

(3) Greenhouses and Nurseries

Greenhouses and nurseries are permitted in the A-1 District when associated with an agricultural use. Stand-alone greenhouses and nurseries for the commercial sale of plant materials are prohibited in the A-1 District.

(c) Residential Uses

(1) ORC Section 5119.34(B)(1)(b) Residential Facility

A. Under ORC § 5119.341(A), any person may operate a residential facility providing accommodations and personal care services for one to five unrelated persons and licensed as a residential facility that meets the criteria specified in division of Section 5119.34(B)(1)(b) of the Revised Code as a permitted use in any residential zoning district, specifically the A-1, R-1A, R-1B, R-1C, R-1D, R-2, R-3, P-1, and PUD zoning districts. Such facilities must comply with the area, height, yard, and architectural compatibility requirements that apply to all single-family residences within these districts. Such uses shall be permitted with standards as described in Section 1222.04(b)(2)B: Permitted Uses with Standards.

B. Under ORC § 5119.341(B), any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in Section 5119.34(B)(1)(b) of the Revised Code as a permitted use in any multi-family residential zoning districts, specifically the R-2, R-3, P-1, and PUD zoning districts. Such facilities must comply with the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood applicable in these districts, and must comply with yard, parking, and sign regulations in these districts. Such uses shall be considered as a conditional use as described in Section 1222.04(b)(2)C: Conditional Uses.

C. In order to prevent the excessive concentration of such facilities, no such facility shall be located within 1,500 feet of any other Section 5119.34(B)(1)(b) Residential Facility that existed on or before the effective date of this code.

D. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify the facility as anything other than a residence.
Chapter 1222: Zoning Districts and Principal Uses

Section 1222.05: Use-Specific Standards

Subsection (c): Residential Uses

(2) ORC Section 5123.19(A)(5) Residential Facility

A. Under ORC § 5123.19(M), any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district, specifically the A-1, R-1A, R-1B, R-1C, R-1D, R-2, R-3 P-1, and PUD zoning districts. Such facilities must comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within these districts. Such uses shall be permitted with standards as described in Section 1222.04(b)(2)B: Permitted Uses with Standards.

B. Under ORC § 5123.19(N), any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential districts, specifically the R-2, R-3, P-1, and PUD zoning districts, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to: The architectural design and site layout of these facilities, as well as their location, nature, and height of any walls, screens, and fences shall be compatible with adjoining land uses and the residential character of the neighborhood, as determined by < >. Such facilities shall comply with the yard, parking, and sign regulation in these districts. Such uses shall be considered as a conditional use as described in Section 1222.04(b)(2)C: Conditional Uses.

C. In order to prevent the excessive concentration of such facilities, no such facility shall be located within 1,500 feet of any other Section 5123.19(A)(5) Residential Facility that existed on or before the effective date of this code.

D. No signage, graphics, display, or other visual representation that is visible from a public street shall be used to identify the facility as anything other than a residence.

(3) Skilled Nursing or Personal Care Facilities

Skilled nursing or personal care facilities are subject to the following standards:

A. The principal building shall be set back a minimum of 50 feet from any adjacent residential zoning district or residential lot.

B. The maximum density of these facilities varies based on the specific type of facility as established below:

i. If the proposed facility includes an independent living component (no skilled or personal care services provided), the independent living component shall be limited to the uses and maximum density permitted by the applicable zoning district. In a nonresidential zoning district, that maximum density shall be six units per acre. In no case shall the independent living component comprise more than 50 percent of the dwelling units or rooms in the proposed development or the use shall be subject to the maximum lot size and densities established in the base zoning district.

ii. The maximum density of congregate housing or assisted living facilities shall be 10 units per acre in the R-3, R-4, O-1, and B-1 Districts and 20 units per acre in the B-3, P-1, or PUD Districts, regardless if the unit is a complete dwelling unit with separate kitchen facilities.

iii. All other types of skilled nursing or personal care facilities shall comply with the maximum height and setback requirements of the applicable zoning district and any conditions or requirements set forth as part of the conditional use approval.
iv. The PZC may set maximum density or intensity requirements as part of the conditional use approval based on the density or character of surrounding uses.

C. Skilled nursing or personal care facilities shall be located so as to provide access from a major or minor arterial.

(4) Multi-Family Dwellings
Multi-family dwellings are subject to the following standards:

A. Accessory structures shall be designed and constructed with an architectural style, exterior colors, and materials similar to the principal dwelling unit structure.

B. Each facade adjacent to a street shall have at least one pedestrian entry into the building.

C. No more than 40 percent of the front setback area shall be paved for walkways, driveways, and/or other hardcover pavement.

D. Common open space shall be provided in an amount as specified in Chapter 1230: Open Space and Park Dedication.

E. All multi-family dwelling types shall be subject to the architectural standards of Chapter 1228: Architectural Standards.

F. Multi-family dwellings (apartment buildings and apartment houses) shall be located so as to provide access from a major or minor arterial.

G. For multi-family dwellings that have up to six attached units, but that are not classified as apartment houses or apartment buildings, the primary access for each dwelling unit shall be on the exterior of the building. Such uses are permitted in the O-1 District only by the conversion of an existing nonconforming residential use.

(5) Narrow Lot Developments
Subdivisions that include narrower lots than traditionally allowed in the base zoning districts are subject to the following standards:

A. Such uses shall only be permitted, with applicable approvals, in the R-1D, R-2, and R-3 Districts.

B. The applicant shall be required to receive a conditional use approval prior to the initiating the subdivision platting and recording process.

C. The conditional use approval shall provide a preliminary approval to proceed with platting and recording lots that comply with the site development standards established for such uses in Section 1226.01: Site Development Standards. No preliminary plat will be approved by the PZC for a narrow lot development without prior approval of such development as a conditional use.

D. The PZC may require larger setbacks for lots that are adjacent to other subdivisions outside of the proposed narrow lot development, to ensure compatibility with surrounding developments.

E. After the subdivision is recorded, a zoning permit shall still be required for each single family dwelling unit that is to be constructed. Such dwelling shall be required to comply with the applicable standards of this subsection and any other standards for single family dwellings established in this code.

F. Single family dwellings shall be the only permitted principal use in a narrow lot development.
G. If the single family dwellings are to have front-loading garages (access from the public street), the width of the garage façade shall not occupy over 60 percent of the width of the entire front façade of the principal building. See Figure 1222-A.

![Figure 1222-A: Illustration of appropriate garage widths on narrow lot developments.]

(6) Permanently Sited Manufactured Homes
Permanently sited manufactured homes are subject to the following standards:

A. The home shall be constructed in accordance with the requirements of Section 3781.184 of the ORC.

B. All permanently sited manufactured homes shall comply will all zoning requirements of a single-family dwelling in the applicable zoning district.

C. Any travel trailers, park trailers, or mobile homes, as defined in the ORC, which do not qualify as a permanently sited manufactured home, are prohibited.

D. Applicants who are submitting subdivision applications to the City have the authority, granted by the ORC, to prohibit permanently sited manufactured homes through restrictive covenants.

(d) Commercial and Office Uses

(1) Sexually Oriented Businesses

A. Purpose and Intent

The purpose of this chapter is to regulate sexually oriented businesses to promote the peace, health, safety and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses within the City. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent, nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent or effect of this chapter to in any way condone or legitimize the distribution of material that is obscene or harmful to minors.

B. Conditional Use Approval Required (Consolidated 1292.03 & 1292.06)

i. A conditional use approval shall be required for any sexually oriented business.
Chapter 1222: Zoning Districts and Principal Uses
Section 1222.05: Use-Specific Standards
Subsection (d): Commercial and Office Uses

ii. A conditional use approval shall only be granted in conformance with Section 1220.05: Conditional Uses, and where the proposed use complies with the requirements of this code as well as Chapter 858 of the City of Xenia Code of Ordinances.

C. **Locational Requirements**
All sexually oriented businesses shall meet the following location requirements before a conditional use approval can be granted.

i. No sexually oriented business facility shall be established within 1,000 feet of any area zoned for residential use.

ii. No sexually oriented business facility shall be established within a radius of 1,000 feet from any educational facility, cultural institution, or teaching facility, whether public or private, governmental or commercial, which school, library or teaching facility is attended by persons under 18 years of age.

iii. No sexually oriented business facility shall be established within a radius of 1,000 feet from any park or recreational facility.

iv. No sexually oriented business facility shall be established within a radius of 1,000 feet from any other sexually oriented facility.

v. No sexually oriented business facility shall be established within a radius of 1,000 feet from any religious institution.

vi. The distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the premises in which the proposed sexually oriented business is to be established to the nearest property line of a use or zoning classification listed above or another sexually oriented facility.

D. **Development Standards**
Sexually oriented businesses are subject to the following standards:

i. No sexually oriented business shall be located in any temporary or portable structure.

ii. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and any exterior windows shall be covered with opaque covering at all times.

iii. Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance or exit to the business.

iv. All entrances to a sexually oriented business shall be clearly and legibly posted with a notice indicating that minors are prohibited from entering the premises.

v. The sexually oriented business shall not conduct or sponsor any activities, which created a demand for parking spaces beyond the number of spaces required by the business.

vi. No sexually oriented business shall be operated in any manner that permits the observation of any persons or material depicting, describing or related to specified sexual activities or specified anatomical areas, inside the premises, from any public way or from any location outside the building or area of such establishment. This provision shall apply to any merchandise, display, decoration, sign, show window or other opening.
vii. Any business license required pursuant to Chapter 858 of this code shall be obtained and kept current at all times.

viii. The premises within which the sexually oriented business is located shall provide sufficient sound-absorbing insulation so that sound generated inside the premises shall not be audible anywhere on any adjacent property or public right-of-way or within any other building or other separate space within the same building.

(2) **Kennels and Animal Boarding**
Kennels and animal boarding facilities are subject to the following standards:

A. All structures and outdoor run areas designed to house or accommodate the animals, either permanently or temporarily, shall be set back a minimum of 200 feet from all lot lines. All other structures related to the use of the property shall be set back in accordance with the applicable zoning district.

B. Care and boarding of animals shall be limited to small animals and may not include cattle, horses, swine, or other similarly sized animals, except in the A-1 District.

C. A solid wood fence or masonry wall with a minimum height of six feet shall be constructed where a kennel or animal board facility is located adjacent to a residential zoning district.

(3) **Restaurants, Drive-In or Drive-Through**

A. Any drive-through or drive-in facility shall be subject to the applicable accessory use regulations in Section 1224.01(e)(8): Drive-Through Facilities.

B. Drive-in facilities shall be prohibited in the B-2 District.

C. Drive-through facilities may be considered as a conditional use in the B-2 District but any drive-through signage, windows, speakers, or related activities, other than the driveway servicing the drive-through, shall only be permitted in a rear yard.

(4) **Live/Work Units**
Live/work units are subject to the following standards:

A. Any nonresidential use permitted in the applicable zoning district is permitted in the live/work unit.

B. The unit must be constructed with a complete dwelling unit but residential occupancy of the unit is not required (i.e., the living space could be used as an extension of the nonresidential use area) but where there will be occupancy, the occupant shall be the owner or employee of the nonresidential use.

(5) **Mixed-Use Buildings (With Residential Uses)**
Mixed-use buildings shall be designed so that all dwelling units are located above the ground floor.

(6) **Bail Bonding Institutions**
Bail bonding institutions shall not be located within 5,000 feet from any other similar establishment.

(7) **Business and Professional Offices**
Business and professional offices in the P-1 District that do not serve or are not an integral part of a principally permitted public and institutional use shall not occupy more than 50 percent of the total floor area of uses on the same lot.
(8) **Medical or Dental Clinics or Offices**
Medical or dental clinics or offices in the P-1 District that do not serve or are not an integral part of a principally permitted public and institutional use (e.g., a hospital) shall not occupy more than 50 percent of the total floor area of uses on the same lot.

(9) **Payday Lending, Cash Advance, or Non-Chartered Financial Institutions**
Payday lending, cash advance, or non-chartered financial institutions shall not be located within 5,000 feet from any other similar establishment.

(10) **Community Clubhouses**
Community clubhouses are only permitted when located within, and an integral part of, a subdivision or residential development where the community center provides a gathering space, recreational amenities, or other services to the residential uses.

(11) **Indoor Shooting Ranges**
Indoor shooting ranges are subject to the following standards:

A. No indoor shooting range shall be established within 250 feet of any established residential zoning district or the P-1 District.

B. No indoor shooting range shall be located within 100 feet of any public transportation facility including streets, bike paths and sidewalks.

C. The design and construction of the firing range shall totally confine all ammunition rounds within the building in a controlled manner. A registered engineer in the State of Ohio shall certify the design and construction of the firing range.

D. Outside noise level shall be reduced to 90 dBA at peak impulse response at the property line for the protection of the welfare of the adjacent property owners.

E. The indoor shooting range shall conform to the Ohio Department of Natural Resources Standards Regulations and Bureau of Alcohol, Tobacco and Firearms governing applicable sections of the Fire Code relative to design and operation of the indoor shooting ranges. Required licenses and approvals from regulatory agencies shall be secured prior to issuance of occupancy, temporary or permanent permits.

F. Subsection 678.09(a) (Discharging Firearms) of the City of Xenia Code of Ordinances shall not apply to approved indoor shooting ranges that meet the requirements of this section.

G. Failure to comply with these standards witnessed by any Xenia official, the City Manager is authorized to close the facility until corrective action has been taken.

(12) **Day Care Facilities (Child or Adult)**
Day care facilities are subject to the following standards:

A. Day care facilities shall only be allowed in the A-1, R-1, or R-2 zoning districts when it is accessory, and on the same lot, as an approved educational facility or religious institution.

B. Day care facilities in any residential district shall only be allowed when access to the use is from a collector or arterial street.

C. Picking up and dropping off of children shall not create unsafe conditions. Loading and unloading of children from vehicles shall only be allowed in the driveway or in an approved parking area.

(13) **Funeral Homes and Mortuaries**
All funeral homes shall be located so as to provide access from a major or minor arterial.
(14) **Massage Establishments**

All massage establishments are subject to Chapter 840 of the City of Xenia Code of Ordinances.

(15) **Pawnshops**

Pawnshops shall be not be located within 5,000 feet from any other similar establishment.

(16) **Retail Sales and Services**

Retail sales and services may be permitted in the O-1, I-1, I-2, or P-1 districts provided that the total square footage of retail sales is limited to a maximum of 20 percent of the total floor area.

(17) **Tattoo Establishments**

Tattoo establishments shall not be located within 1,000 feet from any other similar establishment.

(18) **Wholesale Establishments**

Wholesale establishments that have outdoor storage or sales shall be classified as an outdoor storage and sales principal use as identified in Table 1222-3: Permitted Principal Uses, and subject to the applicable requirements.

(19) **Bed and Breakfast Establishments**

Bed and breakfast establishments are subject to the following standards:

A. The building utilized for the bed and breakfast establishment shall have been originally designed as a single-family dwelling structure.

B. The owner shall reside on the property.

C. Only overnight guests shall be served meals unless otherwise authorized as part of the conditional use approval.

D. All activities related to the establishment shall take place within the principal dwelling and not within a garage or accessory building. Furthermore, all access to rooms shall be from within the principal building.

E. The facility shall be limited to no more than five guestrooms with a maximum guest capacity as determined by fire and building regulations.

F. There shall be no exterior evidence of the use except that the operator may provide one wall-mounted sign with a maximum sign area of one square foot in addition to any other signs allowed for single-family dwellings in Chapter 1236: Signage.

G. No building additions or alterations may be undertaken for the sole purpose of expanding the bed and breakfast use unless approved as part of the conditional use review.

H. A minimum of one off-street parking space for each guestroom and two off-street parking spaces for the resident owner-manager shall be required. All parking areas for five or more vehicles shall meet the applicable standards of Chapter 1234: Parking, Access, and Mobility.

(20) **Auto Service Stations and Automotive Fuel Sales**

Auto service stations and automotive fuel sales are subject to the following standards:

A. Fuel pumps shall be set back a minimum of 20 feet from all lot lines and 50 feet from all adjacent residential lot lines.
B. Canopies shall be set back a minimum of 10 feet from all lot lines and 25 feet from all adjacent residential lot lines.

C. All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.

D. Activities shall be limited to:
   i. The sale of automotive fuel;
   ii. The servicing of motor vehicles with minor repair work;
   iii. Hand washing of vehicles within an enclosed building;
   iv. The retail sale of vehicle parts and products relating to minor repair work such as, but not limited to, oil, grease, antifreeze, batteries, windshield wipers, etc.

E. Utilization of vehicles for overnight accommodations, or the inclusion of showers within the building shall be prohibited.

F. Any major repair work, including automobile body repair and painting, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work shall be classified as “automotive repair (heavy)” and shall be subject to Section 1222.05(d)(21): Automotive Repair (Heavy).

G. Vehicles being serviced or awaiting same shall be stored for no longer than 14 days on the site if in unenclosed areas.

H. There shall be no more than two driveway openings along any frontage. The spacing of multiple driveways shall be in accordance with Section 1234.03: Alignment and Separation of Driveways.

I. The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable Federal, State, and local requirements.

J. Outdoor solid waste and recyclable storage areas shall be screened in accordance with Section 1232.07: Screening Requirements.

(21) Automotive Repair (Heavy)
Auto repair (heavy) uses are subject to the following standards:

A. A heavy automotive repair establishment shall be subject to the same requirements as an automotive service station as established in Section 1222.05(d)(20): Auto Service Stations and Automotive Fuel Sales.

B. The storage of non-operational vehicles for longer 14 days shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet.

C. The use may be subject to additional screening requirement in accordance with Chapter 1232: Landscaping and Buffering.

D. The principal building shall be set back a minimum of 100 feet from any adjacent residential lot. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent residential lot.

E. Vehicle service and repair shall be done in an enclosed building and shall not be conducted in the required setback yards, loading spaces, parking spaces, aisles and/or drives. A temporary zoning permit shall be obtained for outside repair of oversized vehicles that would take longer than five consecutive days. Temporary zoning permits can only be granted under the following conditions:
Chapter 1222: Zoning Districts and Principal Uses
Section 1222.05: Use-Specific Standards
Subsection (e): Industrial Uses

i. The vehicle exceeds the height and width of the service repair garage.
ii. The temporary outside repair shall not involve the construction of permanent lift or repair apparatus.
iii. Temporary outside repair shall only be allowed for a period not exceeding 30 days in a calendar year.

F. Vehicles awaiting repair shall be parked in designated parking spaces and shall not encroach on driving aisles, landscaped areas and drive approaches. No part of the street right-of-way shall be used for parking of vehicles awaiting service.

G. Damaged or inoperable vehicles shall not be used for storage purposes.

(22) Vehicle Washing Establishments

Vehicle washing establishments are subject to the following standards:

A. All structures shall be set back a minimum of 50 feet from any adjacent residential lot line. Any self-service washing establishment or portion of a building used for self-service washing shall be set back a minimum of 150 feet from any adjacent residential lot line.

B. Vacuuming and/or steam cleaning equipment may be located outside, but shall not be placed in the yard adjoining a residential zoning district. Such areas shall be set back a minimum of 150 feet from any adjacent residential lot line.

C. The use shall be subject to the vehicle stacking space requirements of Section 1234.02(i): Off-Street Vehicle Stacking Spaces.

(e) Industrial Uses

(1) Bulk Storage of Liquids

Bulk storage of any caustic or hazardous liquids, as defined by Chapter 1620 of the City of Xenia Code of Ordinance and determined by the City Planner, shall only be permitted with a conditional use approval.

(2) Junkyard or Salvage Center

Junkyards and salvage centers are subject to the following standards:

A. Any buildings or structures associated with the use shall be set back a minimum of 200 feet from the property line of any residential lot or zoning district.

B. Exterior junk piles shall not exceed 15 feet in height and shall be arranged in a manner (with drives for accessibility) for the purposes of fire protection and access.

C. No burning of junk or other materials shall be permitted.

D. The area of the site where junk is stored must be enclosed by a fence with a minimum height of eight feet with the exception of entrances or exits into the area. Such fence shall be designed to completely screen the use and shall be located at the required setback line. Additional screening and buffering may be required as appropriate to minimize impact on adjacent properties.

E. The use shall be exempt from any hard or paved surfacing requirements established in Chapter 1234: Parking, Access, and Mobility, with the exception of the driveways connecting to any public street. All other areas shall be composed of compacted sub-grade with a minimum of eight inches of ODOT 304.

(3) Towing Services

Towing services are subject to the following standards:
A. The towing service shall be secondary to an approved automotive repair (heavy) use and shall comply with the use-specific standards of Section 1222.05(d)(21): Automotive Repair (Heavy).

B. No vehicle shall be stored on the premises for a period longer than 14 days and the vehicle must be in repairable condition and shall have a valid license.

C. There shall not be any wrecking, salvage dismantling or sales of used auto parts on the premises. Junk vehicles as defined in this code and in Section 604.01 of the City of Xenia Code of Ordinances shall not be stored on the facility so as to constitute a junk yard or a salvage yard.

D. The use shall be exempt from any hard or paved surfacing requirements established in Chapter 1234: Parking, Access, and Mobility, with the exception of the driveways connecting to any public street. All other areas shall be composed of compacted sub-grade of eight inches of No.2 aggregate base topped with three inches of ODOT 304.

E. Towed vehicles shall be stored for the purpose of repair or proper disposition through an arranged and properly executed towing contract of governmental and private entities for a period of 90 days for proper disposal or transfer. Any vehicle that cannot be disposed of within 90 days must be reported to the Xenia Police Department. No vehicle may be stored on the lot for more than 180 days unless being stored by a court order, on a law enforcement hold, or as approved by the Chief of Police. Any vehicle that cannot be disposed of within 180 days must be reported to the Xenia Police Department and that vehicle's status be updated every 90 days thereafter as to the reason it has not been removed from the towing and impound storage lot.

F. The proposed use shall not constitute or include the following uses or components:
   i. A junkyard or salvage center as defined in this code unless the operations involve towed vehicles authorized by the City of Xenia under a properly executed towing contract.
   ii. The disassembly, sale or salvage of vehicle parts.
   iii. The display and sale of vehicle parts or components, whether whole, damaged, or discarded.

(4) Self-Storage Facilities
Self-storage facilities are subject to the following standards:

A. No activities, other than the rental of storage units and the pick-up and deposit of storage, shall be allowed on the premises. Examples of prohibited activities include, but are not limited to, the following:
   i. Auctions, commercial wholesale or retail sales or miscellaneous or garage sales except that the owner or manager of the facility may hold an auction on-site, up to four times per year;
   ii. The servicing, repair or fabrication of motor vehicles, boats, trailers, lawn mowers, appliances or other similar equipment;
   iii. The operation of a business out of a storage unit; and
   iv. The operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns or other similar equipment.

B. The storage of hazardous, explosive, radioactive and/or flammable materials, as defined in Section 1620.02 of the City of Xenia Code of Ordinances, which could endanger the health, safety and welfare of City residents, shall not be allowed on the premises.

C. The storage of goods and materials shall be confined to individual lockers or stalls.
D. Circulation patterns shall be of sufficient width necessary for traffic flow of vehicles accessing individual storage units and for efficient maneuvering of emergency and public safety vehicles.

E. Fencing shall be required around the perimeter of the storage facilities with outside access to storage facilities, in accordance with the height requirement specified in Section 1224.01(e)(9): Fences, Walls, and Hedges, for the purpose of security.

F. A manager, who can be contacted at a specified address and telephone number, shall be designated either part-time or full-time for the use. The function of the manager includes, but is not limited to, the following:
   i. Provide proper policing of the area for trash, debris, vandalism, and the like; and
   ii. Report to the Police Department evidence of storage of dangerous, hazardous or contraband property or materials unlawfully possessed.

(5) Soil and Mineral Extraction Activities
Soil and mineral extraction activities are subject to the following standards:

A. The applicant shall be responsible for receiving approval of all applicable permits from the State, Federal government, and/or Greene County, where applicable, prior to the PZC reviewing the conditional application. If City approval is required prior to the issuance of another permit, the PZC may approve the conditional use with conditions that prevent the issuance of a zoning permit until all permits are approved.

B. The applicant must demonstrate that such operations will not be detrimental to the vicinity or surrounding properties.

C. All equipment used in these operations shall be constructed, maintained, and operated in such a manner as to eliminate so far as practical, noise, vibration, or dust which would injure or be a nuisance to persons living in the vicinity.

D. All structures and activity areas shall be set back a minimum of 100 feet from all lot lines and street rights-of-way.

E. Such uses shall be enclosed by a fence six feet or more in height for the entire periphery of the development. Fences shall be adequate to prevent trespassing and shall be placed no closer than 50 feet to the top or bottom of any slope. No sand or gravel shall be removed or stored or overburden stored within 100 feet of any lot line not owned or controlled by the developer or operator of said business or his agent. Such mineral extraction activities shall be conducted sufficiently far enough away from all lot lines so as to ensure adequate lateral support.

F. No rehabilitated slope shall exceed an angle of 45 degrees.

G. All areas within any single development shall be rehabilitated progressively as they are worked out or abandoned to a condition of being entirely lacking in hazards, inconspicuous, and blended with the general surrounding ground form so as to appear reasonably natural. Areas shall be completely and continually drained of water when not in use or not supervised by a watchman. All slopes and banks shall be reasonably graded and treated to prevent erosion or any other potential deterioration.

H. All equipment and structures shall be removed from the mined area when all mining has been completed.

I. Truck routes shall be established for movement in and out of the development in such a way that it will minimize the wear on public streets and prevent hazards and damage to other properties in the community.
There shall be filed with the City Clerk, a bond, payable to the City and conditioned on the faithful performance of all requirements contained in the restoration plan that is approved as part of the conditional use approval. The rate of the required bond shall be fixed by ordinance of the City Council. The bond shall be released upon written certification of the City Planner that the restoration is completed and in compliance with the restoration plan.

(f) Public and Institutional Uses

(1) Wireless Telecommunication Facilities

A. Purpose

It is the purpose of these wireless telecommunication facility standards to regulate the placement, construction and modification of wireless telecommunication towers, antennas, and accessory facilities/structures in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunication marketplace in the City of Xenia. Specifically, the purposes of these regulations are to:

i. Provide guidelines and standards for the location of wireless and cellular telecommunication towers, antennas, and accessory facilities/structures within the City of Xenia;

ii. Protect residential areas and land uses from potential adverse impacts of telecommunication towers, antennas and accessory facilities/structures;

iii. Promote and encourage shared use/co-location of telecommunication towers and accessory facilities/structures as a primary option rather than encouraging the construction of additional single use towers;

iv. Avoid potential damage to adjacent properties caused by telecommunication towers and accessory facilities/structures by ensuring that such structures are soundly and carefully designed, constructed, screened, maintained and removed;

v. Ensure that telecommunication towers, antennas and accessory facilities/structures are compatible with surrounding land uses; and

vi. Ensure that telecommunication towers and accessory facilities/structures are designed in harmony with natural settings and in a manner consistent with current development patterns.

B. Applicability (1296.03)

The location, erection, construction, reconstruction, change or alteration, removal and/or enlargement of a wireless telecommunication facility shall be subject to the provisions of this chapter and shall require a zoning and building permit.

C. Registration Fee

In addition to the zoning and building permit, any person proposing to build, construct and operate a wireless telecommunication facility must pay an initial registration fee to operate in the City of Xenia. Such registration shall be renewed every other year after its initial issuance and shall be accompanied by a renewal fee as set forth in the fee schedule in Part Two - Title Twelve, Chapter 298 of the City of Xenia Code of Ordinances. The license to operate will not be issued until all the zoning and building permits have been issued.
D. **Zoning and Building Permit Application Requirements**

i. All persons planning to construct a wireless telecommunication facility to which the provisions of this section apply shall provide the information required pursuant to Section 1220.02: Common Review Requirements.

ii. The following shall be exempt from the provisions of this section, but shall be subject to the provisions of Section 1226.01(a)(6): Height Measurement and Exceptions:
   
   a. A single ground or building-mounted receive-and-transmit-only radio or television antenna, including any mast, for the sole use of the occupant of a residential and business parcel on which the radio or television antenna is located;
   
   b. A ground or building-mounted citizens band radio antenna;
   
   c. A ground, building or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the amateur radio service;
   
   d. A ground or building receive-only radio or television satellite dish antenna, for the sole use of the resident occupying a parcel on which the satellite dish is located;
   
   e. Mobile services providing public information coverage of a news event of a temporary nature; and
   
   f. Government owned and operated receive-and/or-transmit telemetry station antennas for supervisory control and data acquisition systems for water, flood alert, traffic control devices and signals, stormwater, pump stations and/or irrigation systems and similar uses.

E. **Permit Required**

i. A zoning permit may be issued for the following activities and installations when in compliance with the other applicable use-specific standards of this section:

   a. Co-location of telecommunication antennas on an existing telecommunication tower;
   
   b. Telecommunication antennas attached to existing commercial, office, industrial, public, institutional, or other nonresidential buildings, or attached to any multi-family (apartment building); or
   
   c. Replacement telecommunication towers or antennas in the same manner as the original tower or antenna.

ii. A conditional use approval shall be required for the installation of any new wireless telecommunications tower including those in the districts identified in Table 1222-3: Permitted Principal Uses, or on any publicly owned land in the City.

iii. In addition to meeting the review criteria established in Section 1220.05: Conditional Uses, any application subject to a conditional use approval must also demonstrate that a newly constructed tower is necessary because co-location on an existing tower is not feasible in accordance with Section 1222.05(f)(1): Co-Location Requirements. The following steps must be taken for the application to be considered for review in this category:

   a. The applicant shall demonstrate that the telecommunication tower must be located where it is proposed in order to service the applicant’s service area and that co-location is not feasible.
Chapter 1222: Zoning Districts and Principal Uses
Section 1222.05: Use-Specific Standards
Subsection (f): Public and Institutional Uses

b. Where the telecommunication tower is located on a property with another principal use, vehicular access is provided to the facility.

c. The applicant shall present signed statements indicating that:
   1. The applicant agrees to allow for the potential co-location of additional telecommunication antennas by other providers on the applicant’s structure or within the same site location; and
   2. The applicant agrees to remove the telecommunication tower and accessory facilities/structures in accordance with Section 1222.05(f)(1)J: Removal of Abandoned Facilities.

F. General Standards

The following general standards shall apply to wireless telecommunication facilities.

i. The following requirements apply to all wireless telecommunication facilities regardless of the zoning district in which they are to be located. These general standards are in addition to the specific regulations set forth elsewhere in this section:

a. The telecommunication tower and accessory facilities/structures shall be enclosed either completely or individually by a six-foot high fence. The fence shall give the City of Xenia and co-locators reasonable access to the tower and equipment shelter. Security railing or fencing is required along the edge of a building roof if the wireless telecommunication facility or antenna is not set back at least 10 feet from the edge of the roof top.

b. Existing on-site vegetation shall be maintained to the maximum extent possible and vegetation that will be preserved must be identified on the site plan. In addition, the perimeter of the site shall be planted with at least one row of evergreen shrubs capable of forming a continuous hedge.

c. Neither the owner(s) of the property on which the wireless telecommunication facilities are located, nor the service provider in charge of the facility, shall permit such facility, including the grounds on which it is constructed, to fall into a state of disrepair. All towers, antennas, equipment, related structures and grounds shall be maintained in accordance with the requirements of this code and Chapter 1490 of the Building and Housing Code, as well as any other applicable ordinances or regulations.

d. All applications to install wireless telecommunication facilities shall comply with the co-location requirements set forth in Section 1222.05(f)(1)I: Co-Location Requirements.

e. Any application to locate a wireless telecommunication antenna on a building or structure that is listed on the Register of Historic Places, or is in an historic district, shall be subject to review by the PZC for appropriate design guidelines.

f. All wireless telecommunication towers shall be a non-contrasting gray or similar color minimizing their visibility, unless otherwise required by the FCC or the Federal Aviation Administration (FAA). All appurtenances and accessory facilities/structures shall be aesthetically and architecturally compatible with the surrounding environment and the use of camouflage or architectural treatment that enhances the appearance of the facility and its environment is encouraged.
Chapter 1222: Zoning Districts and Principal Uses
Section 1222.05: Use-Specific Standards
Subsection (f): Public and Institutional Uses

Section 1222.05: Use-Specific Standards
Subsection (f): Public and Institutional Uses

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<thead>
<tr>
<th>Paragraph</th>
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<td>g.</td>
<td>No advertising is permitted anywhere upon or attached to any wireless telecommunication facility.</td>
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<td>h.</td>
<td>No tower shall be artificially lit except as required by the FAA.</td>
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<td>i.</td>
<td>“No Trespassing” signs shall be posted around the wireless telecommunication facility and any accessory facilities/structures. In addition, each facility shall be identified with a two-square foot sign showing the telephone number of the person to be contacted in the event of an emergency, the longitude and latitude, the base elevation, the tower height and the facility owner. The owner of the facility shall provide the City’s emergency dispatch operators with a list of emergency contact numbers.</td>
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<td>ii.</td>
<td>Standards applicable to wireless telecommunication antennas not attached to a tower and which are built as accessory uses in business, industrial, institutional and multi-family structures.</td>
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<tr>
<td>a.</td>
<td>The height of the telecommunication antenna support structure and accessory facilities/structures shall not exceed the structural height limitations in the zoning district in which they are permitted by more than 60 feet.</td>
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<td>b.</td>
<td>The telecommunication antenna and accessory facilities/structures shall be designed with camouflaging techniques or will be side-mounted to an antenna support structure in order that the wireless telecommunication facilities harmonize with the architecture of the building/structure on which they are mounted and the character and environment of the area in which they are located.</td>
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G. Standards Applicable to Wireless Telecommunication Towers

i. Towers shall be of the free-standing lattice or monopole type.

ii. Telecommunication tower setbacks shall be set back a minimum of 50 feet from any adjacent property line as measured from the base of the tower. Any guy wires associated with a tower shall only be placed on the same property as the tower.

iii. Telecommunication towers shall be set back a minimum of 500 feet from any residential district.

iv. Equipment shelters and other accessory facilities shall comply with any setback requirements in the applicable zoning district.

v. A wireless telecommunication tower may be approved where there is already an existing principal use, regardless of whether it is associated with the wireless telecommunication provided, subject to the following additional conditions:
   a. The existing use on the property is a permitted use in the district. The wireless telecommunication facility shall not infringe upon the required parking access and yard requirements, easements, drainageways, and basin of the main structure and/or site.
   b. Service access to the equipment shelter shall, whenever feasible, be provided along existing circulation of the existing use of vehicular areas, which can be roadways, parking areas and driveways.
   c. The tower shall comply with all setback and height requirements of this subsection.
H. **Standards Applicable to Wireless Telecommunication Facilities in Residential Districts**

i. The installation of a new wireless telecommunications tower in any residential district is prohibited except when installed on a property owned by the City, township, Greene County, or State. In such cases, a conditional use approval shall be required and shall also comply with the following:
   
a. The tower shall not be located in any conservation easements or on a site with historical or natural landmarks.
   
b. The PZC may establish a maximum height for the tower based on the proximity to surrounding lots and the use of such lots. The PZC may also take into account how the site is used by the City, township, Greene County, or the State.
   
c. A free-standing telecommunication tower or pole may be required to be disguised as a tree if its presence is deemed to have a negative impact on the environment in which it is proposed to be located.
   
d. The City of Xenia may lease municipally-owned property for wireless and cellular telecommunication antennas, monopole and lattice towers and associated facilities if they meet the requirements of this subsection.

ii. Wireless telecommunication antennas attached to existing nonresidential buildings or multi-family dwellings (apartment buildings) are permitted with the issuance of a zoning permit when such antennas are in compliance with the standards of this subsection including:
   
a. The wireless telecommunication antenna may be a maximum of 60 feet above the structure or building to which it is attached; and
   
b. If the applicant proposes to locate the wireless telecommunication accessory facilities/structures or equipment in a separate equipment shelter, the equipment shelter shall comply with the accessory building standards for the zoning district in which it is located in addition to the following:
      1. Vehicular access to the accessory facilities/structures or equipment shelter shall not interfere with the parking or vehicular circulation on the site for the principal use, and the access path shall be paved with asphalt or concrete; and
      2. The shelter must be designed to be compatible with the residential design character of the neighborhood or immediate area of location. This design compatibility shall be reviewed by the following: roof style and material, building wall material and landscaping.

I. **Co-Location Requirements**

i. The City of Xenia encourages the location of wireless and cellular telecommunication facilities on publicly-owned properties, thereby reducing the visual impact of such facilities. Persons desiring to construct a telecommunication antenna and tower shall consider publicly-owned land first.

ii. No new telecommunication tower shall be constructed in the City of Xenia unless such tower is capable of accommodating at least one additional wireless telecommunication antenna owned by another person.
iii. The applicant shall list the location of every tower, building and structure within such area that could support the proposed telecommunication antenna. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, building or structure irrespective of the City, township and county jurisdictional boundaries. If another telecommunication tower is technically suitable, the applicant must show that an offer was made to co-locate an antenna on that tower and that the offer was not accepted. The applicant shall provide documentation containing a list of the telecommunication facility site locations and owners of telecommunication towers, buildings and structures which were contacted, the date of such contact, any offers of reciprocal rights to install antennas on the applicant’s locations, and the reason why the proposed antennas cannot be located on the existing structures.

J. Removal of Abandoned Facilities
i. Any license renewal requires that all providers utilizing telecommunication towers present a report to the City of Xenia of any tower and accessory facilities/structures located in the City of Xenia whose use will be discontinued and the date this use will cease. If at any time the use of the telecommunication tower and accessory facilities/structures is discontinued for a continuous period of 180 days, the City Planner may declare the telecommunication tower and accessory facilities/structures abandoned. The owner/operator of the telecommunication tower and accessory facilities/structures will receive written notice from the City Planner and be instructed to either reactivate use of the telecommunication tower and accessory facilities/structures within 180 days or dismantle and remove the telecommunication tower and accessory facilities/structures.

ii. If reactivation or dismantling does not occur within the required time frame, the City of Xenia will declare the facilities abandoned and a public nuisance and the same shall be demolished following the nuisance abatement process set forth in Section 1294.19 of the City of Xenia Code of Ordinances.

K. Nonconforming Facilities
Except as provided in this chapter, any use being made of an existing tower or antenna support structure on the effective date of this code and any amendment thereto shall be allowed to continue, even if it is in conflict with this section. Any change or improvement made to an existing telecommunication tower shall comply with this section.

(2) Utility Structures
Utility structures are subject to the following standards:

A. Utility structures shall be located to the rear of the lot, to the maximum extent feasible, or otherwise located to create the least amount of visibility.

B. If the applicant demonstrates to the City Planner that the utility structure can only be located in a front yard, the structure shall be landscaped in a manner that will allow access to the unit but otherwise buffer the view of the structure. The applicant shall be required to provide a landscaping plan as part of the subject application.

C. Utility structures in the I-1 and I-2 districts shall not be subject to this screening requirement.
1222.06 Planned Unit Developments

(a) Purpose
The purpose of the Planned Unit Development (PUD) regulations is to encourage innovative land planning and design and avoid the monotony sometimes associated with large developments by:

1. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
2. Allowing greater freedom in selecting the means to provide access, mobility, light, open space, and design amenities;
3. Encouraging a sensitive design that respects the surrounding established land use character and natural or man-made features of the site; and
4. Allowing deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this code.

(b) Voluntary PUD
The creation of a PUD as outlined in this section is not mandatory for the development of any parcel of land in the City of Xenia. It is the intent and purpose of this process to provide a voluntary alternative procedure which maximizes the utilization of land primarily for the benefit, use, and enjoyment of the future residents and businesses of that area and the existing citizens of the City.

(c) Location, Size, and Review Procedure
1. Planned unit developments may be established in any area of the City following review and approval of the plans in accordance with Section 1220.04: Planned Unit Developments.
2. The minimum size or area required for a planned unit development shall be no less than two acres. Planned unit development proposals may be considered for areas less than two acres, if the sites cannot possibly be developed under the traditional zoning regulations and provided that they do not constitute spot zoning.

(d) Permitted Uses
The planned unit development approval may include a list of uses, based on uses defined in Section 1222.04: Principally Permitted Uses, and permitted within the approved district.

(e) General Development Guidelines
In considering a PUD, the City shall consider the following guidelines in making a decision:

1. The proposed PUD conforms to the comprehensive plan;
2. The development will not impose an undue burden on public services and facilities, such as fire and police protection.
3. The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development, and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development.
4. The location and arrangement of structures, parking areas, walks, lighting and appurtenant facilities shall be compatible with the surrounding land uses.
5. Natural features such as watercourses, natural land contours, trees and rock outcrops will be preserved to the maximum extent feasible so that they can be incorporated into the layout to enhance the overall design of the PUD.
Chapter 1222: Zoning Districts and Principal Uses
Section 1222.06: Planned Unit Developments
Subsection (f): Development Requirements

(6) A PUD and its permitted, accessory and conditional uses, buildings or structures shall be subject to all applicable regulations of this code, unless superseded by any special requirements, conditions, variances or other particulars imposed by the PZC during the concept preliminary application and hearing phases described in Section 1220.04: Planned Unit Developments.

(7) Such special conditions may include provisions governing project ownership, common open space, lands or facilities, the disposition of open land or infrastructure provisions, and/or any physical design and/or other requirement found to be necessary, appropriate or desirable for the purposes of this district.

(8) Such conditions shall be made a part of the terms under which the development is approved. Any violation of such conditions shall be deemed a violation of this section and no zoning permit will be issued.

(f) Development Requirements

(1) Minimum Requirements
   A. Yard, setback, lot size, type of dwelling unit, height, frontage and floor area requirements and limitations, and use restrictions contained in other chapters of this code, may be waived for the planned unit development, provided that the spirit and intent of this code and this section are met, as determined by the PZC.
   B. Every dwelling unit shall have access either to a public street, walkway or other area dedicated to common use.

(2) Perimeter Requirements
   If topographical or other barriers within the perimeter of the development do not provide reasonable privacy for existing uses adjacent to the development, the PZC shall impose either of the following requirements, or both:
   A. Structures located on the perimeter of the development must be set back in accordance with the provisions of this code controlling the area within which the development is situated; and/or
   B. Structures located on the perimeter of the development must be well screened in a manner which is approved by the PZC.

(3) Improvement Standards
   Unless alternative standards are approved as part of the PUD approval process, all PUDs shall comply with the applicable subdivision improvement and design standards including, but not limited to, sidewalks, street design, drainage, and utilities.

(4) Residential Density Standards
   A. Where the PUD includes only single-family dwellings, the maximum density shall be five dwelling units per acre.
   B. Where the PUD includes both single-family and two-family dwellings, the maximum density shall be eight dwelling units per acre.
   C. Where the PUD contains a combination of single-family, two-family and multi-family dwellings, the maximum density shall be 12 dwelling units per acre.
   D. Where the PUD includes multi-family dwellings only, the maximum gross density shall be 20 dwelling units per acre.
E. The preceding density guidelines may be varied at the discretion of the PZC and the City Council if it can be demonstrated that a variance to a guideline is necessary to achieve an improved site design, that surrounding neighborhoods and public facilities will not be adversely affected, and that a common open space will be provided. However, the approved density in the PUD shall not exceed more than 15 percent the density which is permitted in this section.

(5) **Accessory Uses**

A. Unless otherwise allowed for in the approved plans, accessory uses associated with development in a PUD shall be allowed in accordance with the following:

i. Accessory uses permitted in the R-1A, R-1B, R-1C, or R-1D districts shall be allowed for any single-family dwelling.

ii. Accessory uses allowed in the R-2, R-3, and R-4 districts shall be allowed for any two-family, three-family, or multi-family dwelling.

iii. Accessory uses allowed in all nonresidential zoning districts shall be allowed for nonresidential uses.

B. Any allowed accessory uses shall still comply with the applicable accessory use standards established in Section 1224.01: Accessory Uses and Structures.

(6) **Public Parks and Common Open Spaces (1282.07)**

Public parks and common open space shall be provided in accordance with Chapter 1230: Open Space and Park Dedication.
Chapter 1224: Accessory and Temporary Use Regulations

1224.01 Accessory Uses and Structures

(a) Purpose
This section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses. The intent of this section is to allow a broad range of accessory uses while not creating adverse impacts on surrounding lands.

(b) General Provisions
(1) An accessory use or structure shall be incidental to the primary use of the site, and shall not alter the character of the principal use.
(2) Accessory uses and structures shall be constructed on the same lot as the principal use that it serves.
(3) No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced. In cases where the main or principal structure is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the main structure to which it is supposed to be an accessory on the following conditions:
   A. Up to 12 months consistent with that allowed by Section 1240.05(g)(1) Termination of Use through Discontinuance.
   B. A zoning and building permit is obtained for the reconstruction of the main or principal structure, the construction of which shall take place within 12 months. Failure to reconstruct the main or principal structure will be an automatic cause for the removal of the accessory structure at the owner's expense.
(4) Small accessory structures such as doghouses, benches, garden decorations, barbeque equipment, etc. shall be exempt from the provisions of this section provided they do not have a footprint that exceeds 50 square feet.
(5) Gardens and the raising of crops for the personal use of the residents, tenants, or property owners, may be grown in any yard except the front yard, without a permit.
(6) An accessory structure that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the site development standards and all other development standards of the applicable zoning district. Any accessory structure shall be considered as an integral part of the principal building if it is connected to the principal building either by common walls or by a breezeway or roof.
(7) The accessory use regulations of this chapter shall not apply to any public park lands owned by the City, Greene County, or the State of Ohio.
(8) Height Limit
   A. Unless otherwise stated, the maximum height of a detached accessory structure shall be 14 feet with the exception of detached garages.
   B. The height of the accessory structure may be increased to 18 feet provided that the primary exterior materials of the accessory structure are similar to the primary exterior materials of the principal structure.
Chapter 1224: Accessory and Temporary Use Regulations
Section 1224.01: Accessory Uses and Structures
Subsection (c): Prohibited Accessory Uses

(9) Size Requirements

A. For residential districts, the aggregate square footage of the following accessory buildings and structures shall not exceed more than 38 percent of the total required rear yard for the lot on which they are located:
   i. Detached garages and carports;
   ii. Detached storage/utility sheds, gazebos, and other similar structures;
   iii. Porches and decks
   iv. Ground-mounted solar energy systems;
   v. Tennis and other recreational courts; and
   vi. Other accessory buildings similar in nature to the above mentioned structures, as determined by the City Planner.

B. In residential districts, the maximum square footage for all of the footprints of the detached accessory buildings and structures listed in Section 1224.01(b)(9)A, shall be 49 percent of the floor space of the principal building.

C. In all zoning districts, there shall be an allowable square footage of 720 square feet, regardless of the size limitation within this section, for the detached accessory buildings and structures in Section 1224.01(b)(9)A to ensure that each lot is afforded a reasonable amount of space for accessory uses.

D. There is no maximum square footage of accessory buildings or structures in the nonresidential zoning districts or for accessory uses utilized in the operation of a farm including, but not limited to, barns, silos, shed, etc.

E. Accessibility ramps shall not count as part of any size limitation in this section.

(10) Setback and Location Requirements

A. Unless otherwise provided for in this section, all accessory uses and structures shall be located in the rear yard.

B. Unless otherwise required in this section, all accessory uses and structures shall be set back a minimum of three feet from all lot lines.

C. A detached accessory building shall be set back a minimum of 10 feet from an alley if the building or structure requires access from such alley.

D. Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.

E. No detached accessory structure shall be located less than ten feet from the principal building. If the separation of the accessory and main structure is less than ten feet, the accessory structure shall be protected with a fire-resistant material and shall conform to the same yard requirements as the principal building.

(c) Prohibited Accessory Uses

Except as provided in code, the use of inflatable garages, portable garages, temporary structures as defined in Section 1224.02: Temporary Uses and Structures, temporary carports, portable containers, shipping containers, and semi-tractor trailers used for storage (with or without wheels) shall not be used as permanent accessory structures in any zoning districts.

(d) Permitted Accessory Uses

The following is an explanation of Table 1224-1.

(1) The symbols for permitted uses (P), permitted uses with standards (PS), and conditional uses (C) are defined in the same manner as Section 1222.04: Principally Permitted Uses.
(2) **Prohibited Uses**
   A. A blank and/or shaded cell indicates that a use is prohibited in the respective zoning district.
   B. Outdoor wood boilers and furnaces are specifically prohibited in the City of Xenia.

(3) **Yards Permitted**
   This column identifies within which yards the use may be permitted. See the use-specific standards for any restrictions related to placement in individual yards.

(4) **Use-Specific Standards**
   The numbers contained in the “Use-Specific Standards” column are references to additional standards and requirements that apply to the use type listed. Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated.

(5) **Use Determination and Unlisted Uses**
   A. The City Planner shall make the determination if a proposed use is permitted, permitted with standards, a conditional use, or a prohibited use under the provisions of this section.
   B. Section 1222.04: Principally Permitted Uses identifies the procedure the City Planner will use in addressing uses that are similar to other uses in Table 1224-1 or uses that are unlisted.

(6) **Accessory Uses in the Planned Unit Developments**
   A. The types of accessory uses allowed in a PUD shall be considered as part of the PUD review. Generally:
      i. Accessory uses for single-family dwellings shall be those allowed in the R-1A District.
      ii. Accessory uses for multi-family dwellings shall be those allowed in the R-3 District.
      iii. Accessory uses for commercial uses shall be those allowed in the B-3 District.
      iv. Accessory uses for industrial uses shall be those allowed in the I-1 District.
### TABLE 1224-1: PERMITTED ACCESSORY USES AND STRUCTURES

<table>
<thead>
<tr>
<th>Use Category and Use Type</th>
<th>A-1, R-1A, R-1B, R-1C, or R-1D</th>
<th>R-2 and R-3</th>
<th>O-1, R-2, or B-3</th>
<th>I-1 or I-2</th>
<th>P-I</th>
<th>Yards Permitted</th>
<th>Zoning Permit Required</th>
<th>Use-Specific Standards in Section</th>
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<tbody>
<tr>
<td>Accessibility Ramps</td>
<td>PS</td>
<td>PS</td>
<td>PS</td>
<td>PS</td>
<td>F, S, or R</td>
<td>No</td>
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<td>Accessory Dwelling Units</td>
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<td>Amateur Radio Towers and Antennae</td>
<td>PS</td>
<td>PS</td>
<td>PS</td>
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<td>Yes</td>
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<tr>
<td>Basketball Hoops</td>
<td>PS</td>
<td>PS</td>
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<td>Bike and Skateboard Ramps</td>
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<td>PS</td>
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<td>Community Gardens</td>
<td>PS</td>
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<td>PS</td>
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<tr>
<td>Detached Garages and Carports</td>
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<td>PS</td>
<td>PS</td>
<td>PS</td>
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<td>Yes</td>
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<td>Detached Storage/Utility Sheds, Gazebos, Pool Houses, and other Similar Buildings</td>
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<td>P</td>
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<td>P</td>
<td>P</td>
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<td>Drive-Through Facility</td>
<td>PS</td>
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<td>See Section 1224.01(e)(8)</td>
<td>Yes</td>
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<td>Fences, Walls, and Hedges</td>
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<td>Home Occupations</td>
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<td>Nursery Schools or Day Care Centers (Children or Adults)</td>
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<td>Outdoor Dining</td>
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<td>Outdoor Displays and Sales</td>
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<td>Outdoor Storage and Bulk Sales</td>
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<td>Outdoor Vending Machines and Drop-Off Boxes</td>
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<td>PS</td>
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<td>No</td>
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<td>Patios (Unenclosed)</td>
<td>PS</td>
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<td>Porches and Decks</td>
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<td>Playsets, Treehouses, and Trampolines</td>
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<td>Private Water Towers, Tanks, or Reservoirs</td>
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<td>S or R</td>
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<td>Raising of Small Livestock</td>
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<td>Retail Sales</td>
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<td>Solar Energy Systems</td>
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<td>Swimming Pools (Outdoors)</td>
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<td>Tennis and Other Recreational Courts (Outdoor)</td>
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<td>Type B Day Care Home (1-6 Children)</td>
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<td>1224.01(e)(25)</td>
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Chapter 1224: Accessory and Temporary Use Regulations
Section 1224.01: Accessory Uses and Structures
Subsection (e): Standards for Specific Accessory Uses and Structures

(e) Standards for Specific Accessory Uses and Structures

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1224.01(b): General Provisions.

(1) Accessibility Ramps

Ramps that provide access to buildings for the disabled are permitted in all zoning districts and may encroach in all setbacks but shall not encroach on a public sidewalk, right-of-way, or street.

(2) Accessory Dwelling Units

This section is intended to allow the creation of accessory dwelling units on existing lots in residential zoning districts that already contain one legally created dwelling unit under the following provisions:

A. There shall be a minimum lot area of 7,500 square feet.
B. An accessory dwelling unit may be created by the:
   i. Conversion of an attic, basement, garage, or other previously uninhabited portion of a principal residential structure; or
   ii. Addition onto an existing residential structure.
C. A manufactured home, recreational vehicle, or other moveable habitable space that does not comply with the building code shall not be used as a second unit.
D. Only one accessory dwelling unit shall be permitted on a lot.
E. Accessory dwelling units shall be exempt from the minimum lot area requirements in the applicable zoning district and shall not require the dedication of any open space or fee-in-lieu as may be required in Chapter 1230: Open Space and Park Dedication.
F. An accessory dwelling unit shall contain separate kitchen and bathroom facilities. If not, the expansion shall be considered part of the applicable principal use or accessory use and shall be controlled by any applicable regulations to those uses.
G. Each accessory dwelling unit shall have an entrance separate from the primary dwelling.
H. An accessory dwelling unit shall not exceed 800 square feet or 25 percent of the floor area of the primary dwelling, whichever is less.
I. One accessible off-street parking space shall be provided for the accessory dwelling unit in addition to the off-street parking spaces required for the primary dwelling in Chapter 1234: Parking, Access, and Mobility.
J. Each accessory dwelling unit shall be constructed so as to be compatible with the existing primary dwelling, as well as the surrounding neighborhood in terms of design, form, height, materials, and landscaping.
K. Accessory dwelling units that are added on to an existing principal structure shall comply with the site development standards of the applicable zoning district.
   Accessory dwelling units that are added to an accessory structure shall be subject to the applicable accessory structure regulations in this chapter.
L. Accessory dwelling units shall only be permitted where the property owner resides on the same lot.

(3) Amateur Radio Towers and Antenna

A. No more than one amateur radio tower and/or antenna shall be permitted on each lot.
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Section 1224.01: Accessory Uses and Structures
Subsection (e): Standards for Specific Accessory Uses and Structures

B. Ground-mounted amateur radio towers, antennas, and related guy wire anchors must be located in the rear yard to the maximum extent feasible.
C. Building-mounted amateur radio towers and antennas must be located to the rear of the centerline of the principal building, to the maximum extent feasible.
D. Proof of a valid and active amateur radio license from the Federal Communications Commission (FCC) must be provided with the zoning permit application.
E. Antennas and guy wire anchors shall not overhang or otherwise be located within required accessory structure setbacks or on adjacent lots.
F. When an amateur radio tower and antenna is no longer being used by an FCC amateur radio license holder for amateur radio service, the tower and antenna must be removed no more than 180 days after cessation of the FCC license or the transfer or property ownership or lease to an individual without an FCC license.
G. Amateur radio towers and antennas that do not comply with the provisions of this section shall require a conditional use approval (See Section 1220.05: Conditional Uses.). The application for a conditional use approval for amateur radio towers and antennas must demonstrate that compliance with the provisions of this section would prevent the amateur radio operator from exercising the rights granted to him or her by the FCC or the State of Ohio by license or law. If the PZC determines that expertise beyond that of City staff is necessary to determine compliance with this criterion, then the applicant shall reimburse the City for any expenses necessary for hiring a third-party consultant to make this determination.

(4) Basketball Hoops
A. Basketball courts shall be subject to the standards of Section 1224.01(e)(24): Tennis and Other Recreational Courts.
B. Movable basketball hoops shall not be located in rights-of-way or be so located as to require play in any right-of-way.

(5) Bike and Skateboard Ramps
Bike ramps and skateboard ramps shall be set back at least 15 feet from all lot lines.

(6) Community Gardens
A. Community gardens that are accessory to another principal use shall be subject to the same rules as established for community gardens in Section 1222.05(b)(2): Community Gardens.
B. Community gardens shall only serve as an accessory use to nonresidential uses.

(7) Detached Garages and Carports
A. Only one detached garage or carport may be permitted on any single lot with a single-family dwelling. Detached garages or carports for all other uses shall be controlled by the size and height limitations of this chapter but shall not be restricted in number of buildings.
B. Detached garages and carport shall be set back a minimum of 10 feet from all lot lines.
C. Attached and detached garages shall be served by a paved driveway.

(8) Drive-Through Facilities
The following standards shall apply to businesses that contain a drive-through facility regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).
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Section 1224.01: Accessory Uses and Structures
Subsection (e): Standards for Specific Accessory Uses and Structures

A. General Standards
   i. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 250 feet of any residential dwelling unit.
   ii. All drive-through areas, including but not limited to drive-through signs, stacking lanes, trash receptacles, audio equipment, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.
   iii. If the drive-through window, drive-through signage (See Section 1236.09(e): Drive-Through Signs), or any audio equipment are located in the front yard, they shall be screened with an opaque, landscaped screen of with a height that will fully screen the window, signage, or audio equipment. Such screening shall not be required for stacking spaces that are located in a front yard.

B. Stacking Space and Lane Requirements
   Drive-through facilities shall be required to include vehicle stacking spaces as established in Section 1234.02(i): Off-Street Vehicle Stacking Spaces.

(9) Fences, Walls, and Hedges

A. Permit Required
   i. No person shall construct or erect a fence or wall without first obtaining an approved zoning permit from the City Planner and/or a building permit, if applicable, from Greene County. Permits are not required for repairs of existing fences, for replacement of a fence for which the original permit can be produced, or for invisible fences.
   ii. A zoning permit shall not be required for vegetative hedges or invisible fences but they shall be subject to any applicable requirements of this section.

B. General Requirements
   i. All fences, walls, and hedges shall be subject to the vision clearance requirements of Section 1226.02: Vision Clearance.
   ii. Small portions of fences, such as decorative fencing used for landscaping, that are not longer than 20 feet in length or more than three feet in height, but which comply with the yard and maintenance requirements set forth in this subsection, shall not require a zoning permit.
   iii. All fences, walls, hedges and invisible fences, and any related supporting structures or appurtenances, shall be contained within the lot lines of the applicable lot and shall not encroach into adjoining or abutting lots and/or rights-of-way.
   iv. The smooth finished side of the fence or wall shall be the side of the fence that faces outward from the lot or yard being fenced. If a fence has two similarly finished sides, either side may face the adjacent property.
   v. All fences, walls, and hedges shall be maintained in a neat and orderly manner.
   vi. Walls shall be prohibited within all utility easements. Fences that are placed in utility easements are subject to removal without notice by utility companies or the City, to the maximum extent permissible, when work is being done in the utility easements. Replacement of the fence shall be at the property owner’s expense.
vii. Fences, walls, and hedges shall not impede, inhibit, or obstruct culverts, drains, natural watercourses, or storm water drainage in any zoning district.

viii. It shall be the duty of each lot owner and contractor, or an agent thereof, to determine lot lines and to ascertain that the fence or wall does not deviate from the plans as approved by the City Planner issuing the zoning permit, and that the fence does not encroach on another lot or existing easement. The issuance of the permit and any inspection by the City shall not be construed to mean that the City has determined the fence is not encroaching on another lot, nor shall it relieve the property owner of the duty imposed on him or her herein.

C. Materials
i. No fence shall be composed of scrap materials, tires, canvas, cardboard, asphalt-style shingles, or corrugated metal, welded rolled wire, chicken wire, or sheet metal, with the following exceptions:
   a. Metal, welded and woven wire shall be allowed in the A-1 District to fence in farm animals and protect crops.
   b. Wire mesh, chicken wire, and welded wire shall be allowed as a backing material for split-rail fences.

ii. Fencing that is electrically charged shall only be permitted for the containment of livestock on lots used for agricultural purposes. Such fencing shall be set back a minimum of 50 feet from all adjacent residential lots.

iii. Fencing that includes barbed wire or other sharp-pointed material shall be prohibited except in the I-1 or I-2 Districts where they may be considered with a conditional use approval, for security purposes. Such fencing shall:
   a. Only be allowed in the side and rear yards;
   b. Shall be mounted on the opposite side of the fence from any adjacent public right-of-way or sidewalk;
   c. Be located a minimum of seven feet off the finished grade; and
   d. Contain no more than 18 inches of razor wire or barbed wire.

iv. With the exception of front yards in the A-1 Agricultural District, the style or type of fences permitted in the front yard include: picket, split rail, wrought iron, solid vinyl, painted aluminum, welded steel and hedges.

v. All latches, hinges and hardware shall be made of non-rusting materials.

D. Measurement
i. The maximum fence or wall height shall be measured from the lowest point three feet on either side of the fence to the top most portion of the fence between posts. See Figure 1224-A. The structure posts may exceed the maximum height allowed in this section by up to six inches including any decorative features.
ii. Fencing or walls should follow the natural contour of the land on which it is located. See Figure 1224-B.

iii. A fence may be erected on top of a wall but the combined height of the fence and wall shall not exceed the heights specified within this section for a fence or wall. Fences or walls located on top of a retaining wall shall be measured from the top of the finished grade at the top of the retaining wall.

E. Retaining Walls
i. Retaining walls shall be measured from the top of the footing to the top of the wall.

ii. Retaining walls that exceed 36 inches high shall be benched so that no individual retaining wall exceeds a height of six feet except where the BZA determines that topography requires a wall of greater height, and each bench is a minimum width of 36 inches. See Figure 1224-C.

iii. Retaining walls over 36 inches shall be approved by the City Engineer in addition to the City Planner. Plans for such retaining wall shall be prepared by a professional engineer.

iv. Retaining walls that exceed four feet in height or support an additional live/dead load above and beyond the weight of the soil being retained may require a building permit from Greene County.

v. Retaining walls should substantially follow or preserve the existing grade or contour of land.
Figure 1224-C: This image illustrates a retaining wall that has been benched so that there is not a single, excessively tall, retaining wall.

F. Fences, Walls, and Hedges in Front Yards

The following shall apply to fencing, walls, and hedges in front yards:

i. Fences, walls, and hedges shall not exceed 48 inches in the front yard or along any lot line that is adjacent to a street, including corner lots, with the following additional provisions:

   a. Solid fences, walls, or portions thereof that run parallel and adjacent to a street shall not exceed 24 inches in height. Solid fences or walls include any fence or wall constructed of materials or in such a manner as to be more than 50 percent solid or opaque.

   b. Solid fences or walls, as defined above, may exceed 24 inches in height along the side lot lines provided the solid portion is set back a minimum of 20 feet from all front street right-of-way lines.

ii. For double frontage lots, fencing in the rear yard (See Section 1226.01(a)(4)G: Double Frontage (Through) Lots.) may exceed 48 inches if the fencing is set back a minimum of 50 feet from the right-of-way but in no case shall it exceed the height allowed in rear yards for the applicable zoning district. See Figure 1224-D. This setback shall not apply if the entire block face contains double frontage lots with the rear façade of the buildings facing the same street.
Figure 1224-D: The shaded area in the above illustration illustrates where the maximum front yard fence, wall, and hedge height of 48 inches is applied in a residential district.

G. Fences, Walls, and Hedges in Side and Rear Yards
The following shall apply to fencing, walls, and hedges in side and rear yards:

i. There shall not be a height requirement for hedges in side and rear yards.

ii. Fences and walls shall not exceed six feet in any side or rear yard within any residential district except for fences or walls for nonresidential uses, in which case, the maximum fence or wall height shall be eight feet unless the buffering requirements of Section 1232.05: Landscape Buffering Requirements, require a taller fence.

H. Temporary Fences
Temporary fences such as construction site fences and snow fences shall be allowed subject to Building Code requirements and the following conditions:

i. Fences around construction sites shall be allowed for the duration of the construction work, and snow fences shall be allowed for a period not to exceed five months in any calendar year.

ii. A zoning permit shall not be required for temporary fences.

I. Upkeep and Maintenance

i. Any fence, wall, or hedge, under construction or completed, which, through lack of repair, neglect, type of construction, placement or otherwise, is a hazard or endangers any person, animal or property, or causes a blighting effect on the neighborhood, is deemed a nuisance.

ii. If such unsafe condition or blighting effect exists in regard to a fence, wall, or hedge, the City Planner shall notify the owner, agent, or person in control of the property upon which the fence, wall, or hedge is located, describing the unsafe condition and blighting effect and ordering abatement of the nuisance by requiring repairs or modifications to be made to render the fence, wall, or hedge safe, or requiring the unsafe fence or hedge or any portion thereof to be removed.
iii. If the nuisance is not corrected, then the City Planner shall abate the nuisance and charge all fees to the owner as set forth in the fee schedule in Part Two - Title Twelve, Chapter 298 of these Codified Ordinances.

(10) **Home Occupations**

The following standards for home occupations are intended to provide reasonable opportunities for employment within the home, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by this section.

A. The home occupation shall be clearly secondary to the full-time use of the property as a residence.

B. Any home occupation that provides services where members of the public visit or enter the premises may be permitted if designed to accommodate one customer at a time and which meets all other applicable requirements for home occupations.

C. **Permitted Home Occupations**

The following uses, and other uses determined by the City Planner to be similar in nature and impact, may be approved as a home occupation when in compliance with this section:

i. Art and craft work including, but not limited to ceramics, painting, photography, dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, and sculpting;

ii. Office-only uses, including, but not limited to, an office for an architect, financial advisor, attorney, consultant, counselor, insurance agent, planner, tutor, or writer;

iii. Personal service establishments including, but not limited to, fitness/health facilities, beauty parlors, barber shops, animal grooming (no overnight boarding), or licensed massage or physical therapy; and

iv. Mail order or online businesses or direct sale product distribution (e.g., Amway, Avon, Creative Memories, Pampered Chef, etc.) may be allowed where there is no stock-in-trade on the site.

D. **Prohibited Home Occupations**

The following are business activities that are prohibited as home occupations:

i. Animal hospitals and boarding facilities;

ii. Automotive and other vehicle repair and service, except when such repair or service is on a vehicle owned by the property owner or tenant of such property;

iii. Construction, landscaping, or similar contractor facilities and storage (an office-only use is allowed in compliance with the above section) and other outdoor storage;

iv. Fitness/health facilities that provide group activities or services;

v. Medical clinics, laboratories, or doctor's offices;

vi. Parking on, or dispatching from the site, any vehicle used in conjunction with the home occupation (e.g., landscaping services, taxi services, construction, etc.) with the exception of a vehicle owned and operated by the home owner or tenant;

vii. Uses that require explosives or highly combustible or toxic materials;

viii. Welding and machine shop operations;

ix. Wood cutting businesses; or
x. Other similar uses as determined by the City Planner.

**E. Operating Standards**

i. Permitted home occupations shall not create an adverse effect on the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties.

ii. The residential building shall not be altered in any manner that is intended to change the residential appearance of the dwelling to a building with a commercial appearance. There shall be no separate entrance created solely for the home occupation.

iii. At least one resident of the dwelling shall operate the home occupation and there may be up to one employee on-site who does not reside at the dwelling.

iv. The operator of a home occupation in a rental unit shall be able to demonstrate that the property owner has authorized the use of the unit for a home occupation.

v. No more than 25 percent of the floor area of any one story of the dwelling unit shall be devoted to such home occupations. Such space for a home occupation may be located in the principal dwelling or in an accessory building.

vi. No additional off-street parking or loading facilities shall be provided beyond that traditionally used for residential uses. No additional driveways shall be established for the use of the home occupation.

vii. There shall be no signs other than the wall signs allowed on a dwelling in Section 1236.08(a): Wall Signs on Dwellings.

viii. There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.

ix. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.

**(11) Nursery Schools or Day Care Centers (Children or Adults)**

Nursery schools or day care centers may only be permitted as accessory uses to nonresidential uses.

**(12) Outdoor Dining**

A. Outdoor dining areas shall be located along a sidewalk adjacent to the principal building or between the principal building and parking area. Outdoor cafes and food service areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the cafe/food service area and the principal building.

B. Outdoor dining areas shall be set back a minimum of 50 feet from adjacent residential uses.

C. The seating capacity of the outdoor seating areas shall not exceed the seating capacity of the indoor seating area.

D. If no grade separation is provided between vehicular traffic and the outdoor dining area, permanent railings or fencing shall be provided around the dining area. If the outdoor dining area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.

E. If the outdoor dining area is located on a sidewalk, the area shall be designed so there is a minimum of five feet of clearance adjacent to the dining area to allow for pedestrian circulation.
F. Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions. Such umbrellas shall not contain signage but awnings may include signage in compliance with Chapter 1236: Signage.

G. Outdoor tables and chairs shall be constructed with concrete or metal framing.

H. Enclosing outdoor dining areas either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district and shall require the issuance of a new zoning permit or zoning compliance permit, whichever is applicable.

(13) Outdoor Displays and Sales

Seasonal and permanent facilities for outdoor display and sales (e.g., garden supply sales, news and flower stands, and similar uses) that are accessory to another principal use may be permitted upon compliance with the following:

A. Such uses shall not be placed within the street right-of-way, within an interior drive, or in a location which will interfere with the vision clearance requirements.

B. Outdoor displays and sales shall be related to the principal use of the site and shall clearly be accessory and incidental to the principal use. Outdoor displays and sales shall be prohibited when the principal building is vacant.

C. Outdoor display and sales areas may be permitted in the front yard provided that the merchandise is displayed along the sidewalk or walkway adjacent to the building. Outdoor display and sales areas may also be permitted in the side or rear yard without being located adjacent to the building.

D. In all cases, any areas designated for outdoor display or sales shall be set back a minimum of 25 feet from any adjacent residential lot.

E. The placement of the merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.

F. The outdoor display and sales areas shall be maintained in good order and appearance.

G. A specific schedule of operation shall be filed and approved as part of the submitted zoning permit application. If the principal operator intends to use the area on a regular basis, the area shall be clearly designated on the plans submitted with the zoning permit application and shall include a schedule of use for outdoor display and sales activities.

H. The outdoor display and sale of goods and products shall be limited to those goods and products that a customer can pick up and carry into the building for purchase. Larger items may be displayed for sale if in compliance with the outdoor storage requirements of Section 1224.01(e)(14): Outdoor Storage and Bulk Sales.

(14) Outdoor Storage and Bulk Sales

A. Outdoor storage and bulk sales shall comply with the standards of outdoor displays and sales unless otherwise modified by this section.

B. Outdoor storage and bulk sales in a parking lot shall be prohibited unless allowed as a temporary use pursuant to Section 1224.02: Temporary Uses and Structures.

C. The area of the lot devoted to outdoor storage of goods and merchandise shall not exceed 20 percent of the ground floor area of the principal building.

D. Areas devoted to outdoor storage shall be paved with asphalt or concrete and free of dust.

E. In all cases, any areas designated for outdoor storage areas shall be set back a minimum of 50 feet from any adjacent residential lot.
Chapter 1224: Accessory and Temporary Use Regulations
Section 1224.01: Accessory Uses and Structures
Subsection (e): Standards for Specific Accessory Uses and Structures

F. Screening
   i. All aspects of outdoor storage and bulk sales of goods and materials shall be enclosed with a Type B buffer as identified in Section 1232.05: Landscape Buffering Requirements.
   ii. If the wall or fence needs to exceed eight feet in height to conceal the storage of materials, such wall or fence shall be constructed of materials similar to the principal building so that it appears to be an extension of the principal structure.
   iii. All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.
   iv. Outdoor storage of materials shall not include a junkyard or similar storage.

(15) Outdoor Vending Machines and Drop-Off-Boxes
Outdoor vending machines and drop-off boxes for recycled goods, books, donations, etc., may be permitted when they comply with the following regulations:

A. No such use or facility shall be placed within the street right-of-way, within an interior drive, or in a location which will interfere with required site vision clearance requirements in Section 1226.02: Vision Clearance.

B. The facility or equipment shall be maintained in good operating order and appearance.

C. Vending machines shall only be placed along the façade of the principal building. See Figure 1224-E.

D. Drop-off boxes shall only be permitted in the side or rear yard.

E. A maximum of one drop-off box and two vending machines are permitted on any single lot. One additional drop-off box and one vending machine shall be permitted on a lot for each two acres of lot area in excess of an initial two-acre lot. This limitation on the number of boxes or machines shall not apply to dumpsters outside of the building or vending machines located within the building.

F. The container shall be emptied at least once every week. Containers that result in the overflow of donated goods shall be declared a nuisance and shall be removed immediately upon notification by the City Planner at the expense of the property owner or business owner.

G. The City shall have the authority to place more than one drop-off box on a single lot when providing recycling services to the general public.

Figure 1224-E: The above is an image of a vending machine that is appropriately located along the façade of the building.
Chapter 1224: Accessory and Temporary Use Regulations
Section 1224.01: Accessory Uses and Structures
Subsection (e): Standards for Specific Accessory Uses and Structures

(16) Patios (Unenclosed)
   A. Unenclosed patios are permitted in any yard. Such patios may extend up to ten feet into
      the minimum front yard requirement and may be located in any side or rear yard
      provided they are set back a minimum of three feet from all lot lines.
   B. Patios in the rear yard may have built-in grills or kitchen areas provided such use
      complies with any applicable building code requirements.

(17) Porches and Decks
   A. Porches or decks that are enclosed (with walls made of screening or other materials),
      have a roof, are physically attached to the principal structure, or have floors that extend
      more than three feet above the average grade shall meet the setback requirements for
      principal buildings in the applicable zoning district.
   B. No structure shall project into a required front yard with the exception that open
      awnings, open porches and steps may extend from the dwelling into the required front
      and rear yard a maximum of ten feet.

(18) Private Water Towers, Tanks, or Reservoirs
   A. The use shall be set back from all lot lines a minimum of one foot for every foot in
      height;
   B. The use shall be a pedisphere, fluted column, or standpipe design only. Multi-leg
      designs are prohibited;
   C. Any signage on the tower, tank, or reservoir shall be calculated as part of the allowable
      wall signage pursuant to Section 1236.09(a): Wall Signs;
   D. The use shall not artificially lighted or marked, except as required by law;
   E. The use shall be galvanized and/or painted with rust preventive white paint in its
      entirety and shall be maintained in accordance with the requirements of this code.

(19) Raising of Small Livestock
   A. Property owners are permitted to raise and keep livestock on all properties of five acres
      or more in size without complying with the requirements of this section.
   B. For properties that are less than five acres, the keeping of four chickens, rabbits, or
      other small livestock as approved by the City Planner, is permitted provided that:
      i. The principal use of the lot is a single-family dwelling;
      ii. No person shall keep any rooster;
      iii. The livestock shall be provided with a covered enclosure and must be kept in the
           covered enclosure or a fenced enclosure at all times; and
      iv. No enclosure shall be located closer than 25 feet to any residential structure on an
           adjacent lot.

(20) Retail Sales
   A. The accessory retail sale of items manufactured on-site is permitted in the I-1 and I-2
      Districts provided that the total floor area of retails sales does not exceed 15 percent of
      the total gross floor area of the principal building.
   B. Accessory retail sales (e.g., coffee kiosk, cafeteria, book store, etc.) are permitted in all
      other zoning districts other than the I-1 and I-2 Districts when located completely
      within the principal building of a nonresidential use. The total floor area of retail sales
      shall not exceed 15 percent of the total gross floor area of the principal building.
(21) **Satellite Dishes**  
A. Satellite dishes of one meter in diameter or less shall be exempt from the provisions of this section and shall not require a zoning permit.  
B. To the maximum extent feasible, the dish should be located in the side or rear yard.  
C. Satellite dishes larger than one meter in diameter may be permitted if approved by the PZC as a conditional use.

(22) **Solar Energy Systems**  
A. A zoning permit shall be required for the installation or expansion of any solar energy system.  
B. **Ground-Mounted Solar Energy Systems**  
   i. Ground-mounted solar energy systems shall only be permitted in the side or rear yard and shall be set back a minimum of three feet from all lot lines.  
   ii. No ground-mounted system shall exceed eight feet in height as measured from ground.  
   iii. Ground-mounted solar energy systems shall be screened from any adjacent residential lots by a Type B landscape buffer as identified in Section 1232.05: Landscape Buffering Requirements.

C. **Roof-Mounted Solar Energy Systems**  
   i. Roof-mounted solar panels that are integrated with the surface layer of the roof structure or are mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building.  
   ii. Roof-mounted solar panels that are mounted at an angle to the roof structure shall only be permitted on roof surfaces that face the side or rear lot.  
   iii. Solar panels may be mounted on flat roofs provided there is a parapet wall or other architectural feature that screens the view of the panels. Such panels may be mounted on an angle provided they do not extend more than five feet above the roof surface.

(23) **Swimming Pools (Outdoors)**  
Any swimming pool that has water with a depth of two feet or more shall be subject to the standards of this subsection including pools that are designed to be temporary in nature.  
A. Swimming pools that are enclosed within a building shall not be subject to these standards.  
B. The swimming pool shall be set back a minimum of 10 feet from all lot lines as measured from the edge of the water.  
C. Any walks or paved areas adjacent to the pools shall be considered as patios for the purpose of this chapter and shall conform to the provisions of this section.  
D. The swimming pool, or the entire property on which it is located, shall be walled or fenced to prevent uncontrolled access. Said fence or wall shall not be less than four feet in height and maintained in good condition with a gate and lock.  
E. Such fence shall be constructed so as to have no openings, holes, or gaps larger than three inches in any dimension, except for doors or gates. An accessory building may be used in or as part of such enclosure.  
F. Above-ground pools that have a vertical surface of at least four feet in height shall be required to have fences and gates only where access is made to the pool.
Chapter 1224: Accessory and Temporary Use Regulations
Section 1224.02: Temporary Uses and Structures

Subsection (a): Purpose

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

Subsection (b): General Standards for Temporary Uses and Structures

Temporary uses or structures shall:

A. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
B. Be compatible with the principal uses taking place on the site;
C. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
D. Not include permanent alterations to the site;
E. Not maintain temporary signs associated with the use or structure after the activity ends;
F. Not violate the applicable conditions of approval that apply to a site or use on the site;
Chapter 1224: Accessory and Temporary Use Regulations
Section 1224.02: Temporary Uses and Structures
Subsection (c): Table of Allowed Temporary Uses and Structures

G. Not interfere with the normal operations of any permanent use located on the property; and

H. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement.

(2) These temporary use standards shall not apply to city sponsored events.

(c) Table of Allowed Temporary Uses and Structures

(1) Table 1224-2 summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited unless the City Planner determines the proposed temporary use or structure is similar in scale, intensity, and use as a temporary use in the table, in which case, the City Planner may treat it as a similar use.

(2) Where listed, certificates of occupancy are issued by the Greene County Building Department and are related to the principal use with which the temporary use is associated with.

(3) For temporary uses where the permitted duration is tied to the issuance of a certificate of occupancy, no permit for a temporary use shall be issued for a period of time that exceeds nine months unless reasonable cause is given to the City Planner (e.g., longer construction schedule).

(4) Temporary uses allowed in residential districts shall be allowed for residential uses in PUDs. Temporary uses allowed for nonresidential districts shall be allowed for nonresidential uses in PUDs.

<table>
<thead>
<tr>
<th>Temporary Use or Structure</th>
<th>Districts</th>
<th>Allowable Duration (per site)</th>
<th>Permit Required</th>
<th>Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Dumpster</td>
<td>All Districts</td>
<td>Until issuance of a certificate of occupancy</td>
<td>None</td>
<td>1224.02(d)(1)</td>
</tr>
<tr>
<td>Construction Trailer or Office</td>
<td>All Districts</td>
<td>Until issuance of a certificate of occupancy</td>
<td>Zoning Permit</td>
<td>1224.02(d)(2)</td>
</tr>
<tr>
<td>Garage Sales</td>
<td>All Residential Zoning Districts</td>
<td>Maximum of 7 consecutive days</td>
<td>None</td>
<td>1224.02(d)(3)</td>
</tr>
<tr>
<td>Mobile Food Sales</td>
<td>All Nonresidential Districts</td>
<td>As determined by the City Planner</td>
<td>Zoning Permit</td>
<td>1224.02(d)(4)</td>
</tr>
<tr>
<td>Real Estate Sales/Model Homes</td>
<td>All Districts</td>
<td>Until issuance of the final certificate of occupancy</td>
<td>Zoning Permit</td>
<td>1224.02(d)(5)</td>
</tr>
<tr>
<td>Removal, Excavation, and Filling of Land (Temporary)</td>
<td>All Districts</td>
<td>45 days</td>
<td>Zoning Permit</td>
<td>1224.02(d)(6)</td>
</tr>
<tr>
<td>Seasonal Agricultural Sales</td>
<td>All Nonresidential Districts</td>
<td>100 days per calendar year</td>
<td>Zoning Permit</td>
<td>1224.02(d)(7)</td>
</tr>
<tr>
<td>Sidewalk Sales</td>
<td>O-1, B-1, B-2, or B-3 Districts</td>
<td>During Business Hours</td>
<td>None</td>
<td>1224.02(d)(8)</td>
</tr>
<tr>
<td>Temporary Classrooms</td>
<td>All Districts</td>
<td>Two years</td>
<td>Zoning Permit</td>
<td>1224.02(d)(9)</td>
</tr>
<tr>
<td>Temporary Events</td>
<td>All Districts</td>
<td>See Section 1224.02(d)(10)</td>
<td>Zoning, Special Event, or Block Party Permit</td>
<td>1224.02(d)(10)</td>
</tr>
</tbody>
</table>
Chapter 1224: Accessory and Temporary Use Regulations
Section 1224.02: Temporary Uses and Structures

Subsection (d): Specific Regulations for Certain Temporary Uses and Structures

<table>
<thead>
<tr>
<th>Temporary Use or Structure</th>
<th>Districts</th>
<th>Allowable Duration (per site)</th>
<th>Permit Required</th>
<th>Additional Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Temporary Storage</td>
<td>All Districts</td>
<td>Maximum of 14 days per calendar year for residential storage and 90 days per calendar year for commercial storage</td>
<td>None</td>
<td>1224.02(d)(11)</td>
</tr>
</tbody>
</table>

(d) Specific Regulations for Certain Temporary Uses and Structures

1. **Construction Dumpster**
   - Temporary trash receptacles or dumpsters related to construction shall:
     A. Only be located on the site where the related construction is taking place;
     B. Be located to the side or the rear of the site, to the maximum extent practicable;
     C. Be located as far as possible from lots containing existing development;
     D. Not be located within a floodplain or otherwise obstruct drainage flow; and
     E. Not be placed within five feet of a fire hydrant or within a required landscaping area.

2. **Construction Trailer or Office**
   - Construction trailers or offices may be permitted on a construction site provided that the trailer is:
     A. Located on the same site or in the same development as the related construction;
     B. Not located within a required open space set-aside or landscaping area; and
     C. Associated with a development subject to a valid building permit or subdivision approval.

3. **Garage Sales**
   - Such sales shall be limited to the sale of tangible personal property which was obtained by the person making the sale, through purchase or otherwise, for his or her own use.
   - There shall be a minimum of one month between any two garage sales on a single lot.
   - No fee or other charge shall be imposed upon members of the public attending any such sale.
   - Attachment of signs to utility poles and traffic signs is prohibited. No sign shall be placed in a curb lawn area.
   - Public auctions and moving sales shall be permitted for not more than one week per calendar year on any given lot.

4. **Mobile Food Sales**
   - Mobile food sales that occur as part of a temporary event as authorized in this section shall not require a separate temporary permit from the event permit but shall be subject to the applicable provisions of this subsection. Such mobile food sales may take place during the operational hours of the temporary event.
   - Mobile food sales outside of a temporary event may take place on a schedule as authorized by the City Planner. In such cases, mobile food sales shall not be authorized for operation for more than six hours in any single day.
   - The permanent siting of mobile food sales shall be classified as a restaurant for the purposes of this code.
D. All equipment related to mobile food sales that is placed on a sidewalk shall be so located as to maintain a clear sidewalk width of five feet to allow the movement of pedestrians.

(5) **Real Estate Sales Office/Model Home**

One temporary real estate sales office or model home per builder or developer shall be permitted in a section or phase of a new residential or nonresidential development, provided that the use:

A. Is located on a lot where a preliminary plat has been approved by the PZC and no change in title takes place;
B. Complies with all of the applicable standards of this code for the final residential use;
C. Is operated by a developer or builder active in the same phase or section where the use is located; and
D. Is removed or the model home is converted into a permanent residential use upon completion of construction and issuance of the last certificate of occupancy by the Greene County Building Department.

(6) **Removal, Excavation and Filling of Land**

A. The use of land for the removal, excavation, filling or depositing of any type of earth material, construction debris, including, but not limited to, vegetation, that is cleared or grubbed from another site, garbage, rubbish or other waste or by-product is not permitted in any zoning district except under a zoning permit issued by the City Planner and signed off on by the City Engineer.

B. The duration of the temporary permit shall not exceed 45 days unless a different schedule is approved when the permit is issued.

C. This provision does not apply to normal soil removal for basement or foundation work when a zoning permit has been duly issued by the City, nor to the hauling in of clean dirt or fill not exceeding nine cubic yards per year.

D. In addition to the zoning permit submittal requirements, the applicant shall also provide:
   i. An erosion and sedimentation control plan, in compliance with this code, approved by the City ensuring that drainage leaves the site in the same location or area as prior to the proposed activities;
   ii. A plan detailing restoration of the site that will include normal ground cover; and
   iii. Certification that any filling or depositing of any type of earth material or construction debris is free from contaminated materials.

(7) **Seasonal Agricultural Sales**

Outdoor seasonal agricultural sales including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, may be permitted in accordance with the following standards:

A. The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking space availability.

B. The sale of goods shall be set back a minimum of 200 feet from any residential dwelling unit.
C. The range of goods or products available for sale shall be limited to non-processed products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, and firewood; and bees and beekeeping products.

(8) **Sidewalk Sales**

Sidewalk sales are permitted if they are conducted by the business owner and operator. The owner or operator of a business located in a business district may conduct a sidewalk sale outside that business premises on private property or on an abutting public sidewalk adjacent to that business premises in accordance with the following provisions.

A. The merchandise for sale shall be limited to that merchandise normally offered for sale by the business owner who has a zoning permit for the business operation.

B. The sidewalk sale shall be conducted in a manner that will leave at least a five-foot wide or half of the width of the sidewalk unobstructed area, whichever is greater, to allow for pedestrian use. When located on a public sidewalk, the display shall be confined to the portion of the sidewalk in front of the business establishment of which the seller or displayer is the lawful occupant.

C. The stands and display structures shall be constructed of stable material and able to withstand local normal wind loads. Merchandise shall be securely and adequately placed so that it will not endanger pedestrians or encroach on the public right-of-way.

D. Sales shall be conducted so as not to cause a nuisance, or create a fire hazard or obstruct ingress and egress to the premises.

(9) **Temporary Classrooms**

A. Modular units may be authorized for use as a temporary classroom not to exceed two school calendar years to allow schools to accommodate students and new programs until the schools are able to raise capital funds for permanent structures.

B. Such facilities shall be located in the rear yard.

(10) **Temporary Events**

Temporary events may be permitted on private property within the City if the event complies with the following standards.

A. Block parties as defined in Section 402.055 do not require a zoning permit but shall be subject to the City's block party permit regulations in Section 412.10.

B. Temporary events held on private property that are expected to attract more than 100 people, require a building permit for the activity, and/or require a liquor license shall require a zoning permit. Such activities shall be subject to the following requirements. The City Planner may waive any of these requirements with a finding that they are not applicable due to the nature of the specific event.

   i. Temporary lighting shall be located and shielded so as to not shine directly into adjacent properties or buildings.

   ii. All uses shall be confined to the dates specified in the permit.

   iii. Hours of operation shall be confined to those specified in the permit. The City Planner shall have the authority to reasonably limit the hours of operation based on the specific event and surrounding uses.

   iv. The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within 30 days after the event.
v. Parking for the exclusive use of the event shall be provided, and a stabilized driveway to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawfully parking.

vi. Tents and canopies shall be permitted for special gathering, or events such as weddings, graduations, and celebrations not exceeding five days. In addition to the zoning permit, a building permit shall be required for tents and canopies over 200 square feet.

(11) Temporary Storage
Storage containers that are placed on a property for the purpose of temporarily storing materials are permitted with the following regulations:

A. Portable Storage Containers in Residential Districts
Portable storage container shall be allowed in residential zoning districts in accordance with the following:

i. Portable storage containers shall be kept in the driveway of the property at the furthest accessible point from the street. The location of the portable storage container on a driveway shall not obstruct visibility nor block the sidewalk. If no driveway is present, approval from the City Planner for the placement of the portable storage container prior to its delivery is required.

ii. Only one portable storage container shall be placed at any residential property at one time.

iii. The City Planner, upon good cause shown, may approve a one-time extension of the temporary zoning permit for an additional 14 days. Portable storage containers shall not be located on any parcel for a period exceeding 28 days per calendar year.

iv. There shall be no utility hookups to the storage container.

B. Temporary Commercial Storage
Commercial tractors, semitrailers, commercial vehicles and portable and temporary storage structures may be used for temporary storage in the A-1 and nonresidential zoning districts in accordance with the following:

i. They shall not have permanent attachment to any utility, i.e. electricity, water, gas or sanitary sewer lines. Temporary electric power may be had pursuant to the provisions of the National Electrical Code that provide for the use of a temporary pole with a temporary light cord.

ii. They shall be parked or located in the rear of the building or as close to the rear as is reasonably possible, preferably in the loading area and on a continuous hard surface equivalent in strength to the existing parking area.

iii. No part of the vehicle or portable storage structure shall be closer than two feet from the principal building nor encroach on more than ten percent of required off-street parking.

iv. There shall be no permanent human occupancy in the vehicle or portable storage structure, except for necessary access.
Chapter 1226: General Development Standards

1226.01 Site Development Standards

(a) Measurements, Computations, and Exceptions

(1) Distance Measurements

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

(2) Lot-Area Measurements

The area of a lot includes the total horizontal surface area within the lot’s boundaries.

(3) Reductions in Area Prohibited

No lot, yard, court, parking or other space shall be reduced in area or dimensions so as to make said area or dimensions less than the minimum required by this code; and, if already less than the minimum required by this code, said area or dimensions shall not be further reduced. Exceptions to this standard shall only be granted if a reduction is approved as part of a conservation subdivision, variance approval, or administrative waiver approval.

(4) Setbacks, Yards, and Lot Type Requirements

A. Measurements

i. Setbacks refer to the unobstructed, unoccupied open area between the foundation or base of a structure and the property line (lot line) of the lot on which the structure is located. Setbacks shall not contain any structure except when in conformance with this code. See Figure 1226-A.

![Figure 1226-A: Measurement of typical front, side, and rear yard setbacks.](image)
ii. When a front lot line does not fall along a right-of-way line, then the setback shall be measured from the centerline of the street and the setback shall be increased by a distance equal to half the street right-of-way requirement for the specified street classification as established in Section 1238.06: Streets and Thoroughfares. See Figure 1226-B.

![Figure 1226-B: Measurement of a front yard setback when measured from the street centerline.](image)

**Collector Street**

B. **Yards Required for Buildings**

A yard or other open space required for any structure shall be located on the same lot as the structure and shall not include any yard or open space areas from an adjacent lot.

C. **Front Yard Exception**

i. In any residential district, a front yard setback shall not be required to exceed the average front yard setbacks of the existing front yards within the same block and within 100 feet of the principal building. Modification of the front yard in accordance with this section will not create a nonconforming lot unless the lot or structure does not meet other applicable provisions of this code. See Figure 1226-C.

ii. This provision shall not be interpreted to require a front yard of more than 50 feet for a residential use.
Figure 1226-C: Illustration of the averaging of front yard setbacks. In a district with a minimum front yard setback requirement of 50 feet, smaller setbacks may be allowed if the average front yard setbacks are less than 50 feet.

D. Projections into Required Yards
   i. Every part of a required yard shall be open to the sky and unobstructed except:
      a. As otherwise provided in this section;
      b. For accessory and temporary uses as allowed in Chapter 1224: Accessory and Temporary Use Regulations;
      c. For landscaping as allowed in Chapter 1232: Landscaping and Buffering;
      d. For parking and circulation as allowed in Chapter 1234: Parking, Access, and Mobility;
      e. For signage as allowed in Chapter 1236: Signage;
      f. For the ordinary projections of skylights, sills, belt courses, eaves, cornices and ornamental features projecting into any yard a distance not to exceed 12 inches;
      g. For the ordinary projections of chimneys and flues into any side or rear yard a distance not to exceed 18 inches; and
      h. For open or lattice-enclosed fire escapes or fireproof outside stairways projecting into a side or rear yard not more than five feet.
   ii. Where a side wall of a building is not parallel with the side lot line, or where a side yard is irregular, the average side yard width may be considered the required minimum width. However, the side yard shall not be narrower than five feet nor less than one-half the required minimum width at any point unless allowed as part of a narrow lot development or through a PUD approval.

E. Interior Lots
   i. The required minimum front yard setback shall be measured from the street right-of-way or, where a right-of-way is not identified, the front lot line. See Figure 1226-D.
   ii. The lot line located directly behind the rear of the structure, as determined by the City Planner, shall be the rear lot line and the rear yard setback shall be applied. See Figure 1226-D.
iii. All other lot lines shall be considered the side lot line and the side yard setback shall be applied. See Figure 1226-D.

![Figure 1226-D: Typical yard locations for an interior lot.](image)

F. Corner Lots

Lots that have street frontage on two intersecting streets shall be considered a corner lot, subject to the following:

i. The required minimum front yard setback shall be provided from each street right-of-way or, where a right-of-way is not identified, the lot line adjacent to the street. See Figure 1226-E. An alley shall not be considered a street for the purposes of determining a corner lot.

ii. The lot line that runs parallel with the lot line along the narrowest street frontage shall be the rear lot line and the minimum rear yard setback shall be applied from such lot line. See Figure 1226-E.

iii. All other lot lines shall be a side lot line and the minimum side yard setback shall be applied from such lot lines. See Figure 1226-E.

iv. The minimum lot width required by this code shall be increased by 20 feet for all corner lots. Such minimum lot width shall apply to both street frontages.
G. Double Frontage (Through) Lots

i. Where a lot is considered a double (through lot) lot, the required minimum front yard setback shall be provided on all lot lines that abut a street. See Figure 1226-F.

ii. The remaining lot lines not abutting a public road right-of-way shall be considered as side yards and shall have the required minimum side yard setback provided for each side lot line. See Figure 1226-F.
iii. For the purposes of allowing accessory uses, including fences, which are allowed in a rear yard, the yard that is located to the rear of the principal building shall be considered the rear yard and the setbacks of Section 1224.01: Accessory Uses and Structures, shall apply to all accessory uses or structures.

iv. Where alleys exist in the City, any lots that have frontage along the alley shall be not be considered a double frontage (through) lot and shall either be regulated as an interior lot or corner lot depending on the location of the subject lot within the block.

H. **Panhandle (Flag) Lots**

Panhandle lots (flag) lots shall be discouraged and shall only be approved if necessitated by unique topographic features or other special physical conditions as deemed necessary by the PZC. Panhandle (flag) lots shall be subject to the following regulations:

i. Panhandle (flag) lots shall not be used to avoid the construction of a street.

ii. The stacking of panhandle (flag) lots shall be prohibited. See Figure 1226-G.

![Figure 1226-G](image)

*Figure 1226-G: The above illustration shows the stacking of panhandle lots, which is prohibited.*

iii. The panhandle shall have a minimum width of 20 feet along the entire width of the panhandle. The maximum width shall be 40 feet and anything with a width of 40 feet or greater shall be consider an interior, corner, or double frontage lot as may be applicable.

iv. The minimum front yard setback requirement shall be measured from the lot line that creates the rear lot line of the adjacent lot as illustrated in Figure 1226-H.

v. No structures, except for fences and walls allowed by this code, shall be permitted in the panhandle portion of the lot.
Chapter 1226: General Development Standards
Section 1226.01: Site Development Standards
Subsection (a): Measurements, Computations, and Exceptions

I. Cul-de-Sac or Curved-Street Lot
   i. For a cul-de-sac lot or a lot abutting a curved street, the front-yard setback shall follow the curve of the front property line (lot line). See Figure 1226-I.

   ii. Lots on a cul-de-sac, including panhandle lots, shall be required to have a minimum lot width of 40 feet measured at the right-of-way line.

   iii. On a cul-de-sac roadway, knuckle, or eyebrow, the required 40-foot street frontage shall be required and measured at the street right-of-way on the curve of the cul-de-sac, knuckle, or eyebrow.
J. Other Lot Configurations
Where there is an instance of a lot configuration not addressed in the previous sections (e.g., interior, corner, panhandle, etc.), or where there is an atypical building orientation on any lot, the City Planner shall have the authority to make a determination regarding where front, rear, and side yard setbacks are required.

(5) Lot Width Measurements
Lot width is the distance between the side lot lines measured along the front yard setback line.

(6) Height Measurement and Exceptions
A. Height Measurement
   i. Where specified in stories, building height shall be measured in number of stories above the finished grade for any elevation fronting on a public street including attics, half-stories, mezzanines, and at-grade structured parking. This excludes features that are less than one-half story or completely below grade, such as basements, cellars, crawl spaces, sub-basements, and underground parking structures.
   
   ii. Where specified in feet, building height shall be measured as the vertical distance from the average grade at the base of the structure to the mid-point between the eaves and the peak line for any sloped roof or to the highest point of a flat roof. See Figure 1226-J.

   iii. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.
   
   iv. Where specified fencing and wall height shall be measured in accordance with Section 1224.01(e)(9)D: Measurement.

B. Exceptions to Height Limits
   i. Height limitations stipulated in this code shall not apply to:
      a. Barns, silos or other agricultural buildings or structures on farms (not located in an improved platted subdivision) provided they are setback from all lot lines a distance equal to the structure’s height;
Chapter 1226: General Development Standards
Section 1226.01: Site Development Standards
Subsection (b): General Site Development Standards

b. Church spires, belfries, cupolas and domes, monuments, chimneys, smokestacks, flag poles;

c. Public or institutional uses, where permitted, may be erected to a height not exceeding 90 feet when the required side and rear yards are each increased by one foot for each floor of additional building height above the height regulations for the district in which the building is located;

d. Commercial radio and television towers provided they shall be located centrally on a continuous parcel having a dimension at least equal to the height of the tower measured from the center of the base of the tower to all points on each property line; or

e. Special industrial structures such as a cooling tower, grain elevator and other similar structure where the industrial process requires a greater height may be erected above the height limits herein specified, provided that any such structure shall not occupy more than 15 percent of the lot area and shall be limited in height from their base to the distance from the base to the nearest property line.

ii. The height limitations do not apply to other appurtenances usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of an aircraft at an established airport.

(b) General Site Development Standards

(1) Minimum Floor Area Requirements for Dwelling Units

A. In order to promote healthful living conditions and to stabilize the value and character of residential areas, dwelling units shall be erected, altered, moved, maintained and occupied only in accordance with the minimum floor area requirements established in Table 1226-1. For the purposes of this calculation, the floor area shall include the total interior floor area of the applicable principal dwelling unit, excluding any floor area used for stairwells, elevator shafts, or garages. Any basement or floor that has more than half its height below grade shall not count toward the minimum floor area requirement regardless if it is an unfinished or finished space.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Use Type</th>
<th>Minimum Floor Area (Square Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Single Family Dwelling</td>
<td>---</td>
</tr>
<tr>
<td>R-1A</td>
<td>Single Family Dwelling</td>
<td>2,000</td>
</tr>
<tr>
<td>R-1B</td>
<td>Single Family Dwelling</td>
<td>1,600</td>
</tr>
<tr>
<td>R-1C</td>
<td>Single Family Dwelling</td>
<td>1,400</td>
</tr>
<tr>
<td>R-1D</td>
<td>Single Family Dwelling</td>
<td>1,200</td>
</tr>
<tr>
<td>All Other</td>
<td>Single Family Dwelling</td>
<td>1,400</td>
</tr>
<tr>
<td>Zoning Districts</td>
<td>Two-Family Dwelling</td>
<td></td>
</tr>
<tr>
<td>Multi-Family Dwelling (Studio)</td>
<td>800 per unit</td>
<td></td>
</tr>
<tr>
<td>Multi-Family Dwelling (1 Bedroom)</td>
<td>500 per unit</td>
<td></td>
</tr>
<tr>
<td>Multi-Family Dwelling (2 Bedrooms)</td>
<td>600 per unit</td>
<td></td>
</tr>
<tr>
<td>Multi-Family Dwelling (3 Bedrooms)</td>
<td>750 per unit</td>
<td></td>
</tr>
<tr>
<td>Multi-Family Dwelling (4 Bedrooms+)</td>
<td>900 per unit</td>
<td></td>
</tr>
<tr>
<td>Multi-Family Dwelling (4 Bedrooms+)</td>
<td>1,100 per unit</td>
<td></td>
</tr>
</tbody>
</table>
B. Reconstruction of damaged or destroyed dwellings that do not conform to the minimum floor area requirements of Table 1226-1 shall be subject to the reconstruction rules of Section 1240.06: Nonconforming Structures and Sites.

(2) Public Water and Sewer Required
Any structure that is used for human occupancy, employment, recreation, or other purposes, situated within the City or in any other area under the jurisdiction of the City shall connect to public water when available. In addition, as per Section 1044.03(e) of these Codified Ordinances, the use of public sewers is required when available.

(3) Building Orientation
The main entrance of any building shall be oriented toward a public street. For corner lots in residential zoning districts, a dwelling unit may be oriented toward the intersection of the two streets.

(c) Reverse Frontage
(1) Reverse Frontage Prohibited
   A. Except for areas exempted in accordance with Section 1226.01(c)(2) below, lots with a reverse frontage shall be prohibited. Reverse frontage shall include any area where the rear of buildings along the entire block face are oriented toward a street.
   B. To the maximum extent feasible, lots along the perimeter of a subdivision shall be oriented so that dwellings front perimeter streets instead of backing up to streets around the outside of the subdivision.

(2) Exemptions and Alternatives
Lots in the following locations may have reverse frontage:
   A. Existing platted lots in subdivisions or lots subject to a PUD District approved prior to the effective date of this code;
   B. Lots where the reverse frontage is along a bike path rather than a public street; or
   C. Lots where there is a minimum of 50 feet of open space between the street and the buildings or where a B type buffer is provided between the street and building.

Figure 1226-K: This image demonstrates the use of screening for reverse frontage lots that screens the rear of buildings along an entire block face.

(d) Site Development Standards for Residential Zoning Districts
(1) Table 1226-2 establishes the minimum site development standards for residential base zoning districts.
(2) There shall not be more than one principal building on an individual lot except as previously approved as part of an existing PUD or as part of an approved condominium project. In such cases, the entire group as a unit shall be subject to the minimum setbacks for the applicable zoning district and lot type. Each individual building shall meet all yard requirements for the appropriate district as though it were on an individual lot.

**Table 1226-2: Site Development Standards for Residential Zoning Districts**

<table>
<thead>
<tr>
<th>Minimum Lot Area [1] (Square Feet)</th>
<th>Minimum Lot Width (feet)</th>
<th>Minimum Setbacks</th>
<th>Max. Building Height (feet) [2]</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Front Yard (feet)</td>
<td>Side Yard Each Side (feet)</td>
</tr>
<tr>
<td>Agricultural and One-Family Residential Districts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A-1 Agricultural District</td>
<td>Five Acres</td>
<td>400</td>
<td>50</td>
</tr>
<tr>
<td>R-1A One-Family Residential District</td>
<td>12,500</td>
<td>90</td>
<td>35</td>
</tr>
<tr>
<td>R-1B One-Family Residential District</td>
<td>10,000</td>
<td>75</td>
<td>25</td>
</tr>
<tr>
<td>R-1C One-Family Residential District</td>
<td>7,500</td>
<td>60</td>
<td>25</td>
</tr>
<tr>
<td>R-1D One-Family Residential District</td>
<td>5,000</td>
<td>60</td>
<td>25</td>
</tr>
<tr>
<td>Narrow Lot Development in the R-1D District</td>
<td>50</td>
<td>25</td>
<td>4</td>
</tr>
<tr>
<td>R-2 Two-Family Residential District</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single-Family Dwelling</td>
<td>7,000</td>
<td>60</td>
<td>25</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>4,750 per dwelling unit</td>
<td>60</td>
<td>25</td>
</tr>
<tr>
<td>Narrow Lot Development</td>
<td>7,000</td>
<td>50</td>
<td>25</td>
</tr>
<tr>
<td>R-3 Attached Residential District</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single-Family Dwelling</td>
<td>7,000</td>
<td>60</td>
<td>25</td>
</tr>
<tr>
<td>Two-Family Dwelling</td>
<td>9,500</td>
<td>60</td>
<td>25</td>
</tr>
<tr>
<td>Three-Family Dwelling</td>
<td>12,000</td>
<td>70</td>
<td>25</td>
</tr>
<tr>
<td>Multi-Family Dwelling</td>
<td>7,000 + 2,500 for each additional dwelling unit</td>
<td>80</td>
<td>25</td>
</tr>
<tr>
<td>Narrow Lot Development</td>
<td>7,000</td>
<td>50</td>
<td>25</td>
</tr>
</tbody>
</table>

**NOTES:**
[1] Larger lot areas may be required by a use-specific standard or by the City or Greene County Combined Health District in cases where there is no access to a public sanitary sewer system.
[2] Building heights are the maximum heights except as provided in Section 1226.01(a)(6): Height Measurement and Exceptions.
(e) Site Development Standards for Nonresidential Zoning Districts

(1) Table 1226-3 establishes the minimum site development standards for all nonresidential base zoning districts, including the business and public and institutional zoning districts.

(2) There can be more than one principal building on an individual lot. When multiple principal buildings are located on an individual lot, the spacing between the buildings shall be reviewed and approved during zoning permit review to ensure an adequate amount of building spacing and preservation of landscaping areas.

(3) Unless the principal or accessory use specifically states that an activity occurs outdoors or the use is outdoors by nature (e.g., vehicle sales), all uses shall be operated in their entirety within an enclosed building that meets the requirements of this code.

(4) There shall be no minimum lot size requirement for nonresidential zoning districts but the lots should be sized appropriately to accommodate all the requirements of this code including, but not limited to, off-street parking, landscaping, buffering, setbacks, etc.

<table>
<thead>
<tr>
<th>Districts</th>
<th>Front Yard</th>
<th>Adjacent to a Nonresidential Use or District [1]</th>
<th>Lot is Adjacent to a Residential District [1]</th>
<th>Maximum Building Height (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Rear Yard (feet)</td>
<td>Side Yard (Each Side) (feet)</td>
<td>Rear Yard (feet)</td>
</tr>
<tr>
<td>O-1 Office District</td>
<td>25 foot minimum</td>
<td>15</td>
<td>5</td>
<td>25</td>
</tr>
<tr>
<td>B-1 Convenience Business District</td>
<td>25 foot minimum</td>
<td>15</td>
<td>5</td>
<td>25</td>
</tr>
<tr>
<td>B-2 Downtown District</td>
<td>15 foot maximum [2]</td>
<td>None</td>
<td>None</td>
<td>10</td>
</tr>
<tr>
<td>B-3 General Business District</td>
<td>None</td>
<td>None</td>
<td>None</td>
<td>30</td>
</tr>
<tr>
<td>I-1 Light Industrial District</td>
<td>25 foot minimum [3]</td>
<td>15</td>
<td>50</td>
<td>30</td>
</tr>
<tr>
<td>I-2 Heavy Industrial District</td>
<td>25 foot minimum [3]</td>
<td>15</td>
<td>50</td>
<td>30</td>
</tr>
<tr>
<td>P-1 Public and Institutional District</td>
<td>25 foot minimum</td>
<td>15</td>
<td>50</td>
<td>30</td>
</tr>
</tbody>
</table>

NOTES:
[1] Additional setback requirements may also be required to accommodate buffers in Section 1232.05: Landscape Buffering Requirements.
[2] In the B-2 District, buildings may be built to the back of the sidewalk but in no case shall a building be set back more than 15 feet from the back of the sidewalk.
[3] The minimum front yard setback shall be increased to 50 feet when the front yard is located opposite a residential zoning district.
1226.02 Vision Clearance

Development proposed adjacent to any public or private street, or alley intersection, shall be designed to provide a clear visibility area for pedestrian and traffic safety.

(a) For intersections of streets with other streets, a vision clearance triangle area, which may include private property and/or public right-of-way, is a triangular area defined by measuring 30 feet from the intersection of the extension of the front and side street curb lines (or edge-of-pavement lines where there is no curb) and connecting the lines across the property. See Figure 1226-L.

(b) For intersections of streets with driveways, the vision clearance area shall be created by measuring 25 feet from the edge of the driveway along the street and 20 feet along the driveway from the street. See Figure 1226-M.

(c) No structure, sign, or landscape element shall exceed 30 inches in height, measured from the top of the curb (or edge of street pavement where there is no curb), within the vision clearance area, unless approved by the City Planner.

(d) An exception to this requirement shall be for existing trees where the canopy is trimmed to a minimum of eight feet above grade.
1226.03 Dangerous or Objectionable Effects

No land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; any noise, brilliant light or vibration; any smoke, dust, fumes, odor or other form of air pollution; any heat, cold or dampness; any electrical or electronic disturbances; any nuclear radiation; or any other condition, substance or element; to any person or property outside of the premises on which such building, structure or use is located. Such uses, when lawfully permitted under the provisions of this code, shall be operated in a manner so as to ensure that the property rights of all other parcels of land will not be adversely affected to the extent of reducing the enjoyment of property rights thereon.

1226.04 Outdoor Hazardous Material Storage and Waste Disposal

Every use shall be operated in accordance with the following provisions:

(a) No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground except in an I-1 Light or I-2 Districts. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.

(b) No materials or wastes shall be deposited upon a lot in such form or manner that they may be transferred off the lot by wind, flood or natural causes or forces.

(c) All materials or wastes which might cause fumes or dust, which constitute a fire hazard or which may be edible or attractive to rodents or insects, shall be stored outdoors only in closed containers constructed of impervious material.

1226.05 Outdoor Lighting Standards

(a) Purpose

The purpose of this section is to regulate outdoor lighting elements as they contribute to the identity of a development or project. It is also the purposes of these regulations to ensure the safety of pedestrians while minimizing light pollution and the negative impacts of excessive glare.

(b) Outdoor Lighting Plan and Applicability

(1) For all zoning permit applications that include the construction of a new building or an expansion of a vehicular use area, an outdoor lighting plan, including a photometric plan, shall be required for the installation of exterior lights. This requirement for a lighting shall not apply to single-family, two-family, and three-family dwellings or other residential buildings exempted by the City Planner where the only lighting is attached to the building and is completely shielded from adjacent properties.

(2) The applicant must provide a plan that identifies the location, height, and type of luminaries, and shows how the applicant intends to comply with this section.

(3) Uses that are exempt from the outdoor lighting plan shall still be required to comply with the requirements of this section.

(c) Outdoor Lighting Standards

(1) General Standards

A. The placement of light poles within raised curb planting areas or landscaped islands is encouraged, but conflicts with parking lot trees that can obscure the lighting shall be avoided through alternative lighting locations.
B. Outdoor lighting shall not be designed or located in such a way as to shine directly into an adjacent dwelling unit, regardless of the applicable zoning district.

C. All outdoor lighting for nonresidential uses shall be located, screened, or shielded so that adjacent lots or streets located in residential districts are not directly illuminated.

(2) Height of Lighting

A. The maximum height of a light fixture, if mounted on a pole or on a structure other than the principal building, is established in Table 1226-4.

B. In no case shall a light fixture mounted on a structure be mounted at a height where the fixture will exceed the height of the roofline.

C. Lighting fixtures attached to buildings are permitted but shall be restricted to cutoff fixture types to direct the light vertically downward.

### Table 1226-4: Maximum Height of a Light Fixture

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Height of Non-Cutoff Lighting (See Figure 1226-N.)</th>
<th>Maximum Height of 90 Degree Cutoff Lighting (See Figure 1226-N.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Residential Zoning Districts</td>
<td>8 feet</td>
<td>12 feet [1]</td>
</tr>
<tr>
<td>All Nonresidential Zoning Districts</td>
<td>8 feet</td>
<td>32 feet</td>
</tr>
</tbody>
</table>

NOTES:
[1] When the bulb, lamp, or light source is completely recessed and/or shielded from view by an observer at five feet above grade at the property line, the maximum height may be increased to 15 feet.

(3) Illumination Standards

A. The maximum illumination permitted in each district type, as demonstrated by a photometric drawing, shall be as established in Table 1226-5.

B. Illumination shall be applied consistently across the site and shall be designed so as not to create dark spots that may create safety issues in such areas as vehicular use areas and connecting pedestrian paths.

C. The minimum level of illumination for any vehicular use area, as measured at grade, shall be 0.3 footcandles.

D. The minimum level of illumination for any walkways separate from a vehicular use area, as measured at grade, shall be 0.2 footcandles.
E. Non-cutoff lighting in nonresidential districts may only be used for decorative purposes and shall be located within 10 feet of the building. Any light fixture that is in a business district and within 20 feet of an adjacent residential lot line shall be a full cutoff light fixture.

### Table 1226-5: Maximum Illumination Level at the Lot Line

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Illumination at the Property Line (footcandles)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Residential Zoning Districts</td>
<td>0.5</td>
</tr>
<tr>
<td>PUD Districts</td>
<td>As determined and approved in the final PUD plan. Residential uses shall comply with the requirements for residential districts and nonresidential uses shall comply with the requirements of all other zoning districts.</td>
</tr>
<tr>
<td>All Other Zoning Districts</td>
<td>0.5 when adjacent to a residential use or 2.5 when adjacent to lot in another nonresidential zoning district</td>
</tr>
</tbody>
</table>

(d) **Nonconforming Outdoor Lighting**

1. The nonconforming use of lighting may continue until the luminaire (total fixture, not just the bulb) is replaced, at which point, the lighting shall be subject to all the standards of this section with the exception of the maximum height.

2. When a nonconforming lighting fixture, including the pole or support, is removed, the lighting fixture shall lose its legal nonconforming status and all new lighting shall be subject to all standards of this chapter.

### Section 1226.06: Floodplain Regulations

#### (a) Statement of Purpose

It is the purpose of these regulations to promote the public health, safety and general welfare, and to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
7. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
8. Minimize the impact of development on adjacent properties within and near flood prone areas;
9. Ensure that the flood storage and conveyance functions of the floodplain are maintained;
10. Minimize the impact of development on the natural, beneficial values of the floodplain;
11. Prevent floodplain uses that are either hazardous or environmentally incompatible; and
12. Meet community participation requirements of the National Flood Insurance Program.
(b) **General Provisions**

1. Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety and general welfare of its citizens.

2. The City of Xenia has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(c) **Methods of Reducing Flood Loss**

In order to accomplish its purposes, these regulations include methods and provisions for:

1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;

2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, excavating and other development which may increase flood damage; and

5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(d) **Applicability**

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Xenia as identified in Section 1226.06(e): Basis for Establishing the Areas of Special Flood Hazard, including any additional areas of special flood hazard annexed by City of Xenia.

(e) **Basis for Establishing the Areas of Special Flood Hazard**

1. For the purposes of these regulations, the following studies and/or maps are adopted:

   A. Flood Insurance Study Greene County, Ohio and Incorporated Areas and Flood Insurance Rate Map Greene County, Ohio and Incorporated Areas both effective 3-17-2011.

   B. Any hydrologic and hydraulic engineering analysis authored by a registered professional engineer in the State of Ohio which has been approved by the City of Xenia as required by Section 1226.06(j)(4): Subdivisions and Large Developments.

2. Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations.
(f) **Warning and Disclaimer of Liability**

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Xenia, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

(g) **Map Maintenance Activities**

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Xenia flood maps, studies and other data identified in Section 1226.06(e): Basis for Establishing the Areas of Special Flood Hazard, accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified.

1. **Requirement to Submit New Technical Data**
   
   A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
   
   i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
   
   ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
   
   iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
   
   iv. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1226.06(j)(4): Subdivisions and Large Developments.
   
   B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1226.06(j)(4): Subdivisions and Large Developments, prepared in a format required for a conditional letter of map revision or letter of map revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
   
   C. The City Engineer shall require a conditional letter of map revision prior to the issuance of a zoning permit for:
   
   i. Proposed floodway encroachments that increase the base flood elevation; and
   
   ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
   
   D. Zoning permit applications subject to these regulations that are issued by the City Planner and signed off on by the City Engineer shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1226.06(g)(1)A.
(2) **Right to Submit New Technical Data**

The City Engineer may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City Manager and may be submitted at any time.

(3) **Annexation/Detachment**

Upon occurrence, the City Engineer shall notify FEMA in writing whenever the boundaries of the City of Xenia have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Xenia’s Flood Insurance Rate Map accurately represent the City’s boundaries, the City Engineer shall include within such notification a copy of a map of the City of Xenia suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Xenia has assumed or relinquished floodplain management regulatory authority.

(h) **Data Use and Flood Map Interpretation**

The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard.

(1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the City Engineer shall review and reasonably utilize any other flood hazard data available from a Federal, State or other source.

(2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the City Engineer.

(3) When preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:

   A. Upon the issuance of a letter of final determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations; and

   B. Prior to the issuance of a letter of final determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

(4) The City Engineer shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1220.12: Appeals.

(5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, and the like) shall prevail.
Subsection (i): Substantial Damage Determinations

(1) Damages to structures may result from a variety of causes including tornado, wind, heavy snow, flood, fire, and the like. After such a damage event, the City Engineer shall:

A. Determine whether damaged structures are located in special flood hazard areas;
B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a zoning permit prior to repair, rehabilitation, or reconstruction.

(2) Additionally, the City Engineer may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the zoning permits and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with increased cost of compliance insurance claims.

Subsection (j): Use and Development Standards for Flood Hazard Reduction

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1226.06(e): Basis for Establishing the Areas of Special Flood Hazard and Section 1226.06(h)(1).

(1) Permitted Uses

All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by City of Xenia are allowed provided they meet the provisions of these regulations.

(2) Prohibited Uses

A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under ORC 3701;
B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Ohio R.C. 3734; and
C. Storage of hazardous materials within the 100-year floodplain is prohibited. For the purposes of this code, hazardous materials shall be defined as those material listed in Chapter 1620 of the City of Xenia Code of Ordinances or any other similar materials as determined by the City of Xenia Fire Chief, or his/her designee.

(3) Water and Wastewater Systems

The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the ORC:

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
C. On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.
(4) **Subdivisions and Large Developments**

A. All subdivision applications shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations.

B. All subdivision applications shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

C. All subdivision applications shall have adequate drainage provided to reduce exposure to flood damage.

D. In all areas of special flood hazard where base flood elevation data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or five acres, whichever is less.

E. The applicant shall meet the requirement to submit technical data to FEMA in Section 1226.06(g)(1)A, when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by this Subsection 1226.06(j)(4).

F. In platted subdivisions, all proposed lots or parcels that will be future building sites shall have a minimum buildable area outside the natural (non-filled) one percent chance annual floodplain. The buildable area shall be large enough to accommodate any primary structure and associated structures such as sheds, barns, swimming pools, detached garages, on-site sewage disposal systems, and water supply wells, if applicable.

G. Approval shall not be given for streets within a subdivision which would be subject to flooding. All street surfaces must be located at or above the base flood elevation.

(5) **Residential Structures**

A. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring and construction materials resistant to flood damage as required herein are satisfied.

B. New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.

C. New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

D. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation.

E. New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
   
i. Be used only for the parking of vehicles, building access or storage; and
   
ii. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
iii. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

F. Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

G. Repair or rehabilitation of nationally or locally designated historic properties or structures within a nationally or locally designated historic district upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of this section.

(6) Nonresidential Structures
   A. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Subsections 1226.06(j)(5)A through 1226.06(j)(5)C and 1226.06(j)(5)E through 1226.06(j)(5)G.

   B. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
      i. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
      ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
      iii. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management floodproofing certificate, which the design and methods of construction are in accordance with Subsections (i) and (ii), above.

(7) Accessory Structures
   Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
   A. They shall not be used for human habitation;
   B. They shall be constructed of flood resistant materials;
   C. They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
   D. They shall be firmly anchored to prevent flotation;
   E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
   F. They shall meet the opening requirements of Subsection 1226.06(j)(5)E.iii.

(8) Recreational Vehicles
   Recreational vehicles must meet at least one of the following standards:
Chapter 1226: General Development Standards
Section 1226.06: Floodplain Regulations
Subsection (j): Use and Development Standards for Flood Hazard Reduction

A. They shall not be located on sites in special flood hazard areas for more than 180 days;
B. They must be fully licensed and ready for highway use; or
C. They must meet all standards of Section 1226.06(j)(5).

(9) Above Ground Gas or Liquid Storage Tanks
All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(10) Assurance of Flood Carrying Capacity
Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized.

A. Development in Floodways
i. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a zoning permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
ii. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
   a. Meet the requirements to submit technical data in Section 1226.06(g)(1)A;
   b. An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
   c. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;
   d. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and

B. Development in Riverine Areas with Base Flood Elevations but no Floodways
i. In riverine special flood hazard areas identified by FEMA, where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than one foot at any point. Prior to issuance of a zoning permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or
ii. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
   a. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible; and
   b. Subsection 1226.06(j)(10)A.ii of this section.
C. **Alterations of a Watercourse**

For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the “bankfull stage.” The field determination of “bankfull stage” shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply.

i. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a zoning permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.

ii. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.

iii. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Xenia specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the zoning permit.

iv. The applicant shall meet the requirements to submit technical data in Section 1226.06(g)(1)A.iii, when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

D. **Fill**

i. Fill sites, upon which structures will be constructed or placed, must be compacted to 95 percent of the maximum density obtainable with the Standard Proctor Test method or an acceptable equivalent method.

ii. Fill slopes shall not be steeper than one foot vertical to two feet horizontal.

iii. Adequate protection against erosion and scour shall be provided for fill slopes. When expected velocities during the occurrence of the base flood exceed five feet per second, armoring with stone or rock protection shall be provided. When expected velocities during the base flood are five feet per second or less, protection shall be provided by covering fill slopes with vegetative cover.

iv. Fill shall be composed of clean granular or earthen material.
1226.07 Soil Erosion and Sediment Control Standards

(a) Findings and Purpose

(1) These regulations establish technically feasible and economically reasonable standards to achieve a level of subdivision design and construction to minimize damage to property, degradation of natural resources; and to promote and maintain the health, safety and general well-being of all life and inhabitants of the City. Further, these regulations promote development while keeping downstream flooding, erosion and sedimentation at existing levels, and reduce damage to receiving streams and drainage systems which may be caused by impairment of their capacity, which may be caused by sedimentation.

(2) Enactment of this chapter is in partial fulfillment of its responsibility as a local Designated Management Agency to implement nonpoint source control activities set forth in the Miami Valley Regional Planning Commission (MVRPC) and authorized under Section 208 of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977.

(b) Scope and Intent

(1) This chapter shall apply to both the development and redevelopment of land in the City.

(2) Any person proposing to develop or redevelop land within the City shall design and implement a site grading and drainage development plan which:
   A. Will yield quantities of surface water runoff from the development site at rates which are the same or less than before development occurred and which result in rates of gross erosion as specified by Section 1226.07(c): Abatement Control Planning Standards;
   B. Will not result in increasing current potentials for sedimentation of lands, siltation of waters and flooding of waters, and flooding of watercourses that are at lower elevations off-site; or
   C. Has been approved and permitted under Section 1226.07(d): Site Development Planning Procedures.

(3) No changes subject to regulation under this chapter shall be made in the existing natural surface composition or subsurface configuration of any land proposed for development or redevelopment within the City unless the City approves a site development plan pursuant to Section 1226.07(d): Site Development Planning Procedures. Final approval of a zoning permit application and/or subdivision application shall not be given unless:
   A. A determination is made according to Section 1226.07(d)(1)A, that implementation of an approved site grading and drainage development plan would not cause run-off, erosion and sediment impacts that would be harmful or damaging to the existing quality of lands and waters at lower elevations off-site; or
   B. A plan for minimizing the harmful and damaging potentials of runoff, erosion and sediment impacts, anticipated to result from implementation of a proposed site grading and drainage development plan, has been prepared and processed and approved by the City Engineer.

(4) Any person seeking approval to implement a residential subdivision development shall be exempted from having to prepare a runoff control and sediment abatement plan according to Sections 1226.07(d)(2): Abatement Control Design Plan Content Requirements and 1226.07(d)(3): Abatement Control Plan Review and Approval, provided that such person submits and follows a standard practice for controlling runoff, erosion and sediment impacts expected to result during and from site development using one or a combination of methods listed in Section 1226.07(c): Abatement Control Planning Standards.
Chapter 1226: General Development Standards
Section 1226.07: Soil Erosion and Sediment Control Standards
Subsection (c): Abatement Control Planning Standards

(5) Exemption under this division of any person from the provisions of Section 1226.07(d): Site Development Planning Procedures, for the preparation and approval of an abatement control plan to enable final approval of a proposed subdivision development does not, however, exempt such person from any other provision of this chapter.

(6) Any person seeking approval to implement commercial and industrial redevelopment of an existing individual commercial and industrial parcel shall be exempted from having to provide a runoff control and sediment abatement system according to Sections 1226.07(d)(2): Abatement Control Design Plan Content Requirements and 1226.07(d)(3): Abatement Control Plan Review and Approval, provided such redevelopment will not result in an increase in stormwater runoff. Additionally, the person shall submit and follow a standard practice for controlling runoff erosion and sediment impacts expected to result during and after site development using one of a combination of methods listed in Section 1226.07(c): Abatement Control Planning Standards.

(c) Abatement Control Planning Standards

(1) Erosion/Sediment Abatement Standards
Site grading and drainage development planning information and runoff control and sediment abatement plans prepared in conjunction with proposed subdivisions or land developments shall be based upon the following standards:

A. Sediment deposition caused by accelerated stormwater runoff over a development site or by due to the sloughing or sliding of surface soil that has been exposed by grading, dumping, stockpiling or any other excavation-related earth disturbances shall be retarded wherever possible and confined to within the boundaries of the development site using the following methods: permanent and temporary vegetation, matting, sediment basin, settling ponds, silt fence, storm drain inlet protection, or a combination of the above, as approved by the City Engineer; and

B. The cumulative monthly predicted amounts of gross soil loss anticipated from sheet and rill erosion shall be abated to within an average annual rate of 15 tons per acre during the first year, ten tons per acre for any year thereafter of site development activities and to within five tons per acre per year after site development is completed. The Universal Soil Loss Equation, as referenced within the U.S. Department of Agriculture, Soil Conservation Service, Water Management and Sediment Control for Urbanizing Areas (Washington, D.C.: U.S. Government Printing Office, June, 1978), or other approved methods, shall be used to predict average annual rates of gross soil loss by month from a development site.

(2) Standards for Controlled Peak Runoff Rates
To control pollution of public waters by soil sediment from accelerated stream channel erosion, and to control floodplain erosion caused by accelerated stormwater runoff from development areas, the increased peak rates and volumes of runoff shall be controlled such that:

A. The peak rate of runoff from the critical storm and from all more frequent storms occurring on the development area does not exceed the peak rate of runoff from a one-year frequency storm (of 24 hours duration) occurring on the same area under predevelopment conditions;

B. Storms of less frequent occurrence than the critical storm, up to the 100-year storm, have peak runoff rates no greater than the peak runoff rates from equivalent size storms under pre-development conditions;
C. The critical storm for a specific development area is determined as follows:
   i. Determine, by appropriate hydrologic methods, the total volume of runoff from a one-year frequency, 24-hour storm occurring on the development area before and after development.
   ii. From the volumes determined above, determine the percentage increase in volume of runoff due to development, and, using this percentage, select the 24-hour critical storm from this table:

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<th>If the Percentage of Increase in Rate of Runoff is:</th>
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D. Two recommended methods which may be used to determine changes in rates and volumes of runoff are:
   ii. The Modified Rational Method, as described in special report No. 43 of the American Public Water Association, Practices in Detention of Urban Stormwater Runoff.

(d) Site Development Planning Procedures
The evaluation of the proposed site development plan, submitted as part of an applicable review procedure, is to provide mapped and tabularized information about the changes in rates and volumes of runoff and erosion which are expected to result from its implementation and shall be prepared according to methods prescribed in the SCS texts cited in Section 1226.07(c)(1) and Section 1226.07(c)(2). The City Engineer shall use this evaluation information to determine whether an additional runoff control and sediment abatement plan is needed.

(1) Site Development Information Review and Approval
A. Submission of required site development planning information required as part of the zoning permit application or subdivision review, as applicable, by an applicant seeking approval of a proposed development and/or subdivision development will enable the City Engineer to determine whether or not a runoff control and sediment abatement plan, or changes in a site development and/or subdivision development, are needed before the proposed development project is approved.
B. This review shall be accomplished within the normal administrative zoning permit review process for projects and/or developments not involving subdivision of lands and within the subdivision review and approval process for development projects requiring major subdivision or PUD review.
Chapter 1226: General Development Standards
Section 1226.07: Soil Erosion and Sediment Control Standards

Subsection (e): Compliance Responsibility

(2) Abatement Control Design Plan Content Requirements
A. A runoff control and sediment abatement plan shall identify how accelerated surface
water runoff, increased erosion and sediment deposition induced by site development
are to be controlled to within the abatement standards of Section 1226.07(c):
Abatement Control Planning Standards.
B. All proposed controls are to be designed in accordance with methods and techniques
set forth in the SCS texts cited in Section 1226.07(c): Abatement Control Planning
Standards or others approved by the City Engineer.

(3) Abatement Control Plan Review and Approval
A. Submission of a runoff control and sediment abatement plan to the City Engineer
completes all site development planning information and impact control planning
responsibilities required of an applicant under the provisions of this chapter and
initiates final site development plan approval proceedings which are necessary for
approval of the proposed subdivisions and/or development.
B. Review of the runoff control and sediment abatement plan required of the applicant
shall:
   i. Be made by the City Engineer and a representative of the local Soil and Water
      Conservation District, provided the applicant has prepared and submitted all
      necessary information according to this section.
   ii. Be completed within the same time frame of the subdivision or PUD approval
       process.
C. A development deemed not to be a subdivision or PUD shall be reviewed within
   normal zoning permit review procedures.

(4) Off-Site Abatement Control Facilities
Exceptions to requiring permanent control of accelerated runoff and/or soil loss on the
development site in all cases shall be considered by the City Engineer, provided the applicant
can prove that:
A. Performance objectives and standards of this chapter for runoff control and sediment
   abatement can be best achieved by installations of off-site abatement control facilities;
   and
B. Accelerated and/or sedimentated runoff from the development site can be conveyed to
   off-site abatement control facilities in a manner and by means which satisfy or surpass
   the performance objectives of this chapter.

(e) Compliance Responsibility
(1) No provision of this chapter shall limit, increase or otherwise affect the liabilities of the
permittee nor impose any liability upon this jurisdiction not otherwise imposed by law.
(2) During site development, a permittee is responsible for:
   A. Carrying out all provisions as approved in the plan and required by this chapter;
   B. Promptly removing all soil, miscellaneous debris or other materials that may be spilled,
dumped or otherwise deposited on any public thoroughfare during transport to and
   from the development site; and
   C. Taking precautions to inhibit the deposit of sediment into any sewer system or natural
   watercourse.
(3) **Enforcement**

A. Site development operations shall be subject to inspections by the City Engineer or designee to determine whether a site development plan is being implemented in compliance with the provisions of this chapter and plan approval conditions, if any, imposed during review.

B. After each inspection, the inspecting City staff member shall complete a site development operations checklist and status report. If the inspecting officer finds that operations are being conducted by a person in violation of an approved plan or any of the provisions of this chapter, a stop-work order may be issued at that time and be enforced by the City Engineer until violations cease.

C. Subsequent to the issuance of a stop-work order, one or more penalties may be imposed as allowed in Chapter 1242: Enforcement and Penalties.

D. Prior to release of financial guarantee, the developer shall submit as-built drawings of the detention/retention basins and a certification by a professional engineer that the same have been constructed as designed. This is to ensure compliance with this chapter.

(4) **Ownership and Maintenance**

Permanent runoff control and sediment abatement installations which are to be privately owned and maintained by an individual or group of property owners shall be:

A. Designed and constructed by the permittee with easements sufficient to allow adequate access for inspections and corrective actions, if necessary, by the City Engineer’s Office;

B. Regularly inspected by the City Engineer’s Office to ensure that privately owned installations are being properly maintained and, if not, shall be repaired by the individual or group of property owners at the expense of the responsible owner or owners; and

C. Maintained as installed by the permittee according to the approved design and shall not be altered unless approved by the City Engineer.
Chapter 1228: Architectural Standards

1228.01 Purpose
The purpose of this chapter is to encourage development that contributes to the City of Xenia’s physical character in appropriate ways. The architectural design of multi-family dwellings and nonresidential development, particularly large-scale developments, determines much of the character and attractiveness along the thoroughfares of the City, and the gateways to the community.

1228.02 Applicability
(a) All buildings shall be subject to the standards of this chapter including principal buildings and accessory buildings.
(b) Architectural standards for nonresidential buildings in a residential zoning district shall be subject to Section 1228.04 Architectural Design Requirements for Nonresidential Districts and Nonresidential Development in Residential Districts.
(c) Architectural Standards for PUDs
All development in a PUD shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process.

1228.03 Architectural Standards for Residential Buildings
The standards of this section apply to all residential principal and accessory buildings unless otherwise stated.
(a) Architectural Standards for New Construction of Principal Dwellings
The following applies to all new construction of any new principal residential dwelling.
(1) Vinyl or metal siding shall be limited to no more than 50 percent of the area of a front façade as measured from a flat scale drawing of the façade elevation. Vinyl- or metal-clad pedestrian and garage doors shall not be considered as part of the vinyl or metal siding on a front façade.
(2) The front façade of each dwelling shall contain at least one of the following features:
   A. One or more dormer windows or cupolas;
   B. Wall offsets in the form of projections and/or recesses in the façade plane; Wall offsets shall have a minimum depth of two feet;
   C. A recessed entrance;
   D. A covered porch or balcony;
   E. Pillars, posts, or pilasters; or
   F. One or more bay windows with a minimum of 12 inch projection from the façade plane.
(3) All siding shall be either horizontal or vertical in placement.
(4) All potential below grade living areas shall be constructed with poured concrete walls.
(5) The following additional standards shall apply to the construction of new dwellings within a block where more than 50 percent of the lots within the block are occupied by residential dwellings:
A. If the new construction is on a lot where 75 percent of the block face is comprised of dwellings that do not comply with the requirements of this section, a new dwelling may be constructed of building materials similar to a majority of the other dwellings along the same block face. If the existing, individual buildings along the same block face contain a mixture of building materials, the new construction should contain materials that reflect the predominant materials or better materials along the same block face as determined by the City Planner.

B. Where the majority of buildings along the same block face have front porches, the building subject to this subsection shall also include a front porch that has a width and depth generally similar to the average width and depth of porches along the same block face.

C. No principal dwelling shall be constructed which is more than 20 percent shorter than the average height of principal dwellings along the block face.

D. No principal dwelling shall be constructed where the front facade is more than 20 percent wider or 20 percent narrower than the average width of principal dwellings along the block face.

(b) Architectural Standards for Expansions and Remodeling

Where a principal building or accessory building will be expanded or remodeled, the expansion or remodeling shall meet the following standards for materials:

(1) Where a building constructed prior to the effective date of this code is to be resided or remodeled without expansion, any new siding materials shall be similar in appearance to the materials being replaced (not including color considerations) or follow the building materials requirements for new construction in Section 1228.03(a) for residential buildings and Section 1228.04(c)(3) for nonresidential buildings.

(2) Where a building (principal or accessory building over 400 square feet) will be expanded, the expansion shall be constructed of materials and proportions similar to the façade that is being extended (i.e., if the side façade of a dwelling is constructed of brick and will be extended, the expanded area shall also be constructed of brick).

(c) Architectural Standards for Accessory Buildings

(1) New accessory buildings with a footprint greater than 400 square feet and/or a height greater than 14 feet shall be constructed of materials similar to the materials used on the principal dwelling or comply with building material requirements for new construction in Section 1228.03(a).

(2) The materials used on the principal dwelling or on the approved building materials list may be used for 100 percent of the façade of any accessory building in the side or rear yard and are not limited in the use of vinyl or metal siding established for the principal building.

(d) Additional Architectural Standards for Multi-Family Dwellings

In addition to the requirements of Section 1228.03(a): Architectural Standards for New Construction of Principal Dwellings, the following subsections shall apply to any new construction of multi-family dwellings.

(1) At least three of the following design features shall be provided on the front façade of each dwelling unit with frontage on a public street:

   A. One or more dormer windows or cupolas;

   B. A recessed entrance;
C. A covered porch or balcony;
D. Pillars, posts, or pilasters;
E. One or more bay windows with a minimum of 12 inch projection from the façade plane;
F. A parapet wall with an articulated design, which entails design variation rather than a simple rectilinear form; or
G. Multiple windows with a minimum of four inch wide trim.

(2) The use of the above design features may also be used to increase the allowed usage of vinyl or metal siding as established in Section 1228.03(a)(1).

Figure 1228-A: Illustrative example of acceptable architectural design for multi-family dwellings

Figure 1228-B: Illustrative example of unacceptable architectural design for multi-family dwellings

(3) **Roof Penetrations and Equipment**

To the degree practicable, all roof vents, pipes, antennas, satellite dishes, and other roof penetrations and equipment (except chimneys) shall be located on the rear elevations or configured to have a minimal visual impact as seen from the street. See Section 1228.04(c)(9): Mechanical Equipment.
Multi-Family Dwelling Types

Table 1222-3: Permitted Principal Uses, allows for three different types of multi-family dwellings based on number of units and the character of the use. The following subsection provide illustrative examples of the different types of multi-family dwelling uses.

A. Multi-Family Dwelling (Apartment House with 4 to 8 Units)

Figure 1228-C: Multi-family dwellings (apartment house with 4 to 8 units) are small scale multi-family uses that typically resemble large single-family dwellings.

B. Multi-Family Dwelling (Attached up to 6 units)

Figure 1228-D: Multi-family dwellings (attached up to 6 units) are dwellings that have individual exterior entrances and may take the form of rowhouses, quad orientation, or other similar orientations.
Chapter 1228: Architectural Standards
Section 1228.04: Architectural Design Requirements for Nonresidential Districts and Nonresidential Development in Residential Districts

Subsection (a): Applicability

C. Multi-Family Dwelling (Apartment Building with 9 or More Units)

Figure 1228-E: Multi-family dwellings (apartment buildings with 9 or more units) are traditional multi-family dwellings with interior, or exterior, entrances to each unit.

1228.04 Architectural Design Requirements for Nonresidential Districts and Nonresidential Development in Residential Districts

(a) Applicability
(1) This section shall apply to:
   A. All new construction of nonresidential buildings (principal and accessory) in a residential zoning district;
   B. All new construction of buildings (principal and accessory) in the O-1, B-1, B-2, B-3, and P-1 Districts; and
   C. The expansion or remodeling of any building subject to this section.
(2) For the purposes of this section, nonresidential buildings shall include any mixed-use buildings.

(b) Requirements for Expansion or Alteration of Existing Buildings
(1) Where a principal building or accessory building that is not subject to a COA review will be expanded or altered, the expansion or alteration shall meet the same standards as the expansion of residential buildings established in Section 1228.03(b): Architectural Standards for Expansions and Remodeling.
(2) Expansions and alterations of buildings that are subject to COA review shall comply with the standards and guidelines specified in Section 1220.08(g): Standards and Guidelines. If the expansion or alteration is related to a building that the applicable review body finds is not significant (See Section 1220.08(f): Determining the Significance of a Structure.) to the district or historic designation, the expansion or alteration shall comply with the standards of Section 1228.03(b): Architectural Standards for Expansions and Remodeling.

(c) Requirements for New Construction
(1) New Construction in Historic Districts
   New construction of buildings in a historic district shall be subject to a COA review pursuant to Section 1220.08: Certificate of Appropriateness (COA).
(2) **Building Orientation**

A. Buildings shall generally be parallel to the street they front, unless an alternate orientation is consistent with existing adjacent development.

B. The primary entrances of buildings shall be oriented:
   i. Towards a street along the perimeter of the development or towards a formal open space or public park, if located adjacent to the proposed project; or
   ii. Towards private driveways in the interior of the development if none of the building’s facades has frontage on a public street; or
   iii. As approved by the City Planner.

![Figure 1228-F](image)

*Figure 1228-F: This figure shows two methods of using architectural features to create wall surface relief on wall elevations that are not the primary elevation.*

(3) **Building Materials**

A. A combination of materials, textures, colors, and finishes shall be utilized to create visual interest.

B. Vinyl siding shall not comprise more than 25 percent of any single façade.

C. New buildings in the B-2 District shall utilize brick or stone as the primary siding material.

D. Exposed metal panels (such as corrugated metal) shall be prohibited. This subsection shall not be construed to prohibit metal roofs, flashing, aluminum storefront associated with windows, or high-quality metal siding such as copper, bronze, or other decorative metal as determined by the City Planner.

(4) **Facade Design and Mass**

A. All architectural elevations of principal buildings shall consist of a base, a body, and a cap as described below (See Figure 1228-G.). The height requirements for the base, body and cap shall apply in all districts except the B-2 District. The height of the base, body and cap in the B-2 District shall be compatible with the predominant pattern found on the same block as the building subject to review.
Section 1228.04: Architectural Design Requirements for Nonresidential Districts and Nonresidential Development in Residential Districts

Subsection (c): Requirements for New Construction

1. The base shall occupy the lowest portion of the elevation, and shall have a height no less than eight percent of the average wall height.

2. The body shall occupy the middle portion of the elevation, and shall have a height no less than 60 percent of the average wall height.

3. The cap shall occupy the highest portion of the elevation, excluding the roof, and shall have a height no less than eight percent of the average wall height, not to exceed the height of the base.

B. The cap shall consist of at least one of the following architectural features:

   i. A cornice;
   ii. A parapet;
   iii. An awning;
   iv. A canopy; or
   v. Eaves.

C. The base and cap shall be clearly distinguishable from the body through changes in color, material, pattern, profile, or texture.

(5) Façade Variation

A. Facades that face a public street and that are 60 feet wide or wider shall incorporate one of the following methods of façade variation at a minimum of every 30 feet of façade width in the B-2 District and every 40 feet in other nonresidential zoning districts or for all other nonresidential buildings:

   i. A wall offset of at least two feet in depth (projections or recesses) and 20 feet in width for buildings outside the B-2 District.
   ii. A change in façade material;
   iii. For buildings with less than 25,000 square feet in gross floor area, a change in façade color may be used;
iv. A pilaster having a minimum depth of one foot, minimum width of one foot, and a minimum height of 80 percent of the façade's height.

Figure 1228-H: Illustration of façade treatments such as pilasters, projections, and material changes to provide a visual façade offset.

(6) Entrance Treatment

Primarily nonresidential buildings with a footprint that exceeds 25,000 square feet in gross floor area in zoning districts other than B-2 District shall have clearly-defined, highly visible customer entrances that include no less than three of the following design features (Figure 1228-I):

A. Canopies/porticos above the entrance;
B. Roof overhangs above the entrance;
C. Entry recesses/projections;
D. Arcades that are physically integrated with the entrance;
E. Raised corniced parapets above the entrance;
F. Gabled roof forms or arches above the entrance;
G. Outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet;
H. Display windows that are directly adjacent to the entrance;
I. Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above and/or directly adjacent to the entrance; or
J. Integral planters or wing walls that incorporate landscaped areas or seating areas. A wing wall is a wall secondary in scale projecting from a primary wall and not having a roof.
Figure 1228-I: These large retail centers utilize several different design features to articulate the individual facade and customer entrances.

(7) Wall Openings (Doors and Windows)
A. Blank walls, those devoid of openings such as windows and transparent doors, shall be prohibited on the front facade of any building. In no case shall a building have blank walls parallel to a public street or to its tangent, if the street is curved.
B. Building facades that face a public street shall contain windows that occupy at least 65 percent of the total wall surface area of the first floor and at least 35 percent of each upper floor in the B-2 District, and 25 percent of the total wall surface area in other zoning districts. The bottom edge of the windows shall not be higher than three feet above grade on the ground floor.
C. A maximum of 20 percent of the windows that can be seen from all public rights-of-way, excluding alleys, may be opaque, including spandrel glass.
D. All doors and windows shall be articulated through the use of lintels, sills, and thresholds. Windows larger than 20 square feet that are not used for display purposes shall be divided into panes through the use of mullions and/or sashes.

(8) Roof Design
A. New buildings located in the B-2 District shall utilize a flat roof design in order to complement the predominant roof design of historic downtown Xenia buildings.
B. The height of any pitched roof shall not exceed one-half of the overall building height.
C. Roof Line Changes
   i. Roofline changes shall include changes in roof planes or changes in the top of a parapet wall, such as extending the top of pilasters above the top of the parapet wall.
   ii. When roofline changes are included on a façade that incorporates wall offsets or material or color changes, roof line changes shall be vertically aligned with the corresponding wall offset or material or color changes.
Chapter 1228: Architectural Standards
Section 1228.04: Architectural Design Requirements for Nonresidential Districts and Nonresidential Development in Residential Districts
Subsection (c): Requirements for New Construction

Figure 1228-J: Roofline changes shall be aligned with corresponding wall offsets and/or material or color changes.

D. Flat Roofs
i. When flat roofs are used, parapet walls with three-dimensional cornice treatments shall conceal them. The cornice shall include a perpendicular projection a minimum of eight inches from the parapet façade plane.
ii. Thin parapets that extend more than two feet above the roof and have a depth of less than two feet from the façade surface, are prohibited.

Figure 1228-K: Parapet walls with cornice treatments are used to disguise flat roofs. The image on the right illustrates a tall, thin parapet wall that is prohibited.

(9) Mechanical Equipment
A. Wall mounted mechanical, electrical, communication equipment, downspouts, gutters, service doors, and other building-mounted utility fixtures, shall be painted and maintained to match the building or be screened from view.
B. Mechanical equipment such as transformers and HVAC units shall not be located in front yards.
C. All mechanical equipment, including both ground-mounted and roof-mounted equipment, shall be screened from view from adjacent public and private rights-of-way, as well as from all property zoned or used for residential purposes.

D. Screening elements shall include walls (same material and color as principal structure), landscaping, mounds, parapets or enclosures constructed of the same materials used on the majority of the principal structure or any combination.

E. Mechanical equipment is also subject to Section 1232.07: Screening Requirements.
Chapter 1230: Open Space and Park Dedication

1230.01 Purpose

This section addresses the character and design of those portions of development that are not occupied by platted lots or streets and that are reserved for open space, public parks, and greenways. The purpose of this section is to:

(a) Establish the standards and criteria under which portions of land associated with development shall reserve and dedicate land to the City for the purposes of development as private open space, public park, greenway, or other recreational space;

(b) Distinguish among the characteristics, requirements, and appropriate locations for formal open space set-asides and informal open space set-asides;

(c) Establish the standards and criteria under which a portion of residential, nonresidential, and mixed-use development shall set aside a portion of the development area for use as formal private open space;

(d) Establish the standards and criteria under which a portion of residential, nonresidential, and mixed-use development shall set aside a portion of the development area for use as informal private open space or conservation land; and

(e) Establish minimum ownership and maintenance standards for homeowner and property owner associations related to private formal and informal open space areas associated with development.

1230.02 Applicability

(a) This chapter shall apply to all types of development identified in Table 1230-1: Open Space Set-Aside, after the effective date of this code.

(b) The City Planner shall not grant a zoning permit approval for any building or structure shown in a subdivision or development subject to the provisions of this chapter unless the open space allocated to that phase have been conveyed under one of the options established in this chapter.

1230.03 Open Space Set-Aside Requirements

(a) Amount of Open Space Set Aside Required

Residential, mixed-use, and nonresidential development shall provide at least the minimum amounts of private open space identified in Table 1230-1: Open Space Set-Aside, below:
### TABLE 1230-1: OPEN SPACE SET-ASIDE

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Percentage of Gross Site Area Designated as Open Space</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any subdivision in the A-1 District</td>
<td>None</td>
</tr>
<tr>
<td>Any subdivision in the R-1A, R-1B, or R-1C Districts</td>
<td>Total of 10% open space</td>
</tr>
<tr>
<td>Any subdivision in the R-1D or R-2 Districts</td>
<td>Total of 10% open space - 1/2 of the set-aside shall be formal open space</td>
</tr>
<tr>
<td>Any subdivision or development in an R-3 District</td>
<td>5% formal open space – If a subdivision is required, the open space shall be established during the platting process</td>
</tr>
<tr>
<td>Any PUD with a residential component, including mixed-use buildings</td>
<td>Total of 10% open space - 1/2 of the set-aside shall be formal open space</td>
</tr>
</tbody>
</table>

1. The percentage of open space shall be based on the gross site area of the proposed project, including all rights-of-way.
2. When formal open space is required, such space shall be areas of open space that have been improved for active use by residents or members of the public that may include, but is not limited to, in-ground swimming pools, playgrounds, tennis courts, jogging trails, or similar outdoor recreational uses.
3. The following areas shall not be counted toward compliance with open space requirements:
   - **A.** Private and public roads, and associated rights-of-way;
   - **B.** Public or private parking spaces, access ways, and driveways related to any residential use;
   - **C.** Required minimum spacing between buildings and required yard setbacks;
   - **D.** Vehicular use areas;
   - **E.** Land that is subject to pre-existing conservation easements or other similar protected open spaces;
   - **F.** Above-ground buildings, pipes, apparatus, and other equipment for community or individual use, septic or sewage disposal systems;
   - **G.** Substations, public utility easements;
   - **H.** Dry stormwater detention basins or facilities;
   - **I.** Leftover land that has no value for development and is not a natural resource (e.g., river or stream corridor, large forest stand, wetland) that contributes to the quality of the overall project, as determined by the PZC or City Planner, as may be applicable based on the review procedure.

### 1230.04 Ownership of Open Space

**(a)** The first priority of the open space requirement is to provide for a community wide network of parks, open spaces, greenways, or other recreational areas. As such, all open space required by this chapter shall first be offered to the City for potential public land dedication.

**(b)** Such offer for public land dedication shall be made during the applicable review procedure and the PZC or City Planner with authority to make a decision during the applicable review procedure shall also have the authority to decide whether to recommend that the land should be considered by City Council for public dedication.

**(c)** The PZC or City Planner may seek guidance from other applicable staff members or departments.
Chapter 1230: Open Space and Park Dedication

Section 1230.05: Permitted Uses in Private Open Space

Subsection (a): Amount of Open Space Set Aside Required

(d) The City shall consider any recommendation from PZC or the City Planner regarding the proposed land and shall make a decision on whether to accept any land offered for dedication. City Council shall not be required to accept any land offered for dedication.

(e) Where the City chooses not to accept the open space for public dedication, the developer shall have the option to:

(1) Retain the open space as private open space, protected in perpetuity in accordance with Section 1230.07: Protection of Private Open Space; or

(2) Pay a fee-in-lieu of the set-aside requirement in accordance with Section 1230.09: Fee-in-Lieu of Dedication Option.

(f) An application for a PUD shall be required to retain the open space as private open space and shall not be eligible for the fee-in-lieu option unless approved by the PZC and City Council during the concept PUD plan review and approval (See Section 1220.04: Planned Unit Developments).

1230.05 Permitted Uses in Private Open Space

The following uses may be permitted in required open space:

(a) Passive recreational uses such as nature preserves, protected tree stands, meadows, or other informal areas of open space.

(b) Active recreational uses as permitted in formal open spaces.

(c) Community gardens (See Section 1222.05(b)(2): Community Gardens.);

(d) Picnic areas and associated shelters; and

(e) Any other uses approved by the PZC during the applicable review procedure.

1230.06 Design Standards for Private Open Space Set-Asides

Land set-aside as private open space shall comply with the following standards:

(a) All areas of private open space shall be accessible to residents or users of the development by providing at least 15 feet of frontage on a public street, or in the case of a mixed use development, 15 feet of frontage on an internal access drive or on a public street.

(b) Areas of private open space in residential subdivisions shall have a minimum area of 10,000 square feet in size.

(c) Where open areas, trails, parks, or other open space resources are planned or exist adjacent to development, the open space shall, to the maximum extent practicable, be located to adjoin, extend, and enlarge the presently existing trail, park, or other open area land.
Chapter 1230: Open Space and Park Dedication
Section 1230.07: Protection of Private Open Space
Subsection (e): Provision of Open Space in Multi-Phase Developments

(d) If the final subdivision plat or final PUD plan provides for buildings, structures or improvements in the open space and recreational space, the developer shall provide a financial guarantee equal to 100 percent of the improvements value to ensure completion of the buildings, structures and improvements. See Section 1238.03: Installation of Public Improvements and Financial Guarantees.

(e) Provision of Open Space in Multi-Phase Developments

(1) Development proposed in phases shall be considered as a single development for the purposes of applying the open space set-aside standards required in this chapter.

(2) The open space set-aside for the entire project shall be reviewed and approved as part of the preliminary plat process.

(3) Development shall not be phased solely as a method to avoid the minimum open space set-aside standards in this chapter.

(4) In cases where less than 100 percent of the total amount of open space set-aside is provided within the first phase of a multi-phase development, the open space set-aside required shall, at a minimum, be apportioned into each of the remaining development phases. At any point, the applicant may fulfill the open space set-aside requirements prior to completion of the development or subdivision.

1230.07 Protection of Private Open Space

(a) Any further subdivision of the open space for uses other than those prescribed in this chapter and the approved PUD plan or subdivision plat shall be prohibited.

(b) In all cases, the long term control and protection of the open space shall be accomplished through the use of a conservation easement.

(c) Conservation Easements

(1) At the time when an applicant records the plat for the approved subdivision, a conservation easement shall be placed on all lands and private waters used to satisfy the open space requirement. The conservation easement shall:

A. Run with the land, regardless of ownership;

B. Provide for protection of the land in perpetuity;

C. Be granted and deeded to the City, Greene County, State, park district, a City approved land trust, or other qualified organization approved by the PZC;
D. Be solely for the purpose of ensuring the land remains undeveloped other than development of uses permitted by Section 1230.05: Permitted Uses in Private Open Space; and

E. Shall not, in any way, imply the right of public access or any other right or duty not expressly established by the terms of the easement.

(2) While the City, Greene County, State, park district, City approved land trust, or other qualified organization may hold the conservation easement, the property itself shall still be owned by the original property owner, the developer (applicant of the subdivision), or the homeowners’ association. If it is to be owned by the homeowners’ association, the association’s documents shall be recorded with the subdivision plat and a copy submitted to the City Planner to be maintained as part of the City’s records.

(3) The conservation easement shall include information on how the property will be maintained by the property owner and shall also state that failure to maintain the property in accordance with the conservation easement agreements shall be considered a violation of this code. In addition, the holder of the easement may pursue any remedy provided by law or equity, including, but not limited to, the remedies in Section 5301.70 of the Ohio Revised Code.

(d) Homeowners’ Associations or Property Owners’ Associations

(1) A homeowners’ association or property owners’ association shall be established to permanently maintain all open space and common areas if such areas are not transferred and accepted by the City, Greene County, State, park district, City approved land trust, or other qualified organization.

(2) All homeowners’ association or property owners’ association agreements shall be submitted to the City Planner as part of the subdivision application or PUD, whichever is applicable. No set of proposed covenants, articles of incorporation, or bylaws of a homeowner’s association or property owners’ association shall permit the abrogation of any duties set forth in this section.

(3) All homeowners’ associations or property owners’ associations shall guarantee the maintenance of all open space and common areas within the boundaries of the development through the deed restrictions or covenants.

(4) Membership in the association shall be mandatory for all purchasers of lots in the development.

(5) The association shall be responsible for maintenance, control, and insurance of all common areas, including required open space.

(6) In the event that the homeowners’ association or property owners’ association, regardless of its date of organization or incorporation, no longer maintains the common areas and open space in a neat and orderly manner, or if the homeowners’ association or property owners’ association goes defunct, to the maximum extent permitted by law, the City may take over maintenance and assess a fee to cover the costs of such maintenance. The fee shall be assessed to each of the benefitting/benefitted property owners within the subdivision or development.

1230.08 Park Land Dedication

This section shall apply where the open space set-aside will be dedicated to the City for use as park land or other recreational areas.
(a) **Procedure for Park Land Dedication**

Dedication of park land to the City shall be reflected on the final plat with an assigned lot number in the section of the subdivision. It shall be transferred by general warranty deed conveying to the City and its successors and assigns, good and marketable title to the real estate described in such deed, free and clear of all liens and encumbrances. This deed shall be executed and delivered to the Greene County Recorder for recording at the same time the final plat map or development plan of any section or any portion of the subdivision or development is recorded.

(b) **Required Minimum Improvements for Park Land Dedication**

Whenever land is dedicated, the developer shall provide minimum improvements as listed herein.

1. Site grading necessary for the conveyance of storm water generated within or flowing through the park land.
2. Healthy grass cover for park land utilizing an athletic field mixture as specified by the City Manager or his or her designee.
3. Perimeter fencing or fencing around sports facilities, if necessary, as determined by the City Planner.
4. Full street improvements and utility connections within the adjoining public rights-of-way including, but not limited to, street paving, water and sewer extension, sidewalks, bikeway connections, curbs and gutters, street trees, street lights, park signage, and traffic control devices.
5. Removal of all dead trees, trash, junk, unwanted structures, and other similar undesirable elements along with any other improvements that are necessary to bring the public park, trail, or pond to be dedicated to a suitable condition prior to acceptance by the City.
6. Installation of property pins to dedicated parkland.

### 1230.09 Fee-in-Lieu of Dedication Option

(a) **Determination of Fair Market Value**

1. Fair market value shall equal the average value per acre of all land in each subdivision or development in its raw, undeveloped state, as determined at the time an application is submitted for a final plat, final PUD plan, or zoning permit, whichever is applicable.
2. The fair market value shall be determined by agreement between the developer or subdivider and the City of Xenia.
3. The fee required shall be calculated by determining the amount of acreage required for open space set-asides, as established in this chapter, to the tenth of an acre, and multiplying that by the per-acre fair market value.
4. If the developer or subdivider objects to the fair market value determination, the developer or subdivider may request that the City’s fair market value determination be based on an appraisal of the property from a certified land appraiser in the State of Ohio mutually selected by the City and the developer or subdivider, which appraisal will be considered by the City in determining the fair market value.
5. All costs required to obtain such appraisal shall be borne by the developer or subdivider.

(b) **Time of Payment**

The fee-in-lieu of open space set-aside shall be paid prior to the issuance of the first zoning permit for the site.
(c) **Deposit of Payment in Lieu of Park Land Dedication**

The developer or subdivider shall deposit all required fees with the Finance Department or post a financial guarantee (See Section 1238.03: Installation of Public Improvements and Financial Guarantees.) equal to the required fee-in-lieu of the open space set-aside to be paid before the City will release the record plat for recording or issue the zoning permit. All fees collected pursuant to this subsection shall be deposited in the General Capital Improvement Fund. The funds shall only be used for:

1. The acquisition or development of public parks, greenways, open space sites, and related facilities.
2. The fees may also be used for certain maintenance involving the replacement of major parts of park equipment or site improvements that have deteriorated beyond the confines of minor repair and maintenance, requiring capital budget expenditures.
3. No part of such fees shall be used for the purpose of paying salaries, wages or other general operating expenditures.

**1230.10 Adjustment Provisions**

Notwithstanding any provision of this section to the contrary, the PZC and/or City Council may, in cases of an unusual or exceptional nature, allow for adjustments in the open space set-aside requirement and fee-in-lieu regulations as required by the provisions of this section. Adjustments may be allowed when, in the opinion of the PZC and/or City Council, it has been determined and satisfactorily shown that the character of the particular subdivision or development and the park and recreation need generated by and associated with any subdivision or development sufficiently justify such an adjustment or adjustments.
Chapter 1232: Landscaping and Buffering

1232.01 Purpose

It is the purpose of this section to promote and protect the public health, safety and general welfare by providing for the planting, maintenance, and preservation of trees, shrubs, and other plants within the City. It is further the purpose of this section is to:

(a) Ensure and encourage the planting, maintenance, restoration and survival of trees, shrubs, and groundcover;
(b) Mitigate against erosion and sedimentation;
(c) Reduce stormwater runoff and the costs associated therewith;
(d) Limit glare created by exterior lighting;
(e) Reduce visual pollution from the urban environment and increase privacy between incompatible uses;
(f) Protect and enhance property values and aesthetic qualities;
(g) Provide visual screening, where appropriate; and
(h) Encourage enrichment of architectural, engineering, and transportation projects through effective environmental design.

1232.02 Applicability

(a) The development standards of this section shall apply to new development and any collective, substantial expansion of existing structures. Substantial expansion of existing structures shall be defined as when the expansion of the structure meets or exceeds 25 percent of the square footage of the building footprint prior to expansion. Exceptions to this expansion include:

(1) Section 1232.05: Landscape Buffering Requirements, shall apply to any size expansion of a structure where such expansion will decrease the setback between the structure and a residential zoning district.

(2) Where there is no expansion of a structure but the vehicular use area is expanded, the standards of Section 1232.06: Landscaping Requirements for Vehicular Use Areas, shall apply for the newly expanded areas of the vehicular use area.

(b) Exemptions

The following uses and activities shall be exempt from these requirements.

(1) Single-family dwellings;
(2) Two-family dwellings; and
(3) Any vehicular use area that contains five or fewer parking spaces.

(c) Planned Unit Developments

All development in a PUD shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process.

(d) Landscape Plan Required

(1) When a development is subject to the provisions of this section, a landscaping plan shall be submitted with a zoning permit application.
1232.03  Installation

(a) Landscaping required as part of this section shall be installed prior to issuance of an occupancy permit or commencement of use, or at a different date mutually agreed to by the applicant and the City Planner if weather or material availability justifies a later installation date. In no case shall landscaping installation occur more than one year after the issuance of a certificate of occupancy.

1232.04  Landscaping Materials

(a) Existing Landscape Material

(1) Unless otherwise noted, existing landscape material in healthy condition can be used to satisfy the requirements of this section in whole or in part provided they meet all requirements of this section.

(2) The City Planner shall have the authority to determine if any existing landscape material can be used to satisfy the requirements of this section.

(b) Vision Clearance

All landscaping shall be subject to the vision clearance standards established in Section 1226.02: Vision Clearance.

(c) Walls and Fences Used for Landscaping

(1) Walls and fences used to comply with the standards of this section shall also comply with Section 1224.01(e)(9): Fences, Walls, and Hedges.

(2) Chain link fences with or without wooden or synthetic slat material shall not be allowed when used to satisfy the buffer requirements of this section.

(d) Planting Standards

All plants utilized in the fulfillment of the requirements of this section shall meet the following requirements:

(1) Plants installed shall meet the standards for size, form, and quality set out in the American Standard for Nursery Stock (ANSI Z60.1, latest edition); and

(2) Trees shall be balled and burlapped or in containers. Shrubs, vines, and ground covers can be planted as bare root as well as balled and burlapped or from containers.

(3) Plant materials should consist of hardy, native and/or drought-tolerant vegetation to the maximum extent feasible.

(4) All planting materials shall be free of noxious weeds, disease, and pests.

(5) All trees selected to be protected shall be protected according to ANSI A300 standards.

(6) Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the City.
(7) Vegetation shall comply with the minimum size requirements established in Table 1232-1.

<table>
<thead>
<tr>
<th>Vegetation Type</th>
<th>Minimum Size Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deciduous Trees (Canopy or Understory)</td>
<td>2.5-inch DBH</td>
</tr>
<tr>
<td>Evergreen Trees</td>
<td>6 feet in height when planted</td>
</tr>
<tr>
<td>Shrubs</td>
<td>1.5 feet in height when planted</td>
</tr>
<tr>
<td>Hedges</td>
<td>Size as needed so that the plant materials forms a continuous, unbroken screen within one planting season</td>
</tr>
</tbody>
</table>

DBH = Diameter at Breast Height

(8) Trees of species whose roots are known to cause damage to public roadways, sidewalks, or other public works shall not be planted closer than six feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior dimensions shall be five feet square and five feet deep, and for which the construction requirements shall be four inches thick concrete reinforced with #6 road mesh (6x6x6) or equivalent.

(e) Species Diversity

To curtail the spread of disease or insect infestation in a plant species, new plantings shall comply with the standards of Table 1232-2.

<table>
<thead>
<tr>
<th>Number of Trees Required on Site</th>
<th>Maximum Percentage of Trees that may be of a Single Species</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-5</td>
<td>100%</td>
</tr>
<tr>
<td>6-19</td>
<td>50%</td>
</tr>
<tr>
<td>20-39</td>
<td>33%</td>
</tr>
<tr>
<td>40 or more</td>
<td>25%</td>
</tr>
</tbody>
</table>

(f) Mounding Specifications

(1) Mounding provided in lieu of or in combination with walls, fences, and/or evergreen plantings shall consist of a strip of land as wide as necessary to obtain a maximum slope of 3:1 (angle of repose).

(2) Mounding may include rocks and other excavated materials, but one foot of dirt covered by six inches of topsoil shall be provided over the entire mounding. Trees, shrubs, wood, and other non-compactable items shall not be used in the construction of mounding.

(3) No mounding will be allowed in any required utility easements, except for perpendicular utility easement crossings. Mounding shall provide adequate access to utility easements adjacent to the mounding.

(4) Mounding shall be planted with a ground cover suitable to prevent erosion, and shall be maintained by the private property owner, in conformance with code, on which the mound rests. Other forms of vegetation may also be planted on the mound.

(5) A difference in elevation between areas requiring screening does not constitute an existing earth mound and shall not be considered as fulfilling any screening requirement.

(6) Drainage patterns shall be considered, maintained and/or modified only with the approval of the City Engineer, when mounding is used.
(7) The property on which the mound is located is responsible for the maintenance of the mound including but not limited to grass cutting, tree trimming/replacement, etc.

1232.05 Landscape Buffering Requirements

Development subject to the requirements of this section shall provide buffering in accordance with this subsection.

(a) Buffer Types

Table 1232-3 describes three different buffering standards in terms of opacity. Where a particular buffer type is required in Table 1232-4, the requirements may be met with the combination of minimum buffer width and planting requirements specified in Table 1232-3 on the following page.
Chapter 1232: Landscaping and Buffering
Section 1232.05: Landscape Buffering Requirements
Subsection (a): Buffer Types

**TABLE 1232-3: BUFFER TYPES**

<table>
<thead>
<tr>
<th>Buffer Type A: Opaque</th>
</tr>
</thead>
<tbody>
<tr>
<td>This perimeter buffer functions as an opaque screen and prevents visual contact between uses and creates a strong impression of total separation.</td>
</tr>
<tr>
<td><strong>Option 1: Buffer Width 35’</strong></td>
</tr>
<tr>
<td>- 3 shade trees, 40’ O.C.</td>
</tr>
<tr>
<td>- 11 evergreen trees, 12’ O.C.</td>
</tr>
<tr>
<td>- 17 large shrubs¹, 5.5’ O.C.</td>
</tr>
<tr>
<td><strong>Option 2: Buffer Width 15’</strong></td>
</tr>
<tr>
<td>- 2 shade trees, 40’ O.C.</td>
</tr>
<tr>
<td>- 6 evergreen trees, 12’ O.C.</td>
</tr>
<tr>
<td>- 14 small shrubs¹, 4’ O.C.</td>
</tr>
<tr>
<td><strong>Option 3: Buffer Width 5’</strong></td>
</tr>
<tr>
<td>- 4 fastigiate trees, 30’ O.C.</td>
</tr>
<tr>
<td>- 6’ opaque fence or brick or stone wall</td>
</tr>
</tbody>
</table>

**Buffer Type B: Semi-Opaque**
This perimeter functions as a semi-opaque screen.

| **Option 1: Buffer Width 35’** |
| - 3 shade trees, 40’ O.C. |
| - 6 evergreen trees, 12’ O.C. |
| - 13 large shrubs², 5.5’ O.C. |
| **Option 2: Buffer Width 15’** |
| - 3 shade trees, 40’ O.C. |
| - 6 large shrubs², 5’ O.C. |
| - 22 small shrubs², 4’ O.C. |
| **Option 3: Buffer Width 5’** |
| - Cluster of 2 ornamental or fastigiate trees, 80’ O.C. between clusters |
| - 10 columnar evergreen shrubs², 4’ O.C. |
| - 10 small shrubs², 4’ O.C. |

**Buffer Type C: Light**
This buffer functions as an intermittent visual obstruction and creates the impression of spatial separation without eliminating visual contact between uses.

| **Option 1: Buffer Width 35’** |
| - 2 shade trees and clusters of 2 ornamental trees, 40’ O.C. between shade trees/ clusters |
| - 2 ornamental trees, 15’ O.C. |
| - 17 large shrubs³, 5.5’ O.C. |
| **Option 2: Buffer Width 15’** |
| - 3 shade trees, 40’ O.C. |
| - 13 large shrubs³, 5.5’ O.C. |
| - 3 ornamental or fastigiated trees, 40’ O.C. |
| - 14 small shrubs or mix of shrubs/perennials³, 4’ O.C. or planted in clusters, 40’ O.C. between clusters. |

**Opaque Fence**
**Semi-Opaque Fence**
**Transparent Fence**

1: May substitute shrubs with 6’ opaque fence or brick or stone wall
2: May substitute shrubs with 6’ semi-opaque fence or brick or stone wall
3: May substitute shrubs with 4’ transparent fence or 3’ brick or stone wall segments

O.C.: On Center; all On-Center dimensions are approximate
(b) Required Buffers

(1) Table 1232-4 specifies the type of landscape buffer that a new development shall provide between it and adjacent properties, based on the use of the development site and that of adjacent properties. The buffer type is indicated by a letter corresponding to one of the three buffer types depicted in Table 1232-3.

(2) Landscape buffers shall only be required along lot lines that are adjacent to lots located within the Xenia municipal boundaries or are located adjacent to residential subdivisions, regardless if the subdivision is within the Xenia municipal boundaries.

(3) No buffer shall be required in the B-2 District, except for when a vehicular use area has frontage along a public street, in which case, the vehicular use area shall be buffered with a Type C Buffer.

(4) A residential subdivision or the construction of a single-family, two-family, or three-family dwelling shall not be required to install a buffer when adjacent to a different use.

(5) When reviewing a conditional use application, the PZC may require additional buffer treatments or may waive certain requirements based on a case-by-case basis.

<table>
<thead>
<tr>
<th>Adjacent to:</th>
<th>Any lot in an A-1, R-1A, R-1B, R-1C, or R-2 Zoning District</th>
<th>Any lot in an R-3 Zoning District</th>
<th>Any lot with a Public or Institutional Use</th>
<th>Any lot in an O-1 or B-1 Zoning District</th>
<th>Any lot in a B-3 Zoning District</th>
<th>Any lot in an I-1 or I-2 Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed Use:</td>
<td>Multi-family dwellings and uses in the Group Living Use Category</td>
<td>C</td>
<td>None</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any Public and Institutional Use</td>
<td>B</td>
<td>C</td>
<td>None</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any use in the O-1 or B-1 Zoning Districts</td>
<td>B</td>
<td>B</td>
<td>None</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any use in the B-3 Zoning District</td>
<td>A</td>
<td>B</td>
<td>None</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any use in the I-1 Zoning District</td>
<td>A</td>
<td>A</td>
<td>C</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Any use in the I-2 Zoning District</td>
<td>A</td>
<td>A</td>
<td>C</td>
<td>C</td>
<td>None</td>
</tr>
</tbody>
</table>

(c) Modifications of Buffer Requirements

Modifications to the buffer requirements may be permitted if approved through the alternative equivalent compliance procedure. See Section 1220.09: Alternative Equivalent Review.

(d) Buffer Establishment

Once a buffer has been approved by the City Planner and established by the owner, it may not be used, disturbed or altered for any purpose unless otherwise permitted by the City.

(e) Location of Buffers

(1) The landscape buffer shall be provided along the entire lot line between the two adjacent uses identified in Table 1232-4.
Buffers required by this section shall be located completely on the lot subject to the buffer requirement and only along the outer perimeter of the lot where it abuts another lot, and shall extend to the lot line or right-of-way line.

The only exceptions to paragraph (2) are:

A. If a landscape buffer, required by this code, is established on the adjacent lot and is permanently protected as a buffer in accordance with the provisions of this code and cannot be removed or disturbed in the future; or

B. If a unique characteristic of the lot (e.g., an existing stand of woods or existing vegetation that is not on the perimeter of the site) would create a better option to the required buffer type.

Development within Required Buffers

The required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of this section or that require removal of existing vegetation, except for the following features:

A. Fences or walls;

B. Sidewalks, trails, and other elements associated with passive recreation, if all required landscaping is provided;

C. Signs and light posts;

D. Driveways, access roads, and similar uses if they cross perpendicularly across a required buffer, are designed to limit disturbance of vegetation, and have a maximum width of 24 feet; or

E. Overhead and underground utilities required or allowed by the City.
C. If the above two-foot landscape barrier is constructed of non-living materials, one shrub or vine shall be planted every 10 feet along the barrier.

D. The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscape treatment.

E. Any public right-of-way or areas reserved for future rights-of-way in compliance with the adopted thoroughfare plan shall not be used to satisfy the requirements of this section. The City Planner may waive this requirement if, with consultation from the City Engineer, they determine that thoroughfare will not realistically be expanded due to the existing development adjacent to the right-of-way or lack of need for future expansion.

F. Perimeter landscape strips shall be continuous and unbroken except for driveways or sidewalks required to access the parking area.

(d) **Interior Parking Area Landscaping Required**

(1) The interior parking area landscaping requirements of this section shall apply to all off-street parking areas where the parking area contains 20 parking spaces or more.

(2) Such landscaping shall be in addition to landscaping adjacent to public streets and screening requirements as specified in this chapter.

(3) There shall be a minimum of 10 square feet of interior landscaping areas for every parking space. The applicant shall not be required to count the parking spaces abutting a required landscaping area along the perimeter of the parking area.

(4) The interior landscaping shall be located within landscaped islands that are separated from the perimeter landscaping required in Section 1232.06(c) and shall be scattered throughout the parking area to break up large areas of pavement. Landscaped islands that are designed as extensions from the perimeter landscaping areas shall also be considered as interior parking area landscaping but shall not count as the perimeter landscaping area. See Figure 1232-B.
Chapter 1232: Landscaping and Buffering

Section 1232.07: Screening Requirements

Subsection (a): General Requirements

In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from adjacent, less intense uses and from views from public rights-of-way. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

Subsection (b): Screened Items

The following areas shall be screened in accordance with this section:

A. Large waste receptacles (e.g., dumpsters and cardboard recycling containers) and refuse collection areas;
B. Off-street loading areas;
C. Pipes, conduit, and cables associated with the building or use;
D. Outdoor service areas that are necessary to support common business operations (e.g., outdoor freezer or refrigeration units, storage units, etc.);
E. Ground-level or façade-mounted mechanical equipment and utility structures; and
F. Roof top equipment that is not otherwise hidden by the roofline, parapet wall, or other similar feature.

Screening shall not be required if any of the above items are not visible from adjacent rights-of-way or from adjacent residential lots.

All sides of the item shall be screened with the exception that one side of the item may be screened with a gate or other similar feature to allow access while screening the item when access is not necessary.
(c) **Screening Methods**

(1) The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.

A. Vegetative materials that provide a fully opaque screen to the minimum height necessary to fully screen the facility from off-site views (See Figure 1232-C.); or

B. An opaque fence or wall consistent with the standards for Buffer Type A in Section 1232.05: Landscape Buffering Requirements; or

C. Integration into the building design (e.g., false walls or other architectural screening).

(2) The required screening shall have a height sufficient enough to screen the applicable item(s) provided it is in accordance with any other applicable sections of this code including, but not limited to, Section 1224.01(e)(9): Fences, Walls, and Hedges.

(3) Alternative screening materials that are not listed or alternative configurations may be proposed as part of an alternative equivalent review application. See Section 1220.09.

(4) To the maximum extent feasible, pipes, conduit, and cables should be located along the rear facade of buildings if conditions do not allow for them to be enclosed within the building itself. Pipes, conduit, and cables shall be located as far away from public view as practical and shall be painted a similar color as the building façade to further reduce visibility.

![Figure 1232-C](image_url)

*Figure 1232-C: The above image illustrates a vegetative screen that hides HVAC equipment and a dumpster.*

(d) **Configuration of Vegetative Materials**

(1) In cases where vegetative materials are used for screening in accordance with this subsection, the vegetative materials shall:

A. Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;

B. Be configured in two staggered rows or other arrangement that provides maximum screening;

C. Be upright, large evergreen shrubs or a hedge and be capable of reaching at least six feet in height within three years of planting; and

D. Be spaced no farther than necessary to create an opaque screen when the shrubs or trees are fully grown. In no case shall trees used for screening be spaced further than eight feet apart on center.
Chapter 1232: Landscaping and Buffering
Section 1232.08: Maintenance
Subsection (d): Configuration of Vegetative Materials

1232.08 Maintenance

(a) The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse, debris, and weeds at all times.

(b) All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first.

(c) Violation of these installation and maintenance provisions shall be subject to the enforcement provisions of Chapter 1242: Enforcement and Penalties.

1232.09 Enforcement and Administration

Landscaping shall be installed and completed prior to the issuance of a certificate of occupancy, or at a different date mutually agreed to by the applicant and the City Planner if weather or material availability justifies a later installation date. In no case shall landscaping installation occur more than one year after the issuance of a certificate of occupancy.
Chapter 1234: Parking, Access, and Mobility

1234.01 Purpose

The purpose of this chapter is to regulate the amount and location of vehicle parking, loading areas, access, and mobility in order to promote a more efficient use of land, enhance the development form, encourage the use of alternative modes of transportation, provide for better pedestrian and bicycle movement, and protect air and water quality. The provisions of this section are intended to:

(a) Prevent and alleviate the congestion of public streets;
(b) Encourage the incorporation of alternative modes of transportation by emphasizing pedestrian circulation and establishing requirements for bicycle parking;
(c) Increase and protect the capacity of the roadway system;
(d) Minimize the detrimental effects of vehicular use areas on adjacent properties;
(e) Encourage the reduction of impervious surfaces through effective design and the use of shared parking where practical; and
(f) Promote the health, safety, and public welfare by establishing minimum requirements for off-street parking and loading areas as well as provisions for access control.

1234.02 Off-Street Parking, Loading, and Stacking Standards

(a) Applicability

(1) New Uses

The requirements of this chapter shall apply to any zoning permit application involving the construction of a new structure or use in any district.

(2) Expanded Uses

A. Whenever a building or use created prior to the effective date of this code is expanded or enlarged in floor area, number of units, seating capacity, or otherwise that will create a need for an increase in the number of parking spaces, loading spaces, or vehicle stacking spaces, the additional spaces shall be provided on the basis of the new demand created by the area of the alteration, addition, or change.

B. If the proposed change, expansion or enlargement will increase the floor area, number of dwelling units, seating capacity, or other area to an extent larger than 35 percent of the building or use prior to the effective date of this code, then the entire site shall come into compliance with the requirements of this chapter and Chapter 1232: Landscaping and Buffering.

C. Any expansion, or enlargement smaller than that established in paragraph (2) above shall comply with the requirements of this chapter for any new parking, loading, or stacking space areas required for the expansion. In cases where these small expansions or enlargements occur over a period of time after the effective date of this code, the site shall come into full compliance with the requirements of this chapter and Chapter 1232: Landscaping and Buffering, once the total expansion or enlargement of the floor area, number of dwelling units, seating capacity of other area exceed 35 percent of the original size at the time this code became effective.
D. If a vehicular use area is expanded without an expansion of any buildings or structures, the expansion may be reviewed through the zoning permit process.

(3) Change of Use
No change of use shall be authorized unless the new use meets the minimum number of parking spaces required by this chapter.

(4) Existing Uses
The requirements of this chapter shall not apply to buildings and uses legally in existence on the effective date of this code unless modified in the manner stated in Sections 1234.02(a)(2) or 1234.02(a)(3) above. Furthermore, any facilities regulated by this chapter that serve such existing buildings or uses shall not be reduced below the requirements established in this chapter in the future.

(5) Planned Unit Developments
All development in a PUD shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process.

(b) General Provisions

(1) Vehicular Use Areas to be Permanent
All vehicular use areas provided as part of this chapter shall be permanently available, marked, and maintained for the applicable parking, loading, or stacking purposes for the use it is intended to serve.

(2) Parking of Commercial Vehicles on Residential Lots
A. A commercial vehicle may be parked outdoors on a residential lot, provided the commercial vehicle meets the following standards:
   i. No more than one commercial vehicle shall be parked on a residential lot.
   ii. The commercial vehicle consists of a single unit with no more than two axles.
   iii. The total exterior length does not exceed 30 feet.
   iv. The height as measured from the ground to the highest point does not exceed 10 feet.
   v. The vehicle’s parking space shall meet the surface requirements of 1234.02(b)(8). Alternative hard surface brick or interlocking paver material may be used.
   vi. No portion of the vehicle shall occupy a front yard.

B. Exceptions from the requirements of Section 1234.02(b)(2)A include:
   i. Commercial trailers, which are required to comply with Section 1234.02(b)(3).
   ii. Motorized commercial vehicles containing four or fewer tires.
   iii. Temporary parking not to exceed 48 hours for residents who rent or lease a commercial moving vehicle for the purpose of moving their personal item.
   iv. Temporary parking of vehicles providing delivery or services to residential uses, for a period not to exceed the time required for the delivery or service.

(3) Parking and Storage of Recreational Vehicles and Trailers
A. In any residential zoning district, there shall be no parking of recreational vehicles, motor homes, boats and trailers in the front yard of a dwelling, including the portion of the driveway in the front yard. Temporary parking is allowed for a period of one week for loading and unloading purposes.
B. Recreational vehicles, motor homes, boats and trailers may be parked or stored outdoors in the side or rear yard of a residential premises, provided that:
  i. All vehicles shall be parked or stored in a single location on the premises; and
  ii. All parking spaces shall meet the surface requirement as specified in Section 1234.02(b)(8). Alternative hard surface brick or interlocking paver material may be used.
C. The vehicle shall be properly licensed and registered for highway use as required by the State, and the vehicle shall be maintained in good condition so that it can be readily transported (wheels shall not be removed; tires shall not be flat; and the vehicle shall not be fixed to the ground).
D. No business shall be conducted within a recreational vehicle, motor home, boat, trailer or commercial vehicle while it is parked on residential premises.
E. No recreational vehicle, motor home, boat, trailer or commercial vehicle shall be used for dwelling purposes, except for a maximum of one week in any calendar.

(4) Storage, Repair, and Sales Prohibited
A. The outdoor storage or repair of vehicles for commercial purposes is prohibited unless the activity is an integral part of the principal use, as determined by the City Planner.
B. The sale of merchandise in a parking area shall be permitted in accordance with Section 1224.01: Accessory Uses and Structures.

(5) Striping and Identification
A. Parking spaces shall be clearly outlined with four-inch wide lines painted white on the parking surface unless otherwise required by State law (e.g., parking for the disabled).
B. The striping shall be continuously maintained in a clear and visible manner in compliance with the approved plans.
C. Where approaches contact the public right-of-way, the paint lines dividing vehicle paths and other pavement markings shall be in accordance with the Ohio Uniform Traffic Control Manual.

(6) Encroachment into Buffer Requirements
Vehicular use areas shall not encroach upon any buffer areas required in Chapter 1232: Landscaping and Buffering.

(7) Maintenance
The duty to provide and maintain all vehicular use areas shall be the responsibility of the property owner for which the vehicular areas are required.

(8) Surface and Drainage
All vehicular use areas shall be subject to the following standards with the exception of agricultural uses:
A. All grading plans relating to the vehicular use areas shall be reviewed and approved by the City Engineer as part of zoning permit review before any work can commence.
B. All vehicular use areas shall be properly graded and drained so as to dispose of all surface water accumulated within the area of the parking lot.
C. In no instance shall a storm drainage facility be designed to allow the flow of water into abutting property without an approved easement.
D. All vehicular use areas shall be surfaced with a pavement of concrete or asphaltic concrete of sufficient depth to meet the standard engineering practice for the design of pavements for the anticipated traffic load, and shall be so graded and drained to meet the requirements of this code for the disposal of all surface water accumulated within the areas, and shall be so arranged and marked as to provide for orderly and safe loading, unloading, parking and storage of motor vehicles.

E. Off-street parking spaces may be constructed of a pervious surface, as approved by the City Engineer.

F. Gravel, tar and chip, and similar type surfaces are prohibited unless allowed under Section 1234.02(b)(8)G below.

G. The following uses may be exempt from the asphaltic or concrete surface material requirements if the City Planner determines that the peculiar nature of said use and site-specific factors would justify a modification of these surface material requirements:
   i. Temporary institutional, commercial or industrial uses;
   ii. Off-street vehicular use areas in the nonresidential districts providing for the temporary storage or parking of truck trailers and other vehicles not including employee or customer vehicles; and
   iii. Recreational vehicles, boats, and trailers located in the rear yard pursuant to the requirements set forth in Section 1234.02(b)(3).

(9) Lighting
Lighting within vehicular use areas shall be regulated pursuant to Section 1226.05: Outdoor Lighting Standards, and shall only be required in vehicular use areas for nonresidential developments.

(c) Location of Vehicular Use Areas
(1) Off-street vehicular use areas shall be located on the same lot as the use they are intended to serve, except where shared, off-site, or temporary parking is authorized per this chapter. Off-street parking facilities shall be located as hereinafter specified.

(2) No vehicles shall be parked in any yard unless on a paved surface that complies with Section 1234.02(b)(8): Surface and Drainage.

(3) Residential Parking for Single-Family and Two-Family Dwellings
   A. Residential off-street parking spaces shall consist of a driveway, garage or combination thereof.
   B. Parking strips and driveways shall be permitted in the front yards for single or two-family residential dwellings, provided that the total paved area shall not have a width of more than 30 feet. A parking turnaround area or additional paved area for parking outside of the driveway area may be located in the front yard provided it is setback a minimum distance equal to the front yard setback and the maximum additional paved area does not exceed 20 feet by 24 feet.

(4) All Other Residential Parking and Parking in the O-1 District
   A. Off-street parking spaces in the O-1 District and for all residential uses except single-family and two-family dwellings shall consist of a parking lot, garage, or combination thereof.
   B. Vehicular use areas serving the above uses shall be located in the rear yard. Such parking areas shall be set back a minimum of 10 feet from any lot line.
(5) **Vehicular Use Areas for all Other Districts or Nonresidential Uses**

Vehicular use areas for districts or uses not addressed in Sections 1234.02(c)(3) or 1234.02(c)(4) above, shall not encroach into any required landscaping or buffer as established in Chapter 1232: Landscaping and Buffering, with the exception of approved driveways.

(6) **Accessory and Temporary Uses**

Accessory and temporary uses shall be exempt from off-street parking requirements unless specifically required in Chapter 1234: Parking, Access, and Mobility.

(d) **Required Number of Off-Street Parking Spaces**

(1) Applications for single-family, two-family, and multi-family dwellings shall be required to provide the number of required off-street parking spaces as established in Table 1234-1: Residential Parking Requirements. The spaces may be located within a garage, on an approved driveway, or in an approved parking lot.

<table>
<thead>
<tr>
<th>Use</th>
<th>Required Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single-Family and Two-Family Dwellings</td>
<td>2 spaces per dwelling unit</td>
</tr>
<tr>
<td>Multi-Family Dwellings – Studio or One Bedroom Units</td>
<td>1.5 spaces per dwelling unit</td>
</tr>
<tr>
<td>Multi-Family Dwellings – Two or More Bedroom Units</td>
<td>2 spaces per dwelling unit [1]</td>
</tr>
</tbody>
</table>

(2) For multi-family dwelling developments with more than 20 units, an additional parking space shall be provided for every four dwelling units to provide additional guest parking.

(3) Off-street parking as an accessory use shall not be required in the B-2 Central Business District.

(4) All other applications are required to demonstrate that the proposed number of off-street parking spaces provided is sufficient to serve the proposed use or activity.

A. As part of the parking plan, the applicant shall provide a written analysis of parking requirements based on the following information:

i. Availability of on-street parking near the use and the distances to those spaces;
ii. Building square footage for each specific use to be served by off-street parking;
iii. Hours of operation;
iv. Estimated number of patrons/customers at peak hours of operation;
v. Maximum numbers of employees present on one shift;
vi. Availability of joint parking areas;
vii. Building occupancy loads; and
viii. Any additional information as requested by the City Planner.

B. The City Planner has the authority to deny an application if he/she deems that an adequate amount of parking has not been provided. The Zoning Inspector shall provide, in writing, the reasons for the rejection. The City Planner may refer to the estimates of parking demand based on recommendations of the American Planning Association (APA), the Urban Land Institute (ULI), and/or the Institute of Traffic Engineers (ITE) in making their determination.

C. The City Planner’s decision regarding parking requirements for a specific use is appealable to the BZA as established in Section 1220.12: Appeals.
(e) **Parking Spaces for the Disabled Requirements**

Parking spaces required for the disabled shall be provided in compliance with all the applicable State and Federal requirements. Additionally, all spaces for the disabled shall be located so that:

1. The spaces provide easy access from the closest parking spaces to the major entrance of the use for which they are provided; and
2. The disabled individual is not compelled to wheel or walk behind parked cars other than his or her own.

(f) **Off-Street Parking Alternatives**

1. **Land Banked Parking**
   
   Up to 50 percent of the required parking spaces may remain landscaped and unpaved, or paved with pervious pavement, provided that the parking and unpaved areas comply with the following standards and is authorized in accordance with this section. See Figure 1234-A.

   ![Figure 1234-A: The parking lot shown on the left is a traditional parking lot with interior parking islands while the parking lot on the right illustrates where an area is unimproved but is designated for future parking spaces if the demand arises.](image)

   A. The parking plan submitted with the site plan application shall denote the location and layout of that portion of the parking area that currently is deemed not required. The plan shall indicate that the “land banked” parking spaces will be constructed according to these regulations in the event that the City Planner determines at any time that all or any portion of this parking is necessary.

   B. The applicant shall be required to design the site for full compliance with the applicable stormwater regulations, lighting regulations, and landscaping regulations even though a portion of the parking area may not be developed initially.

   C. Any conditions required by the City, and the design for the site as established above, shall be illustrated on a final site plan, approved as part of the zoning permit application and maintained as part of the City’s official records.
Chapter 1234: Parking, Access, and Mobility
Section 1234.02: Off-Street Parking, Loading, and Stacking Standards
Subsection (f): Off-Street Parking Alternatives

D. At no time shall any portion of the land banked parking area that is so designated for future construction be used for the construction of any structure or paved surface with the exception that pervious pavement may be used to provide temporary parking provided that the pavers allow for grass and other vegetation to grow through the material.

E. At no time shall any portion of the land banked parking or loading area that is so designated for future construction as provided herein be counted as open space or other non-paved areas required by other provisions of this code.

F. The owner shall initiate construction of the approved land banked parking area(s), as identified on the approved parking plan, within three months of the receipt of a certified letter or a letter through normal postal service (in the event that the certified letter is not accepted) sent to the owner of record from the City Planner, identifying that such parking is determined to be necessary. Such determination may be made:
   i. When the City Planner is reviewing an application related to a change of use or activity; or
   ii. When the City Planner, or their designee, documents that vehicles related to the use are consistently parked on the grass, landscaping area, or on the street.

G. Off-site or shared parking alternatives shall not be permitted where land bank parking is utilized.

(2) Shared Parking or Off-Site Parking

A. Up to 40 percent of a parking lot may be utilized for shared parking or up to 100 percent of a parking lot may be utilized for off-site parking provided it complies with the standards of this subsection.

B. Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities and they are located on adjacent properties.

C. The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request.

D. Shared parking may be approved if:
   i. A sufficient number of spaces is provided to meet the highest demand of the participating uses;
   ii. Evidence has been submitted by the parties operating the shared parking facility, to the satisfaction of the City Planner, documenting the nature of uses and the hours when the individual uses will operate so as to demonstrate the lack of potential conflict between them.

E. Off-site parking shall not be used to satisfy the off-street parking standards for residential uses or hospitals. Required parking spaces reserved for persons with disabilities shall not be located in an off-site parking area.

F. No off-site parking space shall be located more than 500 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This route may include crossing a right-of-way provided it uses a legal crosswalk.

G. If an off-site parking area is located in a different zoning district than the use served, the off-site parking areas shall still adhere to the vehicular use landscaping regulations of 1232.06: Landscaping Requirements for Vehicular Use Areas.

H. Parking Agreement Required

A parking agreement shall be required for shared or off-site parking arrangements.
i. The agreement shall be subject to review and approval by the City’s legal counsel and shall provide for the rights of the respective parties to use the parking areas as shared or off-site parking areas.

ii. The agreement shall include provisions and evidence of deed restrictions or other recorded covenants that ensure that the spaces will be properly maintained during the life of the development.

iii. The approved shared agreement shall be filed with the application for a zoning permit and shall be filed with the Greene County Recorder’s Office in a manner as to encumber all properties involved in the parking agreement.

iv. The applicant shall be required to provide proof that the agreement has been recorded with the Greene County Recorder’s Office prior to the issuance of a zoning permit.

(g) Off-Street Parking Design Standards

Each parking space shall meet the minimum dimensional requirements set out in Table 1234-2, and illustrated in Figure 1234-B, unless otherwise specified herein.

(1) Aisles and Stall Dimensions

Each parking space shall have direct and unrestricted access to an aisle of the minimum width set out in Table 1234-2 and illustrated in Figure 1234-B.

<table>
<thead>
<tr>
<th>Table 1234-2: Parking Stall and Aisle Dimensions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Parking Angle/Type</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>0°/Parallel</td>
</tr>
<tr>
<td>45°</td>
</tr>
<tr>
<td>60°</td>
</tr>
<tr>
<td>90°</td>
</tr>
<tr>
<td>Compact [1]</td>
</tr>
</tbody>
</table>

NOTE:

[1] Compact parking spaces shall only be permitted when a minimum of 50 parking spaces is provided. In such cases, no more than 15 percent of the parking spaces may be designed as compact spaces. Such spaces shall be marked or otherwise identified as spaces for compact vehicle parking.
Section 1234.02: Off-Street Parking, Loading, and Stacking Standards

Subsection (g): Off-Street Parking Design Standards

(2) Access and Maneuverability

In order to promote adequate access and maneuverability, the following provisions shall be followed:

A. All parking spaces shall be entered and exited along parking aisles arranged perpendicular to access drives wherever possible.

B. Access drives are traffic lanes in a vehicular use area that provide for vehicular circulation but that do not provide access to individual parking stalls. All access drives shall have a minimum width of 20 feet.

C. No parking spaces shall be located along entry drives within 30 feet of the right-of-way or easement line. The City Engineer shall have the authority to require a greater setback if the traffic generated by the use is sufficient enough to minimize access into parking spaces along the entry drive.

D. With the exception of driveways serving single-family dwellings, wherever more than five parking spaces are served by a single driveway, a turnaround area shall be provided, or other provision shall be made, to permit cars to exit the parking lot or garage without backing onto any street or sidewalk.

E. Each parking space shall be provided with a sufficient back-up area to permit egress in one maneuver, consisting of one backward and one forward movement.

F. Where parking is prohibited in the front yard, an access drive may be allowed in the front yard to provide access to the off-street parking area.

(3) Wheel Stops and Continuous Curbs

A. Wheel stops or continuous curbs shall be provided in areas adjacent to sidewalks, walkways, and landscaping areas to protect such areas from damage or encroachment of vehicles and to provide necessary traffic control in the vehicular use area.

B. Each wheel stop shall be a singular block of reinforced concrete, stone, or other durable material with dimensions capable of preventing vehicles from rolling over the wheel stop, preferably five inches in height, six inches in width and eight feet in length. Wheel stops shall be securely attached to the ground and may be used only at the end of parking stalls.

C. Continuous curbs shall be made of concrete or stone, and shall be a minimum of 6 inches in height and 6 inches in width. They shall form a non-interrupted edge around all landscaped areas adjacent to parking and turn-around areas which are not protected by wheel stops. Continuous curbs may be modified or interrupted for the purposes of accommodating stormwater runoff. See Figure 1234-C.
Chapter 1234: Parking, Access, and Mobility
Section 1234.02: Off-Street Parking, Loading, and Stacking Standards
Subsection (h): Off-Street Loading Spaces

D. The wheel stop or continuous curb shall be located a minimum of four feet from any structures, buildings, walls, or the trunk of a tree to prevent a vehicle from driving onto the landscape area or hitting any structure or plant material at the edge of the vehicular use area. The separation may be reduced to two feet from the edge of any shrub. The mature size of the plant material shall be specified to determine if the landscaping meets the setback requirements.

E. Where continuous curbs are used, the paved area of the parking stall length (Dimension C) required in Table 1234-2 may be reduced by two feet as shown in Figure 1234-D provided that the vehicle overhang will not encroach on pedestrian circulation or the required setback for desirable plant growth. Where wheel stops are used, the paved area of the parking stall length (Dimension C) required in Table 1234-2, shall not be reduced.

(h) Off-Street Loading Spaces

(1) Applicability
This code does not require a specific number of off-street loading spaces for uses but the standards of this subsection shall apply in any instance where an applicant proposes to provide off-street loading spaces or docks.

(2) Design Standards
A. Off-street loading spaces shall not overlap with any areas used for parking or vehicle stacking.

B. Loading spaces shall be no less than 12 feet in width and no less than 45 feet in length and shall have a vertical clearance of no less than 14 feet. See Figure 1234-E.
Chapter 1234: Parking, Access, and Mobility
Section 1234.02: Off-Street Parking, Loading, and Stacking Standards
Subsection (i): Off-Street Vehicle Stacking Spaces

C. Loading spaces shall be located as near as possible to the main structure and shall only be permitted in side and rear yards, except in the industrial zoning districts where loading spaces may be located adjacent to the front facade. The spaces shall be subject to the minimum setbacks established for the applicable zoning district.

D. All loading and unloading activities, including truck maneuverability, shall take place on-site. In no case shall a loading space or maneuverability area encroach on a public right-of-way or on other required vehicular use areas.

E. Loading spaces shall be designed and arranged to provide access to a street or alley in a manner that will create the least possible interference with traffic movement and parking lot circulation.

F. All operations, materials, and vehicles within any loading space that are visible from a public street or from any residential use shall be screened in accordance with Section 1232.07: Screening Requirements.

(i) Off-Street Vehicle Stacking Spaces

(1) The number of required stacking spaces shall be as provided for in Table 1234-3: Stacking Space Requirements. See Figure 1234-F, for an illustration of stacking spaces:
Chapter 1234: Parking, Access, and Mobility  
Section 1234.02: Off-Street Parking, Loading, and Stacking Standards  
Subsection (i): Off-Street Vehicle Stacking Spaces

### TABLE 1234-3: STACKING SPACE REQUIREMENTS

<table>
<thead>
<tr>
<th>Activity</th>
<th>Minimum Stacking Spaces (per lane)</th>
<th>Measured From:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Institution or Automated Teller Machine (ATM)</td>
<td>3</td>
<td>Teller or Window</td>
</tr>
<tr>
<td>Eating or Drinking Establishment with a Drive-Through Facility</td>
<td>8</td>
<td>Pick-Up Window</td>
</tr>
<tr>
<td>Full Service Vehicle Washing Establishment</td>
<td>8</td>
<td>Outside of Washing Bay</td>
</tr>
<tr>
<td>Self-Service Vehicle Washing Establishment</td>
<td>2</td>
<td>Outside of Washing Bay</td>
</tr>
<tr>
<td>Fuel or Gasoline Pump Island</td>
<td>2</td>
<td>Pump Island</td>
</tr>
<tr>
<td>Other</td>
<td>As determined by the City Planner based on the principal use activity and proposed traffic levels</td>
<td></td>
</tr>
</tbody>
</table>

Figure 1234-F: Examples of the location of stacking spaces and lanes for restaurants (left) and financial institutions (right).

(2) Stacking lanes shall be provided for any use having a drive-through establishment and shall comply with the following standards:

A. Drive-through stacking lanes shall have a minimum width of nine feet unless separated from other vehicle traffic by a curb or other physical barrier, in which case the minimum width shall be 10 feet. There shall be a minimum of 18 feet of length of stacking lane for each stacking space required.

B. Vehicle stacking lanes shall be located on the side and rear of the building in the B-2 District.

C. Stacking lanes shall be set back 25 feet from rights-of-way.
D. Vehicle stacking shall not interfere with access to the site and shall not impede traffic on the adjacent street.

### 1234.03 Alignment and Separation of Driveways

- **(a)** Driveways shall either be directly opposite other driveways or street intersections or shall be offset by the minimum driveway spacing distances shown in Table 1234-4 except in locations where there is a raised median in the street.

- **(b)** A driveway shall intersect a cross-street at, or nearly at, a right, 90 degree angle. In no case shall any intersection have an angle less than 80 degrees or more than 100 degrees.

- **(c)** The spaces established in Table 1234-4 shall be measured from edge of pavement to edge of pavement between the two closest edges of the driveways. See Figure 1234-G.

- **(d)** Single-family and two-family residential uses shall be exempt from this provision.

#### Table 1234-4: Minimum Driveway Spacing

<table>
<thead>
<tr>
<th>Posted Speed Limit (Miles Per Hour)</th>
<th>Minimum Driveway Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>105</td>
</tr>
<tr>
<td>30</td>
<td>125</td>
</tr>
<tr>
<td>35</td>
<td>150</td>
</tr>
<tr>
<td>40</td>
<td>185</td>
</tr>
<tr>
<td>45</td>
<td>230</td>
</tr>
<tr>
<td>50</td>
<td>275</td>
</tr>
</tbody>
</table>

*Figure 1234-G: Illustration of minimum driveway spacing requirements.*

### 1234.04 Bicycle Parking Requirements Revised

- **(a)** Purpose
  
The requirements for bicycle parking are established for the purpose of ensuring adequate and safe facilities to accommodate bicycle parking and to encourage use of bicycles for travel as an alternative to use of motorized vehicles.
(b) **Applicability**

(1) Any new construction in the O-1, B-1, B-3, and P-1 Districts after the effective date of this code is required to provide bicycle spaces or other bicycle parking (and locking) accommodations for all development, in accordance with this subsection.

(2) All public or institutional uses, in any other district, are also required to provide similar facilities in accordance with this subsection.

(c) **Standards**

(1) The use of bicycle racks to comply with the bicycle space requirement shall be free of charge to any bicyclist. Fees may be charged for the use of bike lockers or other more permanent bicycle parking or storage facilities.

(2) Any bicycle space shall be located in an area adjacent to the building and separate from vehicular traffic circulation so as to prevent traffic conflicts and safety hazards between vehicles and bicyclists. Such separation shall be created through the use of physical barriers such as curbs, wheel stops, bollards, or other similar features.

(3) The applicant may provide a single bicycle rack or multiple bicycle racks to accommodate the required number of spaces.

(4) A minimum of one bicycle parking space shall be provided for each 20 off-street parking spaces approved as part of the zoning permit.

(5) Each bicycle parking space shall have a minimum space of two feet wide by six feet long.

(6) Each bicycle rack shall be designed to accommodate at least two bicycles.

(7) All bicycle racks should be powder coated or constructed of materials that resist corrosion without requiring paint.

(8) Bicycle racks shall be maintained in good condition without significant rust or damage. Failure to maintain or replace deteriorated bicycle racks shall be a violation of this code.

(9) If an applicant demonstrates to the City Planner that the proposed use is unlikely to provide goods or services to the bicycling community (e.g., motor vehicle sale or leasing), the applicant may donate the required bicycle racks to the City who may install them at locations where they may serve the general public.

1234.05 **Sidewalks and Internal Pedestrian Access**

(a) **Public Sidewalks**

(1) Concrete sidewalks shall be required on both sides of all streets, in all major subdivisions and shall be installed as part of the public improvement requirements identified in Chapter 1238: Subdivision Design.

(2) New public sidewalks, constructed to meet City of Xenia standards identified in Section 1238.02(b): Construction Procedures and Materials, shall be required along the street frontage of any lot being developed when the following conditions exist:

A. The development includes new construction on a vacant lot or complete redevelopment of an existing principal building (e.g., the principal building is torn down and replaced);

B. There is no public sidewalk along one or more of the public street rights-of-way adjacent to the lot;

C. A public sidewalk exists in the public right-of-way on the lot adjacent to lot being developed; and
D. There is adequate existing right-of-way for the public sidewalk.

(3) All sidewalks shall be constructed with a minimum width of four feet except on arterial streets where sidewalks shall have a minimum width of five feet. Wider sidewalks may be required by the City Planner, PZC and City Council, depending on the applicable review process, where:
   A. Significant pedestrian traffic is expected; or
   B. Wider sidewalks are present on the adjacent lots.

(4) All sidewalks at intersections will include ramps that are compliant with the American Disabilities Act.

(b) **Internal Pedestrian Access**

(1) Where a sidewalk exists in a public right-of-way adjacent to the site, or is required to be constructed as part of the development approval, a paved pedestrian connection shall be constructed from the sidewalk to the entrance of the building.

(2) The pedestrian connection shall have a minimum width of five feet.

(3) All pedestrian walkways located within a site (internal pedestrian circulation) shall be physically separated from the drive lanes and driveways. Additionally all sidewalks and crosswalks shall be constructed of an impervious surface and shall be visually distinct from the driving surface by use of pavers, color, bricks, scored concrete, or other material approved by the City Planner. See Figure 1234-H.

(4) Sidewalks of at least eight feet in width, shall be provided along any facade featuring a customer entrance, for buildings in the B-3 District. Such sidewalks shall connect all customer entrances and to other internal sidewalks.

### 1234.06 Traffic Impact Study

(a) **Purpose**

The purpose of a Traffic Impact Study (TIS) is to provide information to the City to allow for an assessment of the impact major development projects will have on the City’s transportation network. The study provides guidance for site access, on-site circulation, parking, and off-site improvements necessary to permit the street system to operate at a satisfactory level of service.
(b) **Applicability**

(1) To promote efficient access management, a TIS for a proposed development shall be submitted with the zoning permit, preliminary plat, or PUD concept plan, whichever is applicable, when the development meets any of the following criteria:

(2) A TIS shall be required in the following cases:

   A. Any use that will generate in excess of 250 trips per acre per day based upon an estimate by the Highway Capacity Manual;

   B. The development is on a roadway or adjacent to an intersection that is currently at a Level of Service (LOS) D or below, as noted or defined in the Highway Capacity Manual;

   C. The City Engineer determines that the proposed development has the potential to reduce the LOS to below a level C, as noted or defined in the Highway Capacity Manual;

   D. Any use that due to its size, density, traffic generation rates, or location can reasonably be expected to create traffic issues, as determined by the City Engineer, shall be required to submit a TIS.

(3) The City Engineer shall have the authority to waive the requirement for a TIS if the applicant can demonstrate that the above thresholds are not applicable due to the unique circumstances of the location (e.g., multiple access points for distribution of traffic, unique issues with traffic control, future improvements that will enhance LOS, etc.).

(c) **Contents of a TIS**

The TIS shall be prepared and certified by a professional traffic engineer and shall include, at a minimum, the information established as part of the submittal requirements for the applicable review procedure (See Section 1220.02: Common Review Requirements.).

(d) **Study Area**

The following shall be the determining factor in the development of a TIS study area:

(1) Developments wishing to take access from an arterial street shall provide an analysis of the traffic impact from the proposed point of access to the nearest signalized intersections in all directions, or up to a 0.5 mile radius, whichever is less.

(2) Developments wishing to take access from a collector street shall provide an analysis of the traffic impact from the proposed point of access to the nearest intersections of the collector with an arterial in all directions, or up to a 0.5 mile radius, whichever is less.

(3) Developments wishing to take access from a local street shall provide an analysis of the traffic impact from the proposed point of access to the nearest arterial streets in all directions, or up to a 0.25 mile radius, whichever is less.

(4) For large developments which generate between 250 and 1,000 vehicle trips per hour, between 3 p.m. and 6 p.m., the City Engineer may require the TIS to include an analysis of all arterial and collector streets within one mile of the proposed site.

(5) For developments which will generate over 1,000 trips per hour, between 3 p.m. and 6 p.m., the analysis may be required for a radius of up to three miles of the proposed site.
(e) **Mitigating Traffic Impacts**

If the TIS results in the conclusion that the level of service of adjacent streets and/or intersections is or will become deficient prior to the proposed development and will not be able to accommodate the increased traffic load generated by the proposed development, any or all of the following mitigating steps may be required, at the applicant's expense, by the City Planner upon recommendation by the City Engineer. The City Planner shall make their determination prior to approval of a zoning permit or decision on a PUD.

1. Limitation of the number and/or location of access points;
2. Design of access points to prevent certain turn movements;
3. Dedication of and/or improvement to the right-of-way abutting the development or improvements in the immediate vicinity of the development to add turn lanes, through traffic lanes or allow redesign of intersections or access points to accommodate additional traffic or turning movements;
4. Installation of traffic signals or other traffic control devices as may be warranted by the Uniform Traffic Control Manual; and/or
5. Development of the site at a lower intensity than originally proposed.

(f) **Responsibility for Thoroughfare Improvements**

In cases in which a proposed street or right-of-way, as shown in the comprehensive plan, or other applicable street plans, abuts or crosses the proposed development, the subdivider shall be responsible for all required public improvements, including the construction of the right-of-way as delineated on the applicable plan. Certain public improvements may be waived on review and approval by the PZC; however, right-of-way dedication shall be required in all cases. See also Chapter 1238: Subdivision Design.
Chapter 1236: Signage

1236.01 Purpose
Regulating the location, size, placement, and physical characteristics of signs is necessary to enable the public to locate goods, services, and facilities and to receive a wide variety of other messages, commercial and noncommercial, without difficulty and confusion, to encourage the general attractiveness of the community, to enhance public safety, and to protect property values. Accordingly, this section establishes regulations governing the display of signs that will:

(a) Allow businesses, institutions, and individuals to exercise their right to free speech by displaying an image on a sign, and to allow audiences to receive such information;

(b) Provide for reasonable and appropriate communication and identification of businesses and nonresidential activities in order to foster successful businesses;

(c) Encourage the use of creative and visually attractive signs.

(d) Ensure that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment;

(e) Protect property values;

(f) Promote the public health, safety and welfare by avoiding conflicts between signs and traffic control devices, avoiding traffic hazards, and reducing visual distractions and obstructions; and

(g) Protect and preserve the aesthetic quality and physical appearance of the City.

1236.02 Scope of Chapter

(a) This chapter shall regulate the height, area, location, graphics, color, materials, and other structural aspects of signs and sign structures. It does not regulate noncommercial holiday signs and decorations, government signs, traffic devices, or signs required by law.

(b) Unless specifically stated, all signs allowed in this chapter shall require the issuance of a zoning permit and, in some cases, may require a building permit issued by the Greene County Building Department.

(c) Planned Unit Developments
All development in a PUD shall be subject to the standards of this chapter unless otherwise modified through the PUD review and approval process.

1236.03 Computations
The following standards shall control the computation of sign area and sign height:

(a) The surface of a sign to be included when computing the maximum allowable square footage of a sign shall be calculated as follows:

(1) For sign copy mounted or painted on a background panel, cabinet, or surface distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that encompasses the extreme limits of the background panel, cabinet, or surface. See Figure 1236-A.
Chapter 1236: Signage
Section 1236.03: Computations
Subsection (c): Planned Unit Developments

(2) For sign copy where individual letters or elements are mounted or painted on a building façade where there is no background panel, cabinet, or surface distinctively painted, textured, lighted, or constructed to serve as the background for the sign copy, the sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that encloses all the letters or elements associated with the sign. See Figure 1236-C and Figure 1236-D.

(3) For a sign which is composed of separate structural elements (e.g., sign cabinets, channel lettering, etc.) to form a single sign, where the elements are separated by more than six inches of open space, the sign area of each individual sign structure shall be calculated separately. If the elements are six inches or closer, the sign area shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that shall encompass the extreme limits of all structures. See Figure 1236-C and Figure 1236-D.
Chapter 1236: Signage
Section 1236.03: Computations
Subsection (c): Planned Unit Developments

Figure 1236-C: Illustration of a sign area calculation for a wall sign with individual layers within six inches of one another.

Figure 1236-D: Illustration of a sign area calculation for a wall sign with two separate components that are not within six inches of one another.

(4) In the case of a three-dimensional sign where the sign faces are not mounted back-to-back, the sign area shall be calculated by adding together the vertical sign faces of all four faces of the smallest cube encompassing the sign and dividing that area by one-half. See Figure 1236-E.
Figure 1236-E: The sign area of a three-dimensional sign is measured by totaling the sum of all four faces of the smallest cube encompassing the sign and dividing by one-half.

(b) When two identical sign faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure, the sign area shall be computed by the measurement of one of the faces. If the two faces are unequal, the sign area shall be calculated based on the larger of the two faces.

(c) The calculation of sign area shall not include any supporting framework, bracing, or decorative fence or wall unless such structural support is determined to constitute an integral part of the sign design by means of text or other commercial message, as determined by the City Planner.

(d) The height of a sign shall be determined by measuring the vertical distance between the top part of the sign to the elevation of the ground beneath the sign, excluding additional elevation added by the creation of berming or mounding.

(e) Where the maximum sign area is based on street frontage, the street frontage shall be based on street frontage where the sign is to be located.

(f) The calculation of the width or lineal measurement of the façade shall be the measurement of the façade between two side facades. The calculation shall be based on viewing the façade that is visible from a 90 degree angle (i.e., straight on), regardless of façade insets, offsets, or angles. See Figure 1236-F.

Figure 1236-F: Illustration of façade width measurement on varied façade shapes.

(g) The dimension of the front lot line that abuts a public street shall be used to calculate the sign area for freestanding signs. In determining the permitted sign area for a freestanding sign on a corner lot, the average of the two lot frontages shall determine the size of the sign.
1236.04 Signs Prohibited in the Public Right-Of-Way

(a) Signs shall be prohibited in the right-of-way with the exception of:
   (1) Signs installed by the City, Greene County, or State of Ohio that are allowed pursuant to the latest version of the Manual on Uniform Traffic Control Devices (MUTCD);
   (2) Any warning signs or traffic safety signs required by public utility providers; or
   (3) Sidewalk signs as allowed in Section 1236.10: Temporary Signs.

(b) Any sign to be installed in the right-of-way by an agency other than the City shall require prior approval of the City Engineer.

1236.05 Signs Not Requiring a Permit

(a) The following signs do not require a zoning permit. Each sign exempt from the permit process shall still comply with any applicable safety, height, area, and locational standards established in this chapter.
   (1) Signs installed by the City, Greene County, or the State of Ohio, for the purposes of safety or the general public welfare provided that any agency outside of the City of Xenia shall notify the City Engineer of their intent to post the sign;
   (2) Noncommercial message flags;
   (3) Signs and/or notices issued by any court, officer, or other person in performance of a public duty.
   (4) Interior signs within a stadium, open-air theater, shopping center, arena or other use, which signs can be viewed only by persons within such stadium, open-air theater, shopping center, parks, arena, or other use;
   (5) Sign face changes where there is no change to the structure including change in sign face area, height, or alteration of the sign cabinet, if applicable (e.g., replacement of a sign face, repainting of a sign face, etc.);
   (6) Certain temporary, commercial speech signs as established in Section 1236.10: Temporary Signs;
   (7) Window Signs
      A. Such sign shall not occupy more than 50 percent of the window area in all nonresidential districts except the B-2 District where the maximum coverage shall be 25 percent of the window area. See Figure 1236-G for locations used in the calculation of sign area. The sign area is based on the window area, regardless of the presence of an awning.
Chapter 1236: Signage
Section 1236.06: General Regulations
Subsection (c): Planned Unit Developments

Figure 1236-G: The window area is illustrated within the dashed line area for the two storefronts in the above image.

B. Window signs are not permitted in any window of a space used for residential uses or purposes.

(8) Temporary Signs without a Commercial Message
A. Temporary signs that do not contain a commercial message shall not be posted in any place or in any manner that is destructive to public property including, but not limited to, rights-of-way, utility poles, public trees, etc.
B. Temporary signs that do not contain a commercial message shall not be located in any vision clearance triangles as specified in Section 1226.02: Vision Clearance and are prohibited in the right-of-way.
C. The maximum height of temporary signs without commercial speech shall be six feet.

1236.06 General Regulations

The following regulations shall apply to all signs within the City:

(a) Except as otherwise stated in this chapter, no person shall place, erect, paint, illuminate or alter any sign in the City without first obtaining a zoning permit, as established in Section 1220.11: Zoning Permit.

(b) Permanent signs shall be constructed in compliance with all applicable regulations of the City or State’s applicable building, fire, or electrical codes.

(c) No sign shall obstruct or interfere with fire ingress or egress from any door, window, or fire escape, nor shall it obstruct or interfere with traffic or traffic visibility, or resemble or imitate signs or signals erected by the City or other governmental agency for the regulation of traffic or parking.

(d) No part of a sign shall have animation, moving parts, flashing lights or changing colors unless specifically permitted in Section 1236.06(k): Changeable Copy Signs.

(e) All signs shall be secured in such a manner as to prevent swinging or other significant noticeable movement, not including movement related to electronic message centers.

(f) All sign supports shall be an integral part of the sign and no temporary sign shall be attached to a freestanding sign for more than 45 calendar days.

(g) No signs shall be located nearer than eight feet vertically or four feet horizontally from any overhead electric wires or conductors or public utility guy wires.
(h) Unless otherwise specifically stated, all permanent signs hereafter erected, constructed or modified shall be set back at least five feet from the right-of-way and in all cases shall comply with Section 1226.02: Vision Clearance.

(i) **Landscaping Permanent Freestanding Signs**

(1) All permanent freestanding signs shall be located in a landscaped area equal to or larger than the total sign area of the applicable sign. Such landscaped area may be an area that fulfills any landscaping requirements of this code.

(2) The landscaped area shall include all points where sign structural supports attach to the ground.

(3) Exposed sign foundations shall be constructed with a finished material such as brick, stone, or wood, or be screened with evergreens to the top of the anchor bolts.

(j) **Substitution with Noncommercial Speech**

The commercial message sign area allowed for any permanent sign allowed in this chapter may be substituted with a noncommercial message. A zoning permit shall not be required for this substitution if there is no structural change to the sign.

(k) **Changeable Copy Signs**

(1) For any sign that has a sign area of 50 square feet or less of sign area, up to two-thirds of a permitted freestanding sign may incorporate a changeable copy sign.

(2) For any sign that exceeds 50 square feet in area, up to 40 percent of the sign may incorporate a changeable copy sign.

(3) The following standards shall apply to all electronic message centers allowed in this chapter:

   A. Any message change shall be a static, instant message change;

   B. Messages can only change once every 4 seconds or more;

   C. The transition time between messages shall be less than one second;

   D. All electronic signs shall contain a default mechanism that will cause the sign to revert immediately to a black screen if the sign malfunctions;

   E. Only Light Emitting Diodes (LED) technology or similar quality signs shall be permitted for electronic message centers; and

   F. **Brightness Controls**

      i. The electronic message center shall come equipped with an automatic dimming photocell, which automatically adjusts the display’s brightness based on ambient light conditions.

      ii. The brightness level shall not increase by more than 0.3 foot candles (or 3.23 lumens per square meter or lux) (over ambient levels) as measured using a foot candle meter at a pre-set distance.

      iii. The procedure and distances for measurement of brightness shall be as established by the International Sign Association’s *Recommend Night-time Brightness Levels for On-Premise Electronic Message Centers*.

      iv. The owners of such signs shall include specifications accompanying their zoning permit application, demonstrating that they will comply with the prescribed brightness limitations set by this code.
(l) **Illumination**

(1) All signs, except as specifically stated in this chapter, may be illuminated by internal or reflected light, provided that such illumination shall:

   A. Be shielded from all adjacent residential buildings and all streets;

   B. Not have an intensity to cause glare visible to pedestrians or vehicle drivers, nor shall the illumination be of such brightness as to cause reasonable objection from adjacent residential districts; and

   C. No illuminated sign shall be permitted if any part of the sign flashes on or off, has lighting that moves or illustrates movement, or displays changing degrees of intensity in illumination. This regulation applies to signs located outside of buildings and to window signs inside buildings that can be seen from the outside. This prohibition on flashing, moving, or intermittent lighting shall not apply to permitted electronic message centers in Section 1236.06(k): Changeable Copy Signs.

(2) Signs shall not be lighted so as to obstruct traffic control or other public information signs.

(3) Where a business is adjacent to a residential area, and the business is generally closed between 11:00 p.m. and sunrise of the following day, the sign lighting or illumination for that business must be dimmed to one foot-candle or less, measured at the lot line.

(m) **Abandoned Signs**

(1) Abandoning a sign shall terminate the right to maintain the sign, and the sign owner shall be required to remove the sign. A sign shall be considered to be abandoned in the following situations, regardless of reservation of an intent not to abandon, or of an intent to reserve the right to use the sign:

   A. A sign displaying no message for a period of 180 days;

   B. Signs on a property that is vacant or where an activity, business product, or service which has not been produced, conducted, sold, or performed for a period of 180 days on the premises where the sign is located; or

   C. A sign in a state of continued structural, mechanical or cosmetic disrepair for at least 30 consecutive calendar days after the City Planner or his or her designee gives written notice that it constitutes a safety hazard clearly visible from any public right-of-way. The property owner should therefore make improvement and upgrade to the sign to remove conditions that qualify it as “abandoned.”

(2) Failure to address conditions of abandonment will cause the City Planner to require its removal. The owner of the property shall be responsible for removing the abandoned sign. Failure to remove the sign shall cause the City to have the sign removed and the cost of removal shall be charged to the owner.

(3) Within 90 days after a use or establishment becomes vacant and unoccupied, the face of the sign which is accessory to such use or establishment shall be replaced with a blank face.

(4) Whenever an abandoned sign is ordered to be removed pursuant to the requirements of this section, all parts of the sign and supporting structure (e.g., pole, monument, cabinet structure, etc.), excluding buildings for wall, projecting, or similar signage, shall be removed in its entirety. This section shall not require the removal of a raceway if mounted to such structure on a building.

(n) **Prohibited Signs**

The following types of signs are specifically prohibited within the City:
Section 1236.07: Permanent Signs Permitted in PUD Districts

Subsection (a): Wall Signs on Dwellings

(1) Vehicle signs that are not utilized as an integral part of a business located on the subject site and which are parked, stored, or otherwise situated to provide additional signage for the activity, use, or site. Such prohibition shall not apply to:

A. Legally approved food trucks not associated with a use that is located in a building within the City;
B. Delivery vehicles that are regularly used for the business or use;
C. Signage required by State or Federal law; or
D. Signage on fleet vehicles.

(2) Signs that are applied to trees, bus shelters, utility poles, benches, trash receptacles, newspaper vending machines or boxes, or any other unapproved supporting structure, or otherwise placed in the public right-of-way;

(3) Signs which are not securely affixed to the ground or otherwise affixed in a permanent manner to an approved supporting structure unless specifically permitted as a temporary sign. This shall include a prohibition against covering a permanent sign with a temporary banner or other temporary material for more than 45 calendar days;

(4) Signs that employ any parts or elements which revolve, rotate, whirl, spin or otherwise make use of motion to attract attention;

(5) Beacons and searchlights, except for emergency purposes;

(6) Roof signs; and

(7) Any other sign not specifically authorized by this code.

1236.07 Permanent Signs Permitted in PUD Districts

Signs within a PUD may be approved as part of the overall PUD plans and shall generally follow the provisions of Section 1236.08: Permanent Signs Permitted in Agricultural and Residential Zoning Districts, for signage in residential areas and Section 1236.09: Permanent Signs Permitted in Nonresidential Zoning Districts, for signage in business areas.

1236.08 Permanent Signs Permitted in Agricultural and Residential Zoning Districts

The following are the permanent signs permitted in agricultural and residential zoning districts along with all applicable standards:

(a) Wall Signs on Dwellings

One wall sign is permitted on each individual lot used for residential purposes provided the sign is mounted flush to the façade of the principal dwelling and does not exceed one square foot. Such sign shall not be directly illuminated. A zoning permit shall not be required for this type of sign.

(b) Entrance Signs

Two wall signs or one permanent monument sign may be permitted for any subdivision or multi-family dwelling development provided that the sign meets the following requirements:

(1) General Standards

A. Each sign may have a maximum sign area of 32 square feet.
B. No such sign or any portion of the structure shall exceed six feet in height.
C. The sign may only be illuminated through an external light source.
Chapter 1236: Signage
Section 1236.09: Permanent Signs Permitted in Nonresidential Zoning Districts

Subsection (c): Signs for Agricultural or Nonresidential Uses

(2) **Monument Sign**
   A. A maximum of one permanent monument sign may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the City Planner.
   B. The sign shall be setback five feet from the public right-of-way and 20 feet from any adjacent lot lines.
   C. If an applicant proposes to use a monument sign, no wall signs, as allowed in Subsection 1236.08(b)(3) below shall be permitted.

(3) **Wall Signs on Entry Fences or Walls**
   A. A maximum of two wall signs may be permitted for each entrance to the subdivision or development on a collector or arterial street, as determined by the City Planner.
   B. The signs shall be mounted to a decorative wall or fence that generally runs parallel with the street.
   C. The sign shall be setback five feet from the public right-of-way with no minimum setback from adjacent lot lines.
   D. If an applicant proposes to use wall signs, no monument sign, as allowed in Subsection 1236.08(b)(2) above shall be permitted.

(c) **Signs for Agricultural or Nonresidential Uses**
   (1) One permanent monument sign may be permitted on a lot containing a nonresidential use in an agricultural or residential zoning district provided the sign meets the following requirements:
      A. The sign shall be set back five feet from the public right-of-way and 10 feet from any adjacent property lines. The sign shall also be set back 25 feet from any adjacent residential uses.
      B. The maximum sign area shall be 32 square feet.
      C. No such sign or any portion of the structure shall exceed six feet in height.
      D. The sign may only be illuminated through an external light source.
   (2) One permanent monument sign shall be permitted on any lot that is used primarily for an agricultural use provide the lot has a minimum area of five acres and the sign meets the same standards as established in Section 1236.08(b)(2) above.
   (3) Wall signs shall be permitted for all nonresidential uses in the agricultural or residential districts in the same manner as permitted for nonresidential uses in the B-1 District. This shall not apply to home occupations where signage is controlled by Section 1236.08(a): Wall Signs on Dwellings.

1236.09 **Permanent Signs Permitted in Nonresidential Zoning Districts**

All sign structures in the nonresidential districts shall be accessory to the principal use.

(a) **Wall Signs**
   Wall signs are permitted on all principal structures in accordance with the following:
   (1) Wall signs shall be mounted on or flush with a wall and shall not protrude more than 18 inches from the wall or face of the building to which it is attached, unless the allowance is used on a projecting sign, in which case the sign shall also comply with Section 1236.09(a)(9): Projecting Signs.
A wall sign may be painted directly on a building wall, mounted on the façade wall, or mounted on a raceway.

(3) A wall sign may be attached to a building wall or architecturally-integrated extension which faces a street, parking lot or service drive, or may be attached to a canopy or awning which projects beyond the building or is a separate structure (i.e., canopies over fuel dispensers).

(4) Wall signs shall not extend above the roofline of the building to which it is attached.

(5) Wall signs may not be attached to a penthouse or roof structure including but not limited to mechanical equipment or roof screening.

(6) Internal illumination of wall signs in the B-2 District shall be limited to individual letters and elements and shall not include internal illumination of the entire background panel or cabinet.

(7) **Size**
A. This subsection establishes the maximum sign area permitted for wall signs based on the development type.
B. There is no maximum number of wall signs but the total square footage of wall signs located on a single façade shall comply with the requirements of this section.
C. Where there are multiple facades that face a public street (e.g., corner lots or double frontage lots), the maximum wall sign area shall apply to the individual façade. An applicant shall not combine the total amount of wall sign area permitted on all facades and apply it to a single façade.
D. Buildings with Multiple Tenant Spaces. The maximum wall sign area permitted, per tenant space, shall be equal to one and one-half (1.5) square feet for every lineal foot of building façade width assigned to the individual tenant space.
E. Buildings with Single Tenant Occupancy. The maximum wall sign area permitted on each façade shall be equal to one and one-half (1.5) square feet for every lineal foot of building facade width.
F. Single-Tenancy, Large-Scale Commercial and Industrial Buildings (Over 150,000 square feet of floor area). The following shall apply to wall signs on nonresidential buildings that have 150,000 square feet or more of floor area:
   i. The maximum wall sign area permitted on any single façade, regardless of the number of signs, shall not exceed five percent of the total façade area.
   ii. No wall sign shall exceed 35 percent of the height of the façade to which it is attached, as measured from the bottom of the letters or message to the top most point of the letters or message.

(8) **Canopy or Awning Signs**
Any wall signage allowance that will be placed on a canopy or awning shall comply with the following:
A. Signage shall not cover more than 50 percent of any awning or canopy.
B. All components of the awning or canopy shall have a minimum clearance of eight feet from the sidewalk, driveway or vehicular use area. See Figure 1236-H.
C. An awning or canopy sign shall in no case project any closer than two feet from a curb.
Section 1236.09: Permanent Signs Permitted in Nonresidential Zoning Districts

Subsection (a): Wall Signs

(9) Projecting Signs

A. A projecting sign shall be perpendicular to the wall of the building to which it is attached. A projecting sign may also be attached to the ceiling of an outdoor arcade if it complies with the sign area, height, and clearance standards of this section.

B. A projecting sign shall be considered a wall sign for purposes of determining the total area of wall signs allowed (i.e., the total combined sign area of wall signs and project signs shall not exceed the maximum sign area permitted for all wall signs).

C. A projecting sign shall not be subject to the restrictions on a wall sign regarding the distance between the sign and the wall.

D. A projecting sign shall be perpendicular to the wall to which it is affixed and may project up to three feet from the front of the building.

E. The maximum sign area for any single projecting sign shall be 15 square feet.

F. A projecting sign shall in no case project any closer than two feet from a curb.

G. All components of the projecting sign shall have a minimum clearance of eight feet from the sidewalk and 15 feet above any driveway or vehicular use area.

H. Projecting signs shall not project above the roofline of the building.

I. Projecting signs shall be separated from other projecting signs by a minimum of five feet unless the applicant can demonstrate with the zoning permit applications that based on the size and/or height of the sign, the proposed sign will not block visibility of projecting signs that already exist.
(b) Freestanding Signs

(1) Freestanding signs shall either be a pole sign or monument sign. A sign that is placed on two posts, which are no more than two feet in height to the base of the sign cabinet or sign face, shall be considered a monument sign for the purposes of this chapter.

(2) Number of Signs
   A. One monument sign shall be permitted for each lot in the O-1, B-1, and B-2 Districts.
   B. One monument sign or one pole sign shall be permitted for each lot in the B-3, I-1, I-2, and P-1 Districts.
   C. Lots that have more than one frontage may have a second freestanding sign, either a monument or pole sign. Where two freestanding signs are allowed, a maximum of one sign shall be allowed on each frontage.

(3) Permitted Sign Areas and Height
   Table 1236-1 establishes the maximum sign area and sign height allowed for freestanding signs in nonresidential zoning districts.

<table>
<thead>
<tr>
<th>Zoning District</th>
<th>Ratio for Maximum Sign Area</th>
<th>Not to Exceed Sign Area (square feet)</th>
<th>Maximum Sign Height (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>O-1 and B-1</td>
<td>One square foot per linear foot of lot frontage</td>
<td>50</td>
<td>6 feet</td>
</tr>
<tr>
<td>B-2</td>
<td>One-half square foot per linear foot of lot frontage</td>
<td>75</td>
<td>6 feet [1]</td>
</tr>
<tr>
<td>B-3 or P-1</td>
<td>One square foot per linear foot of lot frontage</td>
<td>100 [2]</td>
<td>8 feet [3]</td>
</tr>
<tr>
<td>I-1 or I-2</td>
<td>One square foot per linear foot of lot frontage</td>
<td>100</td>
<td>15</td>
</tr>
</tbody>
</table>

NOTE:
[1] For signs that exceed 50 square feet in sign area, the maximum height of the sign is 12 feet.
[2] Where the principal building has more than 100,000 square feet of gross floor area, the maximum sign area is 150 square feet.
[3] For signs that have a sign area of 50 to 100 square feet, the maximum height is 15 feet. If the sign area allowed exceeds 100 square feet per note [2] above, the maximum height is 20 feet.
(c) **Driveway Signs**

Permanent signs shall be permitted near driveway entrances to a street and at intersections of internal drives under the following provisions:

1. The signs shall be set back at least five feet from all lot lines but in no case shall the sign be set back more than 25 feet from the driveway entrance or intersection of internal drives;
2. One sign may be permitted per individual driveway or internal intersection;
3. The sign may not exceed four square feet in area and 30 inches in height.
4. In cases where a single development has 150,000 square feet or more of gross floor area, the maximum sign area shall be 16 square feet with a maximum height of six feet.

(d) **Entrance Signs**

For commercial or industrial subdivisions that contain five or more nonresidential businesses on individual lots, such subdivision or park may incorporate an entrance sign in accordance with the following:

1. The entrance sign shall be subject to the same standards as Section 1236.08(b): Entrance Signs, with the following exceptions:
   - A. The maximum sign area shall be 24 square feet for each 50,000 square feet of gross floor area of all principal buildings in the subdivision or park in a B-3 District and a maximum sign area of 50 square feet in the L-1 or L-2 District.
   - B. The maximum height of a monument sign shall be 10 feet.
2. The sign shall be set back a minimum of 75 feet from any residential lot line.
3. If this sign is utilized, no other freestanding pole or monument sign shall be located within 50 feet of the entrance sign on the same street or road on which the park has access.
4. Provided the subdivision is recorded and the zoning is for a nonresidential zoning district, the sign may be placed even if no construction has taken place on any of the lots.

(e) **Drive-Through Signs**

1. One drive-through sign for each stacking lane in a drive-through facility shall be allowed provided it does not exceed 36 square feet in sign area.
2. The above maximum sign area shall not apply to any drive-through signs located in the rear yard and/or screened with a Type B buffer (See Section 1232.05: Landscape Buffering Requirements.), or other screening method, that fully screens the drive-through signage from view of all public rights-of-way.
3. Drive-through signage shall not be included in the total calculated allowed signage for a property under the remainder of this chapter.
4. No drive-through sign shall exceed seven feet in height measured from the grade of the adjacent driving surface to the top of the sign.
5. All drive-through signs may be internally or externally illuminated.
6. The drive-through sign shall be located in a landscaped area equal to or larger than the total sign area of the drive-through sign. Such landscape area may also be counted toward any other landscaping requirements in this code.

### 1236.10 Temporary Signs

The following temporary signs shall be permitted anywhere within the City provided they meet the established standards.
(a) Standards that Apply to all Temporary Signs

(1) Temporary signs shall not be mounted, attached, affixed, installed, or otherwise secured in a manner that will make the sign a permanent sign.

(2) No temporary sign shall be mounted, attached, affixed, installed, or otherwise secured so as to protrude above the roofline of a structure.

(3) Unless otherwise specifically stated, temporary signs shall not be illuminated.

(4) No temporary sign shall require wiring, fittings, or elements that would traditionally require an electrical permit.

(5) No temporary sign shall require a foundation or other support that requires a review by the Greene County Building Department other than a building or structure to which the sign maybe temporarily affixed.

(6) No spinning, flashing, or similarly moving devices shall be allowed as part of or attachments to temporary signs.

(7) All temporary signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind that could pose a danger to pedestrians, vehicles, or structures.

(8) Because of the nature of materials typically used to construct temporary signs and to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, temporary signs shall be removed or replaced when such sign is deteriorated. The City may remove any deteriorated sign and charge the expenses for the removal to the owner of the property on which the sign is displayed in accordance with Section 1236.10(d): Removal of Temporary Signs.

(b) Standards for Temporary Signs with a Commercial Message

The following standards apply to temporary signs with a commercial message.

(1) Temporary Signs in Residential Zoning Districts

A. Up to two temporary commercial message signs are permitted on each lot in a residential zoning district, including any residential lot in a PUD, in accordance with this section.

B. The following are the types of temporary signs allowed:
   i. A banner sign affixed to a wall of the building; or
   ii. A temporary yard sign.

C. One of the temporary commercial signs may have the maximum sign area established in Table 1236-2, based on the size of the lot. The maximum sign height for a temporary yard sign shall also be as established in Table 1236-2.

<table>
<thead>
<tr>
<th>Lot Size</th>
<th>Maximum Sign Area</th>
<th>Maximum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than five acres</td>
<td>6 square feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Five acres to 20 acres</td>
<td>12 square feet</td>
<td>4 feet</td>
</tr>
<tr>
<td>Over 20 acres</td>
<td>18 square feet</td>
<td>6 feet</td>
</tr>
</tbody>
</table>

D. A second temporary commercial sign shall be allowed with a maximum sign area of six square feet and a maximum height of four feet.

E. A zoning permit shall be required for any sign over 12 square feet in sign area.
F. In lieu of the above regulations, any nonresidential use located in a residential zoning district shall be permitted the same amount of temporary commercial signs as allowed in the B-1 District pursuant to Section 1236.10(b)(2): Temporary Signs in Nonresidential Zoning Districts.

G. In addition to the above regulations, one temporary sign with a maximum area of 32 square feet and a maximum height of six feet may be permitted on a lot on which construction of a nonresidential use is occurring, or on a lot adjacent to the entrance to a subdivision from a collector or arterial street when construction of dwelling units is occurring in that subdivision. Such a sign shall not require a zoning permit and may be maintained until 20 days following the completion of construction activities or the installation of permanent signage on the same lot, whichever occurs first.

(2) Temporary Signs in Nonresidential Zoning Districts

A. Table 1236-3 establishes the total square footage of temporary signs allowed on each individual lot, in the applicable nonresidential zoning district.

<table>
<thead>
<tr>
<th>District</th>
<th>Maximum Sign Area Allowed Year-Round</th>
<th>Additional Maximum Sign Area Allowed on a Limited Basis (See Section 1236.10(b)(2)D.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>O-1, B-1, or B-2 Districts</td>
<td>12 square feet</td>
<td>24 square feet</td>
</tr>
<tr>
<td>B-3, I-1, I-2, or P-1 Districts</td>
<td>24 square feet</td>
<td>32 square feet</td>
</tr>
</tbody>
</table>

B. The following are the types of signs that are allowed year-round:

i. Banner signs;
ii. Blade signs;
iii. A-Frame or T-Frame sidewalk signs;
iv. Flag banner signs; or
v. Temporary yard signs.

C. Each sign type shall be subject to the standards established for each sign type in this section.

i. There shall be no maximum number of signs provided the aggregate total square footage of sign does not exceed the amount established in Table 1236-3 unless limited by the sign type standard.
ii. A zoning permit shall be required for any sign over 24 square feet in sign area.

D. Limited Temporary Sign Allowance

i. In addition to the temporary signage allowed year round, each lot in shall be permitted the use of additional temporary signage on a limited basis as identified in the last column of Table 1236-3.

ii. Each lot is permitted to have the additional temporary signage for no more than 60 days per calendar year. Balloons or air-activated signs shall only be permitted for a period of two weeks, once per calendar year.

iii. The limited temporary sign allowance may include any of the following sign types subject to the standards established for each sign type in this article.

a. Banner signs;
b. Balloon or air activated signs;
c. Blade signs;
d. Portable message centers; or
e. Temporary yard sign.

E. In addition to the above regulations, one temporary sign with a maximum area of 32 square feet and a maximum height of six feet may be permitted on a lot on which construction activity is occurring. If multiple uses are undergoing construction on one lot, then one temporary sign may be permitted per use, provided that the total square footage of all such temporary signs on the lot does not exceed 32 square feet. Such signs shall not require a zoning permit and may be maintained until 20 days following the completion of construction activities or the installation of permanent signage for the same use, whichever occurs first.

(c) Standards for Types of Signs

(1) Banner Signs
A. Banner signs may be attached to a building, fence, or other similar structure. Banners attached to posts and mounted in a yard or landscape area shall be regulated as a temporary yard sign.
B. The maximum height standard for temporary signs shall not apply to a banner sign but such signs shall not be mounted in a manner that extends above the roofline of a building or the top of the structure on which it is mounted.

(2) Balloon or Air-Activated Signs
A. Balloon or air-activated signs shall be prohibited in the B-2 District.
B. Only one balloon or air-activated sign is allowed on any lot at one time.
C. The sign area of the balloon or air-activated graphic shall be measured by measuring the smallest square, circle, rectangle, triangle, or combination thereof that encompasses the balloon or air-activated sign as viewed from any one point viewing the sign.
D. The maximum height shall be 12 feet.
E. The sign shall be securely anchored to the ground.
F. The sign shall be setback from any right-of-way and any parking space a minimum distance equal to its height. Such setback shall include any wires, rope, or other materials used to securely fasten the sign to the ground.

(3) Blade Signs
A. Blade signs shall be prohibited in the B-2 District.
B. Up to two signs are permitted at any one time, but each sign shall be separated from another blade sign by 50 lineal feet as measured along the street frontage.
C. For temporary signs in a nonresidential zoning district, the maximum height of a blade sign shall be twelve feet (12’), with a maximum width of four feet (4’) at its widest dimensions.
D. The signs shall be securely anchored in the ground or within a portable base designed for such function.

(4) Flag Banner Signs
A. Flag banner signs shall have a maximum area of 32 square feet.
B. Flag banner signs shall be mounted on the building wall either by bracket or by a pole.
C. The height of the flag banner sign shall be no lower than eight feet measured from grade of the property line closest to the banner and the bottom end of the banner and shall not exceed 20 feet in height at any point measured from grade of the property line closest to the banner and the top end of the banner.
D. Flag banner signs shall not extend beyond three feet over the sidewalk measured from their point of mounting on the storefront wall.

E. Flag banner sign mounting devices shall have structural integrity, be weather-resistant, and be crafted of a durable, non-corroding material and shall meet Ohio Building Code mounting requirements.

F. Any flag banner sign that is determined by the City Planner or designee as being worn or tattered shall be removed immediately and may be replaced with a banner that is similar in nature.

G. Flag banner signs shall not be mounted on trees, street signs or any street and sidewalk apparatus.

(5) Temporary Yard Signs
A. There shall be a maximum of two faces to the sign, mounted back-to-back.
B. For temporary signs in a nonresidential zoning district, the maximum height of a temporary yard sign shall be eight feet.

(6) Portable Message Centers
A. Portable message centers shall be prohibited in the B-2 District.
B. Portable message centers may consist of electronic message centers or manual changeable copy.
C. If the sign contains an electronic message center, it shall be subject to the standards of Section 1236.06(k): Changeable Copy Signs.

(7) A-Frame or T-Frame Sidewalk Signs
A-Frame or T-Frame sidewalk signs are permitted in any nonresidential district in accordance with the following requirements;
A. The maximum sign area shall be 12 square feet with a maximum width of three feet and a maximum height of four feet.
B. The sign may be located on a public or private sidewalk or walkway provided it is placed on pavement and not in any landscaped areas.
C. If the sign is placed on a sidewalk, the sign can only be placed where the sidewalk width, not including curb top, is at least eight feet wide.
D. The sign must be free-standing and shall not be affixed, chained, anchored, or otherwise secured to the ground or to any pole, parking meter, tree, tree grate, fire hydrant, railing, or other structure.
E. The sign must not obstruct access to parking meters, bicycle racks and other features legally in the right-of-way. The sign must not interfere with the opening of car doors in legal spaces, or with the operation of wheelchair lifts and ramps, cab stands, loading zones or bus stops.

F. The sign shall be internally weighted so that it is stable and windproof.
G. The sign shall only be placed outside during the hours of the establishment’s operation.
H. The sign cannot have sharp edges or any protrusions or features that could be a hazard to pedestrians.
I. The City of Xenia shall be held harmless from any liability resulting from accident or injury caused by erection and maintenance of such sign.
(d) **Removal of Temporary Signs**

(1) A temporary sign that is installed or used under this section, but for which a permit has expired, is subject to removal pursuant to this section, or for which the time allowed for its use has lapsed (if a zoning permit is not required), shall be removed by the owner or permit holder immediately after the permit has expired or after the receipt of written notification from the Code Enforcement Officer or designee.

(2) In the case of failure of the sign owner to obtain a permit or failure of the sign owner or property owner to remove such signs the Code Enforcement Officer shall cause the removal of such signs without further notification from the City.

(3) The costs of the removal shall be established on a per sign basis by the City Council, and shall be charged to the owner of the sign and/or to the property owner using the sign and/or to the permit holder in addition to penalties normally prescribed in this code.

1236.11 **Required Maintenance of Signs**

(a) Every sign shall be maintained in a safe, presentable, and good structural condition at all times, including the replacement of a defective part, painting, cleaning, and other acts required for the maintenance of the sign.

(b) No zoning permit shall be required for the normal maintenance, repainting, cleaning, or repair of the sign or sign structure provided there is no modification of the approved structure.

(c) Whenever a sign is to be removed pursuant to the requirements of this section, all parts of the sign and supporting structure (e.g., pole, monument, cabinet structure, etc.), excluding buildings for wall, projecting, or similar signage, shall be removed in its entirety. This section shall not require the removal of a raceway if mounted to such structure on a building.

1236.12 **Nonconforming Signs**

(a) All signs that do not conform to the specific standards of this code may be considered legally nonconforming if the sign was erected in conformance with a valid zoning permit and complied with all applicable laws at the time of the sign’s installation. Any sign that was legally established and approved by a township in Greene County but was then annexed into the City of Xenia after the effective date of this code and does not conform to the requirements of this chapter may also be considered legally nonconforming.

(b) A sign shall lose its legal nonconforming status and must be brought into compliance with the provisions of this chapter by an application for and issuance of a zoning permit or by complete removal, if any of the following occurs.

(1) Repair or replacement of a legal nonconforming sign that is damaged or deteriorated, if the estimated cost of repairs or replacement exceeds 50 percent of the estimated current value of the sign at the time of destruction, as determined by at least two sign companies requested to provide a quote;

(2) The use which the nonconforming sign is accessory to is vacant for six consecutive months, in which case the sign may not again be used, except in conformance with this chapter;

(3) Relocation of the sign;

(4) Structural alteration of the sign;

(5) A building or site which is demolished and redeveloped by 50 percent or more of the size of the existing building or site shall require any nonconforming sign which is located on or is a part of such building or site to conform to provisions of this chapter.
(6) The nonconforming sign and its structure (including support and frame and panel) are determined by the City Planner or his or her designee, to be unsafe or in violation of this code or the building code, and are declared a nuisance.

(c) Failure to bring a sign into compliance after loss of a legal nonconformity status as defined in (b) above shall cause the sign to be considered illegal.

(d) Minor repairs and maintenance of nonconforming signs, such as repainting, electrical repairs and neon tubing repair shall be permitted. Maintenance does not include making changes in the words, symbols, or design on the current sign unless the words and symbols are part of the changeable reader board or removable panels on a sign cabinet.

(e) Sign face changes where there is no change to the nonconforming sign structure including change in sign face area, height, or alteration of the sign cabinet, if applicable, may be made without a zoning permit and without losing the legal nonconforming status of the sign. These actions include, but is not limited to, replacement of a sign face, repainting of a sign face, etc.
Chapter 1238: Subdivision Design

1238.01 Purpose

The purpose of this chapter is to further the overall purpose of this code (Section 1218.01: Purpose) and additionally, to:

(a) Establish standard requirements, conditions, and procedures for the design and review of subdivisions;
(b) Provide for the orderly subdivision of land;
(c) Encourage the wise use and management of land and natural resources throughout the City;
(d) Ensure that adequate public infrastructure, facilities and services are available concurrent with development;
(e) Encourage a beneficial relationship between the uses of land and circulation of traffic throughout the City, and to provide for the proper location and design of streets; and
(f) Provide adequate utility systems to support the future needs of the system.

1238.02 Basic Subdivision Regulations

(a) Suitability of Land for Development

If the PZC and the City Council find that land proposed to be subdivided is unsuitable for subdivision development due to flooding, poor drainage, topography or inadequate water supply, wastewater treatment facilities, transportation facilities, or such other conditions as may endanger health, life or property, and if, from investigations conducted by the public agencies concerned, it is determined that, in the best interest of the public, the land should not be developed for the subdivision proposed, the PZC and the City Council shall not approve the land for the purpose unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.

(b) Construction Procedures and Materials

The design and construction of improvements shall be in accordance with the standards outlined in these regulations and other pertinent regulations. The work shall be done under City supervision and inspection, and shall be completed within the time fixed as agreed upon by the City.

(1) The minimum requirements for materials and installation procedures for storm sewers and roads shall be in compliance with the current edition of the City of Xenia Materials and Construction Specifications Manual. If no standards are listed in the City of Xenia’s manual, then the applicant shall utilize the requirements of the State of Ohio Department of Transportation Construction and Material Specifications, unless otherwise superseded in these regulations.

(2) The minimum requirements for materials and installation procedures for sanitary sewers and water lines shall be in compliance with the following regulations:

A. City of Xenia Materials and Construction Specifications Manual;
B. State of Ohio Item Specification Book, Item No. 603;
C. Water Pollution Control Federation Manual of Practice No. 9; and
D. **American Water Works Association (AWWA) Standards for Installation of Ductile-Iron Water Mains and Their Appurtenances.**

(c) **Subdivision Names**

The proposed name of the subdivision shall not duplicate or too closely approximate phonetically, the name of any other subdivision in the City or county. The City shall have final authority to designate the name of the subdivision.

(d) **Monuments and Markers**

1. A complete survey shall be made by a registered surveyor.
2. The traverse of the exterior boundaries of the tract and of each block, when computed from field measurements of the ground, shall close within a limit of error of one foot to 10,000 feet of the perimeter before balancing the survey.
3. Permanent reference monuments made of stone or concrete, at least 36 inches in length and six inches square, with a suitable center point, shall be located and placed within the subdivision. The number and location of permanent reference monuments shall be determined in consultation with the City Engineer and their locations noted on the record plan. These monuments shall be placed immediately after the final grading of lots is completed and the cost of the monuments will be included in the cost of improvements. There shall be no release of a performance bond until after the monuments have been placed.
4. A solid iron pin monument, five-eighths of an inch in diameter and 30 inches long, shall be placed by the surveyor at all points on boundary lines where there is a change of direction, and at all lot corners, before the performance bond is released by the City. Prior to bond release, a surveyor’s certified statement shall be filed with the City Engineer attesting that all required monuments and iron pins are in place.
5. Prior to the placement of solid iron pin monuments, each corner of a lot abutting a proposed public street will be indicated by clearly identifiable lot markers with lot numbers on the appropriate side of the markers. Markers or marks may be removed when the pins are placed.

### 1238.03 Installation of Public Improvements and Financial Guarantees

(a) To assure the proper installation of public improvements, subdividers shall enter into a subdivider’s agreement with the City of Xenia. The subdivider’s agreement shall establish the subdivider’s responsibilities for the proper completion of the public improvements as approved by the City of Xenia. Specifically, the subdivider’s responsibility covers the construction of public improvements needed to service the lots in the subdivision in accordance with City specifications and standards. The subdivider’s agreement will require the posting of a financial guarantee under the conditions as specified in this section.

(b) **Pre-Construction Meeting**

1. After the subdivider has received approval of the final plat consisting of construction plans and the final plat from the City Council, and not less than two weeks prior to the start of construction or site development, a pre-construction meeting shall be held between the subdivider and City staff. The subdivider shall submit a request for the meeting with the City Engineer.
2. At the pre-construction meeting, the subdivider must do the following:
   A. Execute the subdivider’s agreement;
B. Provide a construction schedule detailing when all required improvements will be complete and an itemized cost estimate of the required improvements; and
C. Pay an inspection fee in accordance with the fee schedule approved by City Council.

(c) Extensions of Time for Construction of Improvements

(1) The City Engineer may grant an extension to the construction schedule approved as part of the subdivider’s agreement and pre-construction meeting. Such extension may be for up to 12 months to complete the required improvements, if that extension is in the best interest of the entire community and/or if the subdivision has not reached 75 percent of the buildout upon the original deadline. The subdivider must request extensions in writing at least 30 days prior to the expiration of the time period for completing the required improvements. All requests for extensions must be accompanied by a revised construction schedule and must state the reason the extension is needed.

(2) The City of Xenia must grant or deny the request within 10 days from the date the letter is received from the subdivider requesting the extension. Should the subdivider fail to request an extension or should the requested extension be denied, the subdivider shall be deemed to have breached the terms and conditions of this agreement.

(d) Financial Guarantees for Public Improvements

(1) A subdivider may execute and file a written financial guarantee with the City in lieu of actual installation or completion of the required public improvements when requesting approval of a final plat.

(2) The financial guarantee shall be an obligation for the faithful performance of any and all work and the construction and installation of all public improvements required to be done by the subdivider, together with all engineering and inspection costs and fees incurred by the City.

(3) The guarantee shall contain the further condition that should one of the following conditions exist, the City may, at its option, cause all required work to be done and public improvements constructed by using the financial guarantee.

A. The installation of all required public improvements as called for in these regulations has not taken place within the time period agreed on in the construction agreement with the City, and the subdivider has failed to establish reasonable cause for such delay to the satisfaction of the City Council and thereby to receive a time extension; and/or

B. The subdivider has not constructed the required public improvements in accordance with the minimum standards specified by these regulations, and the subdivider is unwilling to modify and upgrade said public improvements within a six-month time period of notice so as to be in compliance with the provisions of these regulations.

(4) The parties executing the guarantee shall be firmly bound for the payment of all necessary costs therefor.

(5) The guarantee may take the form of a bond, cash deposit, or an irrevocable letter of credit as further outlined in this subsection.

(6) The amount of the financial guarantee for installation of public improvements shall be based on an engineer’s cost estimate, approved by the City Engineer, for 100 percent of the cost to complete the unfinished public improvements identified in the subdivider’s agreement.

A. Where applicable, engineering, plan review, and construction review fees, etc., shall be required to be a part of the engineer’s cost estimate.
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B. After a period of two years from the date of submittal, the City Engineer may require that a revised engineer’s estimate and bond be submitted that reflects updated unit prices.

(7) Unit prices used in the engineers cost estimate shall be based upon unit costs associated with public contracting (i.e., prevailing wage rates).

(8) Guarantees shall be made payable to the City of Xenia and be acceptable to the City Engineer and the City’s legal counsel.

(9) Incomplete public improvements that the City Engineer determines will constitute a safety hazard or maintenance issue, or will prevent the effective functioning of the public improvements, shall be required to be completed prior to the approval of a final plat.

(10) Types of Guarantees
The following are the types of financial guarantees allowed by the City. The standards for each type of guarantee shall apply to any situation where a financial guarantee is required, regardless if it is related to a subdivision application or not.

A. Bond
The following standards shall apply if a bond is utilized as a financial guarantee:

i. A bond in the amount determined in accordance with this section shall be filed with the City of Xenia.

ii. The bond may be in the form of a surety bond or a cash bond of the kind approved by law for securing deposits of public money.

iii. The bond shall be executed by the subdivider as principal, and if a surety bond, shall be executed by a corporation authorized to act as a surety under the laws of the State of Ohio.

B. Irrevocable Letter of Credit
The following standards shall apply if an irrevocable letter of credit is utilized as a financial guarantee:

i. The subdivider shall provide an irrevocable letter of credit from a bank or other reputable institution or individual subject to the approval of the City Law Director and City Manager.

ii. The letter shall be deposited with the City, and shall certify the following:

a. The creditor guarantees funds in an amount equal to the cost, as estimated in accordance with Section 1238.03: Installation of Public Improvements and Financial Guarantees, for completion all required public improvements.

b. In the case of failure on the part of the subdivider to complete the specified public improvements within the required time period, the creditor shall pay to the City immediately and without further action such funds as are necessary to finance the completion of those public improvements, up to the limit of credit stated in the letter.

c. This irrevocable letter of credit may not be withdrawn or reduced in amount until released by the City Manager in accordance with this chapter.

C. Cash
The following standards shall apply if cash is utilized as a financial guarantee:
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i. The subdivider shall provide a certified check for the amount of the guarantee, payable to the City of Xenia.

ii. When the public improvements are complete, the City shall issue a check for the released amount based on this subsection.

iii. The City shall not be responsible for paying interest for the period of time the City retains the guarantee.

(11) Reduction of Financial Guarantees

After the improvements are installed, tested, and approved, the subdivider may request the following reduction and reimbursement:

A. As improvements are installed, the subdivider may make a written request to the City Engineer for a reduction in the bond for up to 75 percent of the estimated cost of the completed improvement. The reduction will be granted if the installation of the applicable improvement is complete to the satisfaction of the City Engineer and approved by the City Manager. However, in no event will the financial guarantee be reduced by more than 75 percent until final completion and acceptance of all improvements. No more than two reduction requests will be considered during the term of an agreement.

B. The subdivider may make a written request to be reimbursed for oversized utility systems if the subdivider is required to oversize under this code. The subdivider will be reimbursed for the oversizing in the amount approved by the City Council if the oversizing is completed in accordance with this code.

(e) Inspections

The City Engineer will make periodic inspections during the installation of improvements.

(1) The subdivider shall notify the City Engineer’s office at least 24 hours before each of the following phases of construction is ready for inspection:

A. Sanitary sewers and appurtenances;
B. Water main and appurtenances;
C. Storm sewers and appurtenances;
D. Erosion control;
E. Detention basins, ditches and swales;
F. Conduits for underground utilities;
G. Concrete curb and gutter;
H. Subgrade compaction;
I. Aggregate base, ODOT 304;
J. Asphalt leveling course, ODOT 402;
K. Asphalt surface course, ODOT 404;
L. Concrete sidewalks;
M. Traffic control devices;
N. Street lighting;
O. Landscaping;
P. Survey monuments/property pins; and
Q. Other improvements as shown on the approved plans.
(f) Final Inspection and Release of Financial Guarantees

(1) When the required improvements are complete, the subdivider shall notify the City Engineer in writing. Upon receipt of the notice of completion, the City Engineer will make a final inspection of the required improvements.

(2) If the required improvements are completed to the City Engineer’s satisfaction, the City Engineer shall issue a letter to the City Manager certifying the completion of all required improvements and recommending the release of the financial guarantee for improvements.

(3) The City Manager shall not release the financial guarantee without the following:
   A. Receipt of a letter from the City Engineer certifying a satisfactory completion of all required improvements;
   B. Proof that the subdivider has installed all survey monuments or has provided a separate financial guarantee to secure the installation of iron pins not previously set; and
   C. Receipt of a maintenance guarantee in the amount of 10 percent of the total estimated cost of installing the required improvements.

(4) The maintenance guarantee shall be held for a period of one year and shall be subject to the same requirements of Section 1238.03(d)(10): Types of Guarantees.

(5) During the one year maintenance period, the City Engineer may authorize the use of the 10 percent maintenance guarantee to repair any public improvements and return them to the condition they were in at the time of completion. Any remaining guarantee will then be released to the subdivider after one year from the date the original financial guarantee was released. Such release shall only occur with the approval of the City Manager.

(g) Penalties

If there is a violation of this chapter, the City is entitled to enforce the following penalties in addition to or in conjunction with any other penalty available under this code, in law, or in equity.

(1) The final plat may not be recorded and no zoning permits may be issued if the required improvements are not completed as required by this code, the subdivider’s agreement, or the final plat, construction drawings, and related specifications.

(2) Whenever construction and installation of required improvements are not accomplished in accordance with the requirements of this code, the subdivider’s agreement, or the final plat, construction drawings, and related specifications, the City Manager may foreclose on any of the outstanding financial guarantees, as may be applicable.

(3) If, in the opinion of the City Engineer, installations are improper or inadequate, a stop order will be issued. Failure to comply with the inspector will be deemed a violation of this chapter subject to the penalty set forth in Chapter 1242: Enforcement and Penalties. The findings and decision of the City Engineer may be appealed to the BZA in accordance with Section 1220.10: Variances. Where the BZA finds that practical difficulty may result from strict compliance with these regulations, due to exceptional physical conditions, it may modify the application of the regulations of this chapter so as to relieve such hardship, provided such relief may be granted without detriment to the public interest. Such modification shall be considered in accordance with Section 1220.07(g): Subdivision Modifications and shall not have the effect of nullifying the intent and purpose of this code.
(h) **Protection of Streets, Utilities, and Other Installations**

1. The subdivider shall provide the City Engineer with a plan for the routing of construction equipment and traffic with the objective of alleviating any need to traverse adjacent off-site residential streets. In exceptional cases, where no reasonable alternative exists or can be provided, construction equipment may be permitted the use of collector streets for a predetermined time period. The contractor shall be permitted to operate only pneumatic-tired equipment over any paved street surfaces and shall be responsible for correction of any damage to street surfaces in any manner resulting from the contractor's operation. During the period of use, such streets shall be kept reasonably free of debris, based on periodic inspections by the City and in accordance with approved sedimentation and erosion control measures.

2. The subdivider and their contractors shall protect the pavement against all damage prior to final acceptance of the work including damage created by the contractor's construction equipment and vehicles, as well as general traffic. As soon as curing and sealing are completed, the contractor shall clean the pavement free of all debris and construction equipment.

3. The subdivider and their contractors shall at all times take proper precautions for the protection of utility lines, the presence of which can be determined by contacting the Ohio Utilities Protection Service (OUPS). The subdivider shall be financially responsible for the repair of any damage to such utility lines.

### 1238.04 General Design Standards

(a) **Street Trees**

The planting of street trees shall be undertaken in all subdivisions in accordance with the following:

1. Street trees shall be required to be planted according to an approved final plat by the subdivider prior to release of the financial guarantee.

2. At least one street tree shall be required to be planted for each 50 linear feet of lot frontage.

3. Street trees shall be planted within a tree lawn and at least four feet from bike paths, driveways, fire hydrants, and water or gas shutoff valves.

4. Tree lawns shall have a minimum width of four feet on all streets except for the following:
   - A. Tree lawns on collector streets shall be eight feet wide.
   - B. Tree lawns on minor or major arterial streets shall be 10 feet wide.

5. Street tree plantings shall be restricted in those locations where damage to underground or aerial utilities may occur, or where a conflict with driveways, sidewalks, walkways/bikeways, curbs and gutters, water mains and sewer facilities is likely. Furthermore, in order to prevent interference with motorists' or pedestrians' site distances, no street tree shall be permitted to be planted within 20 feet of intersecting street rights-of-way.

6. Suitable tree species shall be only those listed as recommended street trees is a list prepared by the Xenia Tree Committee and available through the City Planner.

7. All deciduous street trees shall be planted so as to have a minimum DBH of 2.5 inches at time of planting.
(8) The subdivider shall be required to maintain the trees for two years after planting and to replace any tree which fails to survive or which does not exhibit normal growth characteristics within such one-year period. After such two-year period, trees which fail to show healthy growth shall be replaced with the same size and species tree as specified at the time of original planting after notification by the City.

(b) Traffic Control Devices

The subdivider shall provide all traffic control devices for the proposed development, including, but not limited to, traffic signals, signs, pavement markings and the like. Refer to the Ohio Manual of Uniform Traffic Control Devices (OMUTCD) for details of the devices to be used, and, in some cases, warrants for their use.

(c) Street Lights

(1) Street lighting shall be required as per Ordinance 89-77 or any subsequent ordinance authorizing a franchise for such service.

(2) All street lights shall utilize underground electric service and shall be provided by the subdivider.

(3) After the effective date of this code, the subdivider shall install the street lights at his/her cost and be subject to a street light assessment for the monthly lighting charges, as determined by the City of Xenia.

(d) Debris and Waste

No cut trees, diseased trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of the zoning compliance inspection. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of dedication of public improvements.

(e) Topography, Natural Vegetation, and Flooding

(1) Natural amenities (including views, mature trees, creeks, riparian corridors, rock outcrops, and similar features) shall be preserved and incorporated into proposed development to the greatest extent feasible.

(2) The natural topography shall be retained wherever possible in order to reduce excessive runoff onto adjoining property and to avoid extensive regrading of the site.

(3) Floor elevations of all buildings shall be carefully studied in relation to existing topography, proposed street grades, existing trees and other pertinent site features.

(4) The subdivision shall be designed to minimize development in any floodplain or floodway as defined by FEMA.
(3) Each lot shall front on an improved, dedicated street. Lots may abut a private street in accordance with Section 1238.06(f)(6): Private Streets.

(4) All side lot lines shall be at right angles to street lines and radial to curved street lines, except where the PZC determines that a variation to this rule would provide a better layout.

(5) Typically, panhandle lots, double frontage lots, or triple frontage lots shall be discouraged and may only be approved if necessitated by unique features or other special physical conditions as deemed necessary by the PZC. These lots shall meet the requirements established for the applicable lot type in Section 1226.01(a)(4): Setbacks, Yards, and Lot Type Requirements. Such lots may also be approved by the City Planner for a minor subdivision application if necessitated by unique features or other special physical conditions as deemed necessary.

(6) Double frontage and triple frontage lots may be required to provide mounding or landscaping to the rear of the lots in accordance with Section 1226.01(c): Reverse Frontage.

(7) The depth of a lot shall not be greater than three times the width of the lot. Lots which contain an area of five acres or more shall not be greater than four times the width of the lot.

(8) The City Planner, in consultation with the City Engineer, may require a lot to have additional lot depth where a residential lot in a subdivision backs up to a railroad right-of-way, a high-pressure gasoline or gas line, an open drainage ditch, an arterial street, an industrial area or other existing land use which may have a detrimental effect on the residential use of the property. Where a residential lot has its side lot line adjacent to any of the aforementioned land uses, the City Planner, in consultation with the City Engineer, may require additional width for the applicable lot.

(b) Blocks

The following regulations shall govern the design and layout of blocks.

(1) The arrangement of blocks shall be such as to conform to the street planning criteria set forth in Section 1238.06: Streets and Thoroughfares, and shall be arranged to accommodate lots and building sites of the size and character required for the zoning district as set forth in these regulations or the PZC, and to provide for the required community facilities.

(2) Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a limited access highway, arterial street, or railroad right-of-way.

(3) Irregularly shaped blocks, those intended for cul-de-sac or loop streets, and those containing interior parks or playgrounds, may be approved if properly designed and located and if the maintenance of interior public spaces is covered by agreements.

(4) No block shall be longer than 1,500 feet and the block width shall accommodate lots and building sites of the size and character required for the zoning district as set forth in this code, and to provide for the required community facilities.

(5) Where blocks are over 900 feet in length, the PZC may require a public walkway easement, of not less than ten feet in width, at or near the halfway point if necessary to provide proper access to schools, recreation areas, shopping centers, and other public facilities.
Chapter 1238: Subdivision Design
Section 1238.06: Streets and Thoroughfares
Subsection (a): General Street Design

1238.06 Streets and Thoroughfares

(a) General Street Design

(1) The arrangement, character, width, grade, construction and location of all streets shall conform to the comprehensive plan, or other applicable street plans, for the City that are in effect at the time of final plat submission.

(2) Such design elements shall be considered in their relation to existing and planned streets, topographical conditions and public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.

(3) The street layout shall provide access to all lots and parcels of land within the subdivision.

(4) The subdivider shall provide within the boundaries of the subdivision plat the necessary right-of-way for the widening, continuance or alignment of such streets in conformity with the comprehensive plan or other applicable street plans.

(5) Where practical, the arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas.

(6) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets.

(7) New subdivisions shall be based on a grid or modified grid system to the maximum extent feasible.

(8) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

(9) A street that is not constructed to City standards will not be accepted by the City for dedication as a public street.

(10) Approval shall not be given for streets within a subdivision which would be subject to flooding. All streets must be located at elevations which will make them flood-free, in order that no portion of the subdivision would become isolated by floods.

(11) In the interest of public safety, and as a matter of policy, all points of ingress and egress shall be located as far as possible from the intersection of two or more major arterial streets or highways.

(12) Access control at major arterials and highways shall be taken into consideration in the design of the subdivision plat. The City or ODOT has the right to define access along major arterials or highways as shown in the comprehensive plan, or other applicable street plans.

(b) Street Names, Signs, and Numbering

(1) The names of new streets shall not duplicate those of existing or platted streets, irrespective of the use of the suffix “street,” “avenue,” “circle,” “boulevard,” “drive” and the like, and shall be displayed at each street intersection with street signs of the type established by the City.

(2) When a new street is a direct extension of an existing street, the name shall remain the same. The color of street signs shall conform to City requirements. All signs shall be double-faced and shall be so erected as to be legible from any direction, and the location of such signs shall be designated in the street plan and profile.

(3) The subdivider shall contact the City to arrange for the installation of traffic-control signs, street signs, and devices which shall be in conformance with the Manual of Uniform Traffic Control Devices prepared by the Federal Highway Administration of the United States Department of Transportation.
(c) General Street and Right-of-Way Design Standards

(1) Proposed street classifications shall be designated (i.e. local, principal collector, arterial, etc.) on all plats, based on their proposed functions and the recommendation of the comprehensive plan or other approved street plans. The physical and geometric design of streets shall be based upon these designations in adapting the proposed streets to the existing terrain and soils.

(2) The standards of the American Association of State Highway and Transportation Officials (AASHTO), as published in A Policy on Geometric Design of Highways and Streets, 1984; A Policy on Design Standards for Stopping Sight Distances, 1971; and subsequent publications modifying those standards by AASHTO, in effect at the time of final plat submission, shall govern the design of subdivision streets and abutting City, county and township roads. The “Desirable Sight Distance Values” will govern in all but the most unusual instances, and any lesser values must be recommended by the City Engineer before the preliminary design plan is approved by the PZC.

(3) All streets shall be constructed in accordance with pavement design prescribed by the City of Xenia Materials and Construction Specifications Manual.

(4) All thoroughfare streets, including collectors and arterial streets, shall include pavements designed to meet the traffic loads projected for the next 20 years.

(5) The pavement design shall be calculated and submitted by a registered engineer with the preliminary plat approval.

(6) The subdivider shall be responsible for all required improvements, including the required pavement width measured from back to back of curbs on an undivided street. On a divided street, the subdivider shall be responsible for the sidewalk, if required, one curb, one-half of the required pavement measured to the back of the curb, and storm drainage.

(7) When developing along one side of an existing street or roadway which is included in the comprehensive plan or other approved street plans, the subdivider shall be responsible for one curb, the pavement widening to thoroughfare width of his or her side, all necessary adjustments to existing pavement, and storm drainage for the street in accordance with an agreement with the City Engineer. Where sight distances or other engineering requirements make it imperative, the pavement adjustment responsibility shall include the replacement of up to the entire existing pavement, also in accordance with an agreement with the City Engineer.
TABLE 1238-1: STREET ROWS AND GRADE STANDARDS

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Minimum ROW (feet)</th>
<th>Minimum Pavement Width (Feet)</th>
<th>Grades %</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Preferred (Parking on Both Sides)</td>
<td>Minimum (Parking on One Side)</td>
<td>No Parking</td>
</tr>
<tr>
<td>Minor Arterial Street[2]</td>
<td>80</td>
<td>54</td>
<td>45</td>
</tr>
<tr>
<td>Collector Street</td>
<td>70</td>
<td>54</td>
<td>45</td>
</tr>
<tr>
<td>Local Street (R-3 District)</td>
<td>60</td>
<td>37</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>All Other Local Streets</td>
<td>50</td>
<td>33</td>
<td>30</td>
</tr>
</tbody>
</table>

NOTES:
[1] Pavement width is measured back of curb to back of curb.
[2] Where marginal access streets are used to provide access to existing or proposed arterials, improvements on those thoroughfares may be waived by the City Engineer.
[3] A median is not required but if one is provided, additional right-of-way shall be dedicated, as recommended by the City Engineer.

(8) Table 1238-2 establishes the standards for horizontal curves, reverse curves, sight distances for each street type.

TABLE 1238-2: STREET CURVE AND SIGHT DISTANCE STANDARDS

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Horizontal Curve</th>
<th>Reverse Curve</th>
<th>Sight Distance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Minimum Radius (Feet)</td>
<td>Required Tangent (Feet)</td>
<td>Minimum (Feet)</td>
</tr>
<tr>
<td>Major Arterial Street</td>
<td>400</td>
<td>250</td>
<td>450</td>
</tr>
<tr>
<td>Minor Arterial Street</td>
<td>400</td>
<td>150</td>
<td>350</td>
</tr>
<tr>
<td>Collector Street</td>
<td>300</td>
<td>100</td>
<td>275</td>
</tr>
<tr>
<td>Local Street</td>
<td>200</td>
<td>50</td>
<td>200</td>
</tr>
</tbody>
</table>

(9) Vertical Alignment

A. All changes in grades shall be connected by vertical curves of a minimum length in feet equal to 20 times the algebraic difference in the rate of change of grade expressed in feet per 100 feet. Longer vertical curves shall be used when needed for sight distances as determined by the design engineer and approved by the City Engineer.

B. No street grade shall be less than 0.4 percent and on stop streets, the grade shall not exceed two percent positive or three percent negative within 100 feet of an intersection with local streets or 150 feet for all other intersections, unless otherwise approved by the City Engineer. The positive is considered going up from the intersection and the negative is going down from the intersection.

C. Whenever the subdivider changes the grade of an existing street outside the limits of the development, and the grade change requires adjustment to meet existing improvements (streets, driveways, walks, and the like), such adjustments are required will be the responsibility of the subdivider, as approved by the City Engineer.

(d) Curbs and Gutters
The subdivider shall construct combined curb and gutters in all residential areas in conformance with the City of Xenia Materials and Construction Specifications Manual.
Chapter 1238: Subdivision Design
Section 1238.06: Streets and Thoroughfares
Subsection (e): Intersections

(e) Intersections

(1) The maximum approach speed for intersections shall be 25 miles per hour.
(2) The centerline of all streets shall intersect as nearly at a 90 degree angle as possible, but in no case shall the angle of intersection be less than 80 degrees or greater than 100 degrees.
(3) Multiple intersections involving junctions of more than two streets shall be avoided.
(4) Table 1238-3 establishes minimum centerline offsets to be applied to intersections as well as the minimum curb radius that shall apply to each intersection type.

<table>
<thead>
<tr>
<th>Type of Street Intersection</th>
<th>Minimum Centerline Offset of Adjacent Intersections (Feet)</th>
<th>Minimum Curb Radius (Feet) [1]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Street – Local Street</td>
<td>150</td>
<td>25</td>
</tr>
<tr>
<td>Local Street – Collector Street</td>
<td>200</td>
<td>25</td>
</tr>
<tr>
<td>Collector Street – Collector or Minor Arterial Street</td>
<td>300</td>
<td>30</td>
</tr>
<tr>
<td>Collector or Minor Arterial Street – Major Arterial Street</td>
<td>Based upon the ODOT L&amp;D Manual</td>
<td>35</td>
</tr>
</tbody>
</table>

Note:
[1] In the case of a local access street or any collector street intersection in a commercial or industrial area, the minimum curb radius shall be increased to 50 feet.

(5) Individual grades for each curb shall be provided on a stop street when the grade on the through street exceeds two percent.
(6) Low points that would result in water ponding or poor visibility shall be prohibited.

(f) Special Street Types and Street Requirements
The following requirements shall apply to special street types or under the specified circumstances:

(1) Temporary Dead-End Streets
   A. Temporary dead-end streets shall be permitted only where there are future plans to continue the street into another phase of the subdivision or into an adjacent, future subdivision. In such cases, a temporary turnaround shall be provided with a design approved by the City Engineer.
   B. Provisions for maintenance and the removal of the temporary dead-end street shall be required of any additional plat approvals.
   C. Temporary dead-end streets longer than 600 feet are prohibited.
   D. A “T” turnaround (temporary only) may be permitted in-lieu of a cul-de-sac that is required for permanent dead-end streets. Such turnarounds shall be designed to allow vehicles to turn around with only one backing-up movement. See Figure 1238-A. The turnaround area shall be the same width as the street it abuts and shall be at least 75 feet long.
E. If a dead-end street extends one lot depth or less past a street intersection, a “T” turnaround will not be required.

(2) Permanent Dead-End Streets

A. Permanent dead-end streets are prohibited unless they include a turnaround (cul-de-sac) in accordance with this subsection.

B. Permanent dead-end streets shall not exceed 600 feet in length as measured from the centerline of the intersecting street to the center of the turn-around. Permanent dead-end streets may be longer where unique topographic or other physical conditions exist making a through street impractical.

C. All permanent dead-end streets shall be designed with a turning circle having an outside pavement diameter (curb face to curb face) of at least 80 feet.

(3) Streets for Nonresidential Subdivisions

A. Streets serving nonresidential developments (e.g., commercial or industrial) and accessory parking areas shall be planned to connect with collector or arterial streets so as not to generate traffic on local access streets.

B. The spacing of driveways serving nonresidential subdivisions is established in the Section 1234.03: Alignment and Separation of Driveways.

C. The City Engineer may require local access streets (frontage streets) that run parallel to an arterial or collector street to provide maximum safety and convenience.

(4) Alleys

A. Alleys may be considered for residential subdivisions if the design of the subdivision, the proposed type or character of development, and/or the surrounding street layout will create a development that complies with the comprehensive plan or enhances traffic movement.

B. Alleys may be required in nonresidential districts if other provisions cannot be made for adequate service access.

C. The minimum widths for alleys shall be 20 feet for the right-of-way and 18 feet for the pavement width.
(5) **Half-Streets**

The dedication of new half-streets shall not be permitted. Where a dedicated or platted half-street exists adjacent to the tract being subdivided, the other half shall be platted.

(6) **Private Streets**

A. Private streets are discouraged.

B. Where constructed, a private street shall be constructed to the minimum standard of a public street in accordance with this code.

C. The City shall not be responsible for maintenance, snow plowing, cleaning, or provision of similar public street services for private streets.

D. Property owners abutting a private street may request that the City accept the street as a public street dedication at a later date but the City shall not be required to accept such dedication.

E. In no instance shall the City accept a public street as a public dedication until such street is shown to meet all applicable street design standards required for public streets in this code.

### 1238.07 Sidewalks

All major subdivision applications shall be subject to the standards in Section 1220.07: Major Subdivisions.

### 1238.08 Easements

(a) Public utility easements at least 10 feet in total width may be required along the front, rear and sides of lots where needed for the accommodation of public utilities, drainage or any combination of the foregoing.

(b) Sanitary sewer and water line easements shall have a minimum total width of 20 feet.

(c) Slope easements shall be provided when required by the City Engineer.

(d) In all cases, the PZC may require wider easements where they deem necessary for the protection of public improvements.

(e) Before determining the location of the easements, the subdivider shall discuss the proposed plat and construction drawings with the local utility companies to assure the proper placing for the installation of services.

(f) The subdivider shall provide easements for storm drainage purposes which conform substantially to the lines of any natural watercourses, channels, streams or creeks which traverse the subdivision, or for any new channel which is established to substitute for a natural watercourse, channel, stream or creek.

   (1) Such easements shall have a minimum width of 10 feet although the City Engineer may require additional width if necessary to ensure the maintenance needs of the channel and incidental structures.

   (2) A floodway easement shall be wide enough to provide for future enlargement of the stream channels as adjacent areas become more highly developed and runoff rates are increased.

   (3) For smaller streams, the City Engineer may waive the 10-foot easement width provided the plat establishes channel improvements to enable them to carry all reasonable floods within the stream banks.
All underground public utility lines, wires, cables, conduits, vaults, laterals, pipes, mains, valves and other similar distributing equipment shall be placed within easements or dedicated public ways in such a manner so as not to conflict with any other underground service previously installed.

1238.09 Utilities

(a) General Requirements for Utilities and Underground Facilities

(1) All public and common electric, cable, and telephone lines and other utilities shall be located underground in all residential, office, commercial and industrial subdivisions and districts, and shall be placed in their own easement, shown on the final or record plat. These underground utility requirements shall also apply to any lines required to serve the new development that extend outside the boundary of the development. The conduits or cables shall be located within easements or public right-of-ways in separate trenches, in a manner which will not conflict with other underground services.

(2) In industrial subdivisions where the electric power provider advises the City that the power load requirements are sufficiently large as to make underground service impractical or unfeasible, electric, cable, and telephone lines may be installed overhead along rear lot lines with the approval by the City Engineer. Should the City Engineer approve an overhead distribution system, all connections to it shall be made underground. All facilities are to be constructed on one side of the road without overhead crossovers.

(3) Where cable, fiber optic, television, or similar services or conduit is or will be in operation, the applicant shall install cable or conduit for such service simultaneously with and in the same manner as electric and telephone cables are installed, both within the right-of-way and to individual building connections.

(4) All sewer and utility pipelines shall preferably be placed outside the limits of the pavement. All excavations for public utilities made under paved areas shall be properly backfilled with approved granular materials thoroughly compacted in place and subject to approval by the City Engineer.

(5) All storm drainage grates shall be constructed to allow bicycles to pass over the grate safely and shall have the words “No Dumping, Drains to Stream”, or similar, cast into the grate.

(b) Sanitary Sewers

The following requirements shall govern sanitary sewer improvements:

(1) Where an adequate existing public wastewater treatment system is reasonably accessible, in the determination of the City Engineer, public sanitary sewers shall be installed to adequately serve all lots, including lateral connections to the public system. Public sewer system extensions shall meet the requirements of the Ohio Environmental Protection Agency and City standards.

(2) Combinations of sanitary sewers and storm sewers shall be prohibited.

(3) Sanitary sewers shall be provided, sized and located to allow for service of all upstream properties and in accordance with Chapter 1044 of these Codified Ordinances. The subdivider shall be responsible for the cost of preparing, filing and reviewing all permit fees for all public sanitary sewers through the Southwest District Office of the Ohio Environmental Protection Agency. The permit application and all fees shall be submitted to the City of Xenia as a requirement for financial guarantees.

(4) Sanitary sewers shall be extended through all lots and right-of-ways within the approved plat.
Chapter 1238: Subdivision Design
Section 1238.09: Utilities
Subsection (c): Water Supply

(c) Water Supply

(1) Public Water Supply

The following shall govern water supply improvements:

A. The subdivider or subdivider shall construct a system of water mains and appurtenances and connect them with the public water supply and provide a connection for each lot.

B. Water mains and laterals shall be provided and sized and located to service all lots in the subdivision or in future developments and in accordance with Chapter 1042 of these Codified Ordinances. The subdivider shall be responsible for the cost of preparing, filing and reviewing all permit applications and fees for all water extension plans through the Southwest District Office of the Ohio Environmental Protection Agency and the Greene County Combined Health District. The permit applications and fees shall be submitted to the City of Xenia as a requirement for bonding.

C. The type, size, and location of water lines shall be approved by the appropriate departments in the City of Xenia.

D. Water mains shall be extended through all lots and right-of-ways within the approved plat.

(2) Fire Hydrants

A. Fire hydrants conforming to the materials and installation standards of the Public Service Department and the Fire Division shall be provided in all subdivisions where the installation of water mains is required.

B. Acceptable types of hydrants shall have two, two and one-half inch diameter hose connections and one four-inch diameter hose connection and shall be installed so that the four-inch connection faces the street.

C. Hydrants shall be required at the entrance of all cul-de-sacs and the distance between all fire hydrants shall not exceed 500 feet.

D. Additional hydrants may be required by the Fire Chief due to special conditions in the subdivisions.

E. The type of hydrant and control valves and the location of the hydrant shall be approved by the Public Service Department and the Fire Division.

F. The minimum size of any water line servicing any hydrant shall be six inches in diameter and such lines should be circulating water lines.

(d) Electric, Telephone, Cable, and Fiber Optic

(1) Electric service and telephone service shall be provided within each subdivision.

(2) Gas service and fiber optics shall be required where reasonably accessible.

(3) All electric, telephone, cable, fiber optic, and similar transmission lines shall be designed and installed in compliance with the applicable standards of these regulations and the authority having jurisdiction.

(4) All such utilities shall be located in an easement of not less than five feet per lot and the total easement shall not be less than 10 feet (two, five-foot easements adjacent to one another)

(e) Storm Drainage Channels

(1) A storm drainage channel requiring a capacity greater than that accommodated by a 72 inch diameter pipe may remain as an open channel. Where conditions justify it, exceptions may be made by the City Engineer.
(2) The cross-section and profile of the channel and its banks shall be approved by the City Engineer and the Greene County Soil and Water Conservation District.

(3) In soils subject to erosion, paved channels may be required.

(4) After inspection, open channel banks and a ten-foot berm shall be seeded and mulched at the end of each construction day according to specifications in the latest edition of Water Management and Sediment Control for Urbanizing Areas, Soil Conservation Service.

(5) Upon completion of the construction of the drainage channel, the channel, its banks and an area of adequate width to permit proper maintenance of the channel shall be dedicated to and maintained by the City.

(f) Over-Size and Off-Site Improvements

(1) The utilities, pavements and other land improvements required for the proposed subdivision shall be designed for over-sizing and/or for extensions provided to serve nearby land which is an integral part of the neighborhood service or drainage area as determined by the City Engineer. To be deemed oversized, the subdivider shall submit calculations to the City Engineer for review and approval that validates the excess capacity. In no instance however, shall any sewer or water main be less than 8 inches in diameter.

(2) The subdivider shall be required to pay for only that part of the construction costs of major arterial streets as determined by the City Engineer. For storm drainage systems within the City, the City shall pay the difference between the costs of the larger sized pipe as validated by calculations submitted by the subdivider when it is required to service the drainage area beyond the limits of the plat. The subdivider shall be required to pay for all other over-size improvements that pertain to sanitary sewers, water line and storm drainage requirements inherent to the plat and shall not be required to pay for oversize sanitary sewer and/or water line improvements where such oversizing has been required for conformance with the Sanitary Sewer and Water Master Plan for the City.

(3) The subdivider may be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining, unplatted land as determined by the PZC.

(4) If streets or utilities are not available at the boundary of a proposed subdivision, and if the City finds that the extension across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a City expense until some future time, the subdivider may be required, prior to approval of the final plat, to obtain the necessary easements or rights-of-way and to construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land.

1238.10 Green Infrastructure

(a) Green Infrastructure Techniques

(1) The City encourages the use of green infrastructure techniques because of their connection to sustainable development practices and environmental quality. The proper use of green infrastructure can dramatically improve storm water runoff quality, decrease runoff volume, protect downstream streams and rivers, and create more interesting places to live.

(2) The following green infrastructure techniques may be incorporated into new subdivisions with approval from the City Engineer, provided that the applicant submits documentation that the proposed green infrastructure technique is effective and will equal or exceed the function of traditional infrastructure techniques and meet the requirements of this code:

A. Narrower pavement widths;
Section 1238.10: Green Infrastructure

Subsection (b): Criteria for Green Infrastructure Waivers

(b) Criteria for Green Infrastructure Waivers

The City Engineer may grant a green infrastructure waiver for use of the green infrastructure techniques provided:

1. The techniques will utilize the landscape or nature’s ability to reduce, slow, filter, and/or absorb storm water runoff from streets, parking lots, and buildings in a method that equals or exceeds the existing infrastructure requirements of the City;
2. The techniques are consistent with best management practices; and
3. The technique has been designed by a professional engineer and is accompanied by documentation stating that the proposed technique does not pose a threat to the public safety.
Chapter 1240: Nonconformities

1240.01 Purpose

Within the districts established by this code, some lots, uses of lands or structures, or combinations thereof may exist which were lawful prior to the effective date or amendment of this code, but that are prohibited, regulated, or restricted under the terms of this code. The legitimate interests of those who lawfully established these nonconformities are herein recognized by providing for the continuance of such uses, subject to regulations limiting their completion, restoration, reconstruction, extension, and/or substitution. Nevertheless, while it is the intent of this code that such nonconformities be allowed to continue until removed, they should not be encouraged to survive, unless otherwise allowed in this chapter or specifically addressed in this code.

1240.02 General Provisions

(a) Any use, building, structure, land or premises that exist at the time of the effective date of this code that was legally established under a previous code amendment or versions may be continued even if such use, building, structure, or use of land does not conform to the provisions of this code.

(b) Passage of this code in no way legalizes any illegal uses existing at the time of its adoption.

(c) 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.

1240.03 Determination of Legal Nonconformity Status

(a) At the time of application for a zoning permit, or request for variance regarding a nonconforming lot, building, structure or use, the property owner shall submit sufficient evidence for the City Planner or BZA, as applicable, to determine that such lot, building, structure, or use was lawfully created or established in accordance with the code regulations in existence at that time.

(b) If the evidence submitted indicates the lot, building, structure or use was legally established and has since become nonconforming because of the establishment of, or amendment to, this code, the City Planner shall issue a zoning permit identifying it as a legal nonconformity. A copy of such permit shall be kept on file in the offices of the City Planner.

1240.04 Nonconforming Uses and Variances

(a) Whenever a nonconforming use has been changed to a conforming use, such use shall no longer be defined as a nonconforming use, nor shall the property be returned to the former nonconforming use.

(b) When a property owner or authorized agent is granted a variance for a nonconformity that addresses the nonconformity, the use, structure, or lot shall no longer be considered nonconforming. In no case shall the resolved nonconformity be expanded or altered to create further nonconformities.

(c) If a property owner or authorized agent is granted a variance for a nonconformity that addresses some nonconformities but additional nonconformities continue, the use shall still be subject to the provisions of this chapter.
1240.05 Nonconforming Uses

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

(a) No such nonconforming uses 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 code unless it complies with the provisions of Section 1240.05(e): Expansion of a Nonconforming Use.

(b) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this code.

(c) No additional structures shall be constructed on a lot with a nonconforming use unless such new structure complies with the requirements of this code and the applicable zoning district.

(d) Change or Substitution of Nonconforming Use

(1) The lawful use of an existing building or structure can be continued even if such use is not permitted in the applicable district. If no structural alterations are made that increase the nonconformity, 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 BZA. Such determination shall be made at a public hearing held in the same manner as a variance (See Section 1220.10: Variances.), including notice, but the variance review criteria of Section 1220.10(d): Review Criteria shall not apply. At the hearing, the BZA shall make a determination 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.

(2) 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.

(3) 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.

(e) Expansion of a Nonconforming Use

(1) Notwithstanding the foregoing provisions to the contrary, a structure containing a nonconforming residential use (not including mixed use buildings or live/work units) may be increased or improved, regardless of the applicable zoning district, provided the structure continues to be used for residential purposes only and meets all required setbacks.

(2) Notwithstanding the foregoing provisions to the contrary, a structure containing a nonconforming, nonresidential use, may be increased or improved, regardless of the applicable zoning district, where the owner of such use can demonstrate through application to the BZA that the manner in which the useable area of the nonconforming use will be increased or improved will have minimal adverse impact upon adjacent properties and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.

(3) 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.

(4) The BZA shall review a request to expand a nonconforming use pursuant to the variance procedure in Section 1220.10: Variances, and shall be subject to the review criteria of this section.
Chapter 1240: Nonconformities
Section 1240.06: Nonconforming Structures and Sites
Subsection (f): Existing Use Reclassified as a Conditional Use

(f) **Existing Use Reclassified as a Conditional Use**

In the event an existing use that was permitted by right at the time the use was established is thereafter reclassified as a conditional use in the applicable district due to a zoning text amendment, 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 PZC in accordance with this chapter and Section 1220.05: Conditional Uses. Such use, provided it is conditionally permitted in the applicable district, shall not be considered a nonconforming use.

(g) **Termination of Nonconforming Uses**

(1) **Termination of Use through Discontinuance**

A. When any nonconforming use is discontinued or abandoned for more than 12 consecutive months, any new use shall conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed. The intent to continue a nonconforming use shall not be evidence of its continuance.

B. There may be cases when a structure, or structure and premises in combination, may not be converted to a conforming use because of the original floor plan and design (e.g. townhouses in a single-family residentially zoned area). In these cases, the Board of Zoning Appeals may determine that the nonconforming use may continue if the nonconforming use is the original use of the structure and/or premises. Appropriate safeguards, conditions and design standards may be required by the Board of Zoning Appeals so as to minimize the impact of such continuance on the area.

(2) **Termination of Use by Damage or Destruction**

A. If a nonconforming single-family residential use in any district is damaged or destroyed to any extent, such structure and use may be reestablished on the same lot provided it meets the same size in height and footprint, as well as complying with the same setbacks as previously existed.

B. If a nonconforming two-family or multi-family residential use in any district is damaged or destroyed to any extent greater than 75 percent of the principal structure’s market value according to the Greene County Auditor, such structure and use may be reestablished on the same lot. Such reestablishment of the use shall require the issuance of a zoning permit.

C. If a nonconforming, nonresidential use in a residential district is damaged, but not to an extent greater than 50 percent of the principal structure’s market value according to the Greene 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 or destruction. Such reestablishment of the use shall require the issuance of a zoning permit.

D. If a nonconforming, nonresidential use in a residential district is damaged beyond 50 percent of the principal structure’s market value according to the Greene County Auditor, such structure and use may only be reestablished with approval by the BZA after consideration of surrounding uses and the impact of the nonconforming use.

1240.06 **Nonconforming Structures and Sites**

A nonconforming building or structure may continue to be used or occupied by a use permitted in the applicable zoning district so long as it remains otherwise lawful and does not constitute a public nuisance, subject to the following provisions:
(a) Any nonconforming structure or site 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.

(b) A nonconforming structure shall not be relocated in whole or in part to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the applicable zoning district after being relocated.

(c) The principal use of a nonconforming building may be changed to any other use permitted in the applicable zoning district as long as the new use complies with all regulations of this code specified for such use, except the regulations to which the building did not conform prior to the change in use.

(d) The governmental acquisition of a portion of a lot for a public purpose that results in reduction in a required yard or building setback below that required in the applicable zoning district shall not render a structure nonconforming.

(e) Damage or Destruction of a Nonconforming Structure Containing a Conforming Use

(1) If a nonconforming structure is damaged, but not to an extent greater than 75 percent of the structure’s market value, as determined by the Greene 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 or destruction. Such reestablishment of the use shall require the issuance of a zoning permit. If an owner rebuilds a legally nonconforming structure under this provision, they may expand the structure provided any expansion or change does not increase the nonconformity that existed prior to the damage.

(2) If a nonconforming structure is damaged beyond 75 percent of the structure’s market value, such structure shall only be rebuilt in compliance with the requirements of this code, with the exception that if the nonconforming structure did not meet the minimum square footage requirement specified in Section 1226.01(b)(1)Minimum Floor Area Requirements for Dwelling Units, the structure may be rebuilt to the original square footage. Such reconstruction shall require the application and issuance of all necessary zoning and building permits.

(3) If the owner voluntarily removes the structure or reduces the nonconformity, that has not been damaged or destroyed, that owner shall not be permitted to rebuild the structure to the original height, size, or setback.

1240.07 Nonconforming Lots of Record

A nonconforming lot of record may be used in accordance with this section.

(a) Nonconforming Lots of Record in Residential Districts

(1) If an existing lot of record in a residential district is occupied by a dwelling, such dwelling 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 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 vacant single lot of record after the effective of this code provided the buildings comply with the following:

A. The width of the side yard of any such lot need not exceed 10 percent of the width of the lot, provided, however, that there shall be a minimum side yard setback of five feet.

B. The rear yard setback of any such lot need not exceed 20 percent of the depth of the lot, provided, however, that the minimum rear yard setback shall be 10 feet.

(b) Nonconforming Lots of Record in Nonresidential Districts

In any nonresidential district, a use that is permitted in the applicable district, and its customary accessory uses, may be erected on a vacant single lot of record provided the buildings comply with the following:

(1) The width of the side yard of any such lot need not exceed 10 percent of the width of the lot, provided, however, that there shall be a minimum side yard setback of five feet.

(2) The rear yard setback of any such lot need not exceed 20 percent of the depth of the lot, provided, however, that the minimum rear yard setback shall be 10 feet.

(3) In no case shall a nonresidential use on a nonconforming lot of record be exempt from the provisions of Chapter 1232: Landscaping and Buffering.

1240.08 Nonconforming Signs

See Section 1236.12: Nonconforming Signs, for the regulation of nonconforming signs.

1240.09 Repair and Maintenance

(a) 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 unless in accordance with this chapter.

(b) Nothing in this section shall be deemed to prevent the strengthening or restoring to safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, including, but not limited to the City Planner, Code Enforcement Officer, or Chief Building Official, upon order of such official. Where appropriate, a building permit for such activities shall be required.
Chapter 1242: Enforcement and Penalties

1242.01 Enforcing Officer
The Code Enforcement Officer is hereby designated as the enforcing officer of this code. The Code Enforcement Officer is hereby authorized to enforce, issue orders to prevent and stop violations, and assist the City Planner in the administration of the provisions of this code. The Code Enforcement Officer may be assisted by other personnel as the City Planner may authorize.

1242.02 Violations
(a) Any person, firm or corporation who constructs any public improvement or portion thereof in violation of any provision of this code shall, upon conviction, be fined not more than the maximum specified by Ohio law for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(b) The erection, construction, enlargement, conversion, moving or maintenance of any building or structure, and the use of any land or building which is continued, operated or maintained, contrary to the provisions of this code is hereby declared to be a violation of this code and unlawful. Each day's continuation of a violation of this section may be deemed a separate offense.

(c) Whenever the Code Enforcement Officer determines that there has been a violation of any provision of this code, the Code Enforcement Officer shall give notice of such violation to the person or persons responsible therefore, and require compliance with this code. Service of notice of the violation shall be as follows:

1. By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of 16 years or older; or
2. By certified mail or first class mail, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when a certified mail receipt is received or first class mail is not returned after 10 days of mailing; or
3. By posting a copy of the notice form in a conspicuous place on the premises found in violation.

1242.03 Penalties
(a) Whoever sells or offers for sale, leases or offers for lease, while this code is in effect, any lot or lots, or block or blocks, within the incorporated limits of the City of Xenia, or any addition thereto, or any re-subdivision of any lot or block therein, before all of the requirements of the regulations of this code have been complied with shall be fined not more than the maximum specified by State law for each lot, block or part thereof so disposed of, offered for sale or leased.

(b) Whoever violates or fails to comply with any of the provisions of this code, for which no penalty is otherwise provided, is guilty of a misdemeanor of the fourth degree. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues after due notice has been served.
Chapter 1242: Enforcement and Penalties
Section 1242.04: Remedies

Subsection (b): Nonconforming Lots of Record in Nonresidential Districts

1242.04 Remedies

(a) In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of this code, or any amendment or supplement thereto, City Council, the Law Director, the City Planner, Code Enforcement Officer, City Engineer, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

(b) The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

1242.05 Affected Parties

The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, surveyor, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may be found guilty of a separate offense and suffer the penalties herein provided.

1242.06 Other Actions

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.
Chapter 1244: Definitions

1244.01 Rules of Construction and Interpretation

(a) Intent
All provisions, terms, phrases, and expressions contained in this code shall be construed according to this code’s stated purpose and intent.

(b) Lists and Examples
Unless otherwise specifically indicated, lists of items or examples that use terms such as including, such as, or similar language are intended to provide examples, and not to be exhaustive lists of all possibilities.

(c) Computation of Time
Unless the terms of a specific provision state otherwise (e.g., some provisions specify “business days”), periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business/working days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

(d) References to Other Regulations, Publications, and Documents
Whenever reference is made to an ordinance, resolution, statute, regulation, or document, that reference shall be construed as referring to the most recent edition of such regulation (as amended), resolution, statute, or document or to the relevant successor document, unless otherwise expressly stated.

(e) Public Officials and Agencies
All public officials, bodies, and agencies to which references are made are those of the City of Xenia, Ohio, unless otherwise expressly stated.

(f) Delegation of Authority
Whenever a provision appears requiring the head of a department or another officer or employee of the City to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

(g) Technical Words
Technical words and phrases not otherwise defined in this code that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(h) Mandatory and Discretionary Terms
The word shall is always mandatory, and the words “may” or “should” are always permissive.

(i) Conjunctions
Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

1. “And” indicates that all connected items, conditions, provisions, or events shall apply.
2. “Or” indicates that one or more of the connected items, conditions, provisions, or events shall apply.
Chapter 1244: Definitions
Section 1244.02: General Definitions

(j) **Tense and Usage**
Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

(k) **Gender**
The masculine shall include the feminine, and vice versa.

(l) **Meaning**
For the purpose of this code, words and phrases shall have the meanings set forth in this chapter.

(m) **Other Terms Not Defined**

1. Words and phrases not otherwise defined in this code shall be construed according to the common and approved usage of American English. For the interpretation of uses, the City Planner may utilize outside sources such as information from the Urban Land Institute (ULI), American Planning Association (APA).

2. **Terms Related to Flooding and Special Flood Hazard Areas**
Any term related to flooding or special flood hazard areas that are not defined in this chapter shall be as defined by the United States Federal Emergency Management Agency (FEMA).

### 1244.02 General Definitions

**Abandonment**
The lack of building activity or progress towards achieving the scope of work defined in both the zoning permit and building permit. This does not apply to construction activities that are suspended due to extended illness, building contractors’ labor strike, known industry shortage of construction material used in the project, time of war and natural calamities.

**Abutting, Adjoining or Adjacent**
The land, lot, or property adjoining the property in question along a lot line or separated only by an alley, easement, or street.

**Accessibility Ramps**
Permanent or portable amps utilized to provide a disable person with accessibility to a structure.

**Accessory Dwelling Unit**
A separate, complete dwelling unit that has its own kitchen, sleeping area, and full bathroom facilities. Accessory dwelling units may be contained within or added on to a principal dwelling or be part of an accessory building (e.g., attached to a garage).

**Accessory Facilities/Structures**
Any building, shed, shelter, cabinet or similar structure used for the purpose of storing telecommunications equipment, including, but not limited to, computer equipment and equipment necessary for the tower or antenna to perform its intended operation.

**Addition**
New construction performed on a building, which increases the outside dimensions and/or impacts the height and the floor area of the structure and the lot or site coverage.

**Administrative Waiver**
A review process that allows the City Planner to waiver certain dimensional standards by up to 10 percent based on the provisions of Section 1220.11(e): Administrative Waiver Requests.
Chapter 1244: Definitions
Section 1244.02: General Definitions

Adult Uses (Use Category)
The adult use category is comprised of uses that are of a sexual nature, intended for adults only.

Agricultural and Agricultural Services (Use Category)
The agricultural and agricultural services use category is comprised of uses characterized by general active and on-going agricultural uses, activities, and related uses. An agricultural use, in general, means the use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income.

Agriculture (Livestock)
• Any use of land for the raising and caring of livestock. This includes necessary buildings and structures which shall be used for agriculture, raising and caring for livestock and animal and poultry husbandry including necessary accessory uses for parking, treating or sorting the products; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Buildings occupied as residences by persons engaged in agricultural operations shall not be considered to be used for agricultural purposes.
• For the purposes of this code, this use shall also include commercial stables and riding academies defined as the use of a building for animals to lodge and feed in, especially having stalls for horses. Such building may also be used for educational instruction in the care or riding of horses.
• This use shall not include activities which typically are associated with one or more of the following impacts: strong offensive odors, substantial run-off, large concentrations of animal waste, noise, and/or extensive use of chemical, compost, and manure piles. Such uses include, but are not necessarily limited to:
  o Livestock slaughtering areas;
  o Areas for the storage or processing of manure, garbage, or spent mushroom compost; or
  o Structures housing more than 50 animal units and factory farming.

Agriculture (Raising of Crops)
Any use of land for the growing and harvesting of legal agricultural crops and trees for commercial agricultural purposes. Agricultural uses include, but not limited to, raising of crops, horticulture, floriculture, and viticulture and the necessary accessory uses for parking, treating or sorting the products; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Buildings occupied as residences by persons engaged in agricultural operations shall not be considered to be used for agricultural purposes. See also “community gardens.”

Alley
Any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration
• Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as “altered” or “reconstructed;” any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction or removal of any structure.
• Any change of copy, sign face, color, size, height, shape, illumination, position, location, construction, or supporting structure of any sign.
Alternative Equivalent Review
A review procedure by which an applicant can propose an alternative approach to meeting a standard of this code that meets or exceeds the original standard. See Section 1220.09: Alternative Equivalent Review.

Amateur Radio Antenna
A system of cables, electrical conductors, insulators, metallic or non-metallic tubing, poles, reflecting discs, rods, wires, or similar objects used for transmission or reception of radio signals or electromagnetic waves for amateur radio service.

Amateur Radio Service
A radio communication service for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.

Amateur Radio Tower
A structure whose principal function is to support one or more amateur radio antennas.

Animal Care (Use Category)
The animal care use category is comprised of uses characterized by the caring, grooming, and treatment of animals, including vet services.

Animal Hospitals, Clinics or Grooming
A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. This includes establishments where the primary service is the cleaning or grooming of domestic pets including, but not limited to, bathing, brushing, combing, nail and hair trimming, etc. Use as a kennel shall be limited to short-time boarding of animals being treated at the facility.

Antenna Support Structure
Any device or apparatus used to connect the telecommunication antenna to a building, structure or tower to which it is attached.

Architectural Feature
A prominent or significant part or element of a building, structure or site.

Auction Sales or Flea Markets
Establishments used for the sale of goods that were homemade, homegrown, handcrafted, old, obsolete or antique that are either:

- Places where the goods are temporarily stored until they are sold at auction, by an auctioneer, who operates out of the establishment; or
- Buildings or open areas in which sales areas or stalls are set aside or rented and which are intended for use by individuals or by educational, religious or charitable organizations to sell such goods.

Auto Service Stations
Any structure or premises used for dispensing or sale of automotive vehicle fuels or lubricants, including lubrication of motor vehicles and replacements or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting. Such uses may include the retail sale of parts and minor services that include, but is not limited to, oil changes, replacement of tires, and replacement of batteries and other minor parts that typically occurs while the customer waits.

Automotive Fuel Sales
An establishment that sells unleaded and diesel gasoline or any other fuel used in vehicles.
Automotive Repair (Heavy)
Any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of major parts of motor vehicles (e.g., major engine repair) that exceeds the services allowed as part of “auto service stations.”

Awning
A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework. See also definition of “canopy.”

Bail Bonding Institutions
Any building, room, space, establishment, facility or portion thereof where licensed bail bond surety is provided in accordance to State of Ohio Regulations.

Banks or Financial Institutions
Establishments engaged in deposit banking. Banks and financial institutions may include, but are not limited to, commercial banks, loan or mortgage companies, stockbrokers, savings institutions, credit unions, and other similar uses. This use type does not include “payday lending, cash advance, or non-chartered financial institution” as defined in this chapter.

Banquet Halls or Conference Centers
Facilities or buildings available for lease by private parties that may include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption during scheduled events not open to the public, and/or outdoor gardens, decks, or reception facilities.

Base (100-Year) Flood Elevation (BFE)
The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in feet mean sea level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).

Base Flood
The flood having a one percent chance of being equaled or exceeded in any given year. “Base flood” may also be referred to as the one percent chance annual flood or 100-year flood.

Basement
The portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story, except the portion of a building having more than one-half of its total vertical distance (height) above grade.
Basketball Hoops
Small accessory basketball hoops, not related to a "tennis or other recreational court" either mounted to a wall or freestanding, by which occupants of the principal use can play basketball.

Bed & Breakfast Establishments
A resident-managed and resident-occupied residential structure used as a lodging establishment where up to five rooms are rented on a nightly basis and in which breakfast is the only meal and is included as part of the basic compensation.

Bike and Skateboard Ramps
An accessory structure utilized for recreational purposes related to bicycle and skateboard use.

Block
The property abutting one side of a street and lying between the two nearest intersecting streets, crossing or terminating, or between the nearest such street and a railroad right-of-way, unsubdivided acreage, a river or live stream, or between any of the foregoing and any other barrier to the continuity of development or the corporate lines of the municipality.

Block Face
All lots that have frontage on the same street as the subject lot between an intersecting street or other boundary.

Board of Zoning Appeals (BZA)
The Board of Zoning Appeals for the City of Xenia, Ohio

Buffer
An area of natural or planted vegetation adjoining or surrounding a land use and unoccupied in its entirety by any building structure, paving (with limited exceptions) or portion of such land use, for the purposes of separating, screening, and softening the effects of the land use. A buffer may include a wall, fence, or berm as provided in accordance with the provisions of Chapter 1232: Landscaping and Buffering.

Building
A structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity.

Building Elevation
The front, rear or side exterior surface of a building as viewed in a flat scale drawing.

Building Line
A line formed by the face of a building. For the purposes of this code, a building line is the same as a front setback line.

Building Massing
Building massing is the three-dimensional bulk and shape of a structure that includes the height, width, and depth.

Building, Accessory
A building on the same lot with, and of a nature customarily incident and subordinate to, that of the principal building.

Building, Nonconforming
A building or portion thereof, lawfully existing on the effective date of this code, or amendments thereto, and which does not conform to the provisions of the code in the district in which it is located.

Building, Principal or Main
A building in which is conducted the principal use of the lot upon which it is situated.
Chapter 1244: Definitions
Section 1244.02: General Definitions

**Bulk Storage of Liquids**
A use associated with the bulk storage of water, dairy products, oil, gasoline, liquid fertilizer, chemicals, and similar liquids.

**Business and Professional Offices**
Establishments providing executive, management, administrative, or professional services including, but not limited to, real estate, architecture, legal, travel, employment, advertising, design, engineering, accounting, and similar uses.

**Business Services**
Establishments primarily engaged in rendering services to office, business, or industrial establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; office equipment rental and leasing; commercial research; development and testing; photo finishing; machine repair, and personal supply services.

**Camper**
A portable, compact dwelling intended for occasional use while traveling or camping, designed to be transported on a vehicle with motive power, or to be pulled behind a motor vehicle, and designed to not depend on connection to external facilities for use.

**Campgrounds**
Temporary or permanent buildings, tents, or other structures established or maintained as a temporary living quarters, operated continuously for a period of five days or more for recreation, religious, education or vacation purposes.

**Canopy**
A permanent structure made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure but typically is supported by features other than the building façade (e.g., structural legs, building extensions, etc.). See also definition of “awning.”

**Carport**
A stationary structure consisting of a permanent roof and permanent supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.
Chapter 1244: Definitions
Section 1244.02: General Definitions

**Cemeteries**
Land used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery. This definition shall not be construed to include the burial of animals or pets.

**Certificate of Appropriateness**
A certificate issued approved by the Planning and Zoning Commission or the City Planner of plans for minor and major alterations, construction, removal or demolition of a structure within a nationally or locally designated historic district or on nationally or locally designated historic properties.

**Channel**
A natural stream that conveys water; a ditch or channel excavated for the flow of water.

**Chargeable Floor Area**
The covered and enclosed space determined to be within the perimeter wall of a structure, not including any outside accessory structure incidental to the principal use of the development such as storage, garage, parking structure, unenclosed walkway or utility or disposal area.

**City Council**
The City Council of the City of Xenia, Ohio

**City Engineer**
The City Engineer of the City of Xenia

**City Planner**
The staff person at the City of Xenia who has the primary responsibility for administering the duties of this code.

**Clearing**
The clearing, grubbing, scalping and removal of trees and stumps, and the removal and disposal of all vegetation and debris within a site, including the conditions resulting therefrom.

**Code Enforcement Officer**
The staff person at the City of Xenia who, at the direction of the City Planner, provides assistance in enforcing the provisions of this code.

**Co-location**
The process of providing space for more than one user within a wireless telecommunication carrier tower and accessory facilities/structures.

**Commercial Message or Speech**
Any sign, wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

**Commercial Recreational Facilities (Indoors)**
Facilities that are not owned or operated, in whole or in part, by the City, township, Greene County, State, or a non-profit agency, and which are open to the general public for a fee that shall include, but is not limited to: roller blade rental, billiard parlors, ice skating rinks, indoor swimming pools, bingo parlors, and other similar businesses. All activities take place within an enclosed building. Commercial recreation facilities shall not include “sweepstakes terminal device cafe.”
Chapter 1244: Definitions
Section 1244.02: General Definitions

Commercial Recreational Facilities (Outdoors)
Land or facilities that are not owned or operated, in whole or in part, by the City, township, Greene County, State, or a non-profit agency, and which are open to the general public for a fee that shall include, but is not limited to: pay-to-play athletic fields, golf courses, outdoor swimming pools, amusement parks, racetracks (animal racing only) and other similar businesses. Commercial recreation facilities shall not include “sweepstakes terminal device cafe.”

Community Clubhouses
A building used for the meeting, recreation, or social activity designed to accommodate and serve the residents of a subdivision or development to which the use is associated with and that may be privately owned or jointly owned by property owners.

Community Garden
A single piece of land that is gardened collectively by a group of people that may include individual garden plots designated for individual gardens.

Comprehensive Plan
The most recent comprehensive plan for the City of Xenia, Ohio, as adopted by City Council

Construction
The erection, alteration, repair, renovation, demolition or removal of any building or structure, and the clearing, stripping, excavating, filling, grading and regulation of sites in connection therewith.

Construction Debris
Materials previously used for the erection, alteration, repair, renovation, demolition or removal of any building or structure, including, but not limited to, concrete, asphalt, brick, tile, treated and untreated lumber.

Construction Dumpster
A container used for the temporary storage of rubbish or materials related to the related construction site or project.

Construction Trailer or Office
A mobile home, trailer, or similar temporary structure that is used as an office or for storage in conjunction with a construction project.

Contractor Offices
General office uses that are used by contractors (e.g., painters, HVAC, construction firms, etc.) solely for their administrative activities, but which do not have any storage of materials or storage of vehicles.

Convenience Stores
A retail store that caters to the public where the sale of food items such as hot or cold drinks, prepackaged foods, and tobacco, road maps, magazines and other publications, automotive maintenance items such as brake fluid, oil, polishes, anti-freeze, and similar products, and other retail items that may be readily purchased. A convenience store does not sell gasoline or other fuels unless associated with “automotive fuel sales” uses.

County
Greene County, Ohio

Cul-de-Sac
See “Street, Cul-de-Sac.”
Chapter 1244: Definitions
Section 1244.02: General Definitions

Cultural Institutions
Public or private facilities use for display, performance, or enjoyment of heritage, history, or the arts. This use includes, but is not limited to, museums, libraries, art performance venues, cultural centers, and interpretative sites but does not include “theaters.”

Culvert
A transverse drain that channels under a bridge, street or driveway.

Cut
An excavation; the difference between a point on the original grade and a designated point of lower elevation on the final grade; also, the material removed in excavation.

Day Care Facilities (Child or Adult)
A facility administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours, by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any portion of the 24-hour day in a building other than the child's own home. This use may include, but is not limited to, after school programs, office day care centers and principal structures used for only day care/nursery school programs. This term may also include adult day care centers where persons other than children, family members, or guardians care for adult for a portion of a 24-hour day in a building other than the adult’s home.

Debris
Loose refuse or earth material not suitable for use as presently situated or constituted, as determined by the approving agent(s).

Demolition
Any act or process that destroys, in part or in whole, a building or structure.

Density
A unit of measurement indicating the number of dwelling units per acre of land, to be used in road design and not to be confused with sanitary sewer and water design density.

Density, Gross
The number of dwelling units per acre of the total land to be developed.

Density, Net
The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses and excludes such areas as street rights-of-way, parks and other similar uses.

Detached Garages and Carports
An accessory building or structure primarily intended for and used for the storage or shelter of private motor vehicles of the owner or occupant of the principal building that is detached from the principal building.

Detached Storage/Utility Sheds, Gazebos, and other Similar Structures
An accessory building, other than a detached garage, that are typically uses for storage of items utilized by the occupants of the dwelling or a building used for the general enjoyment of the occupants including, but not limited to, gazebos, structural trellises, playhouses, storage sheds, etc.

Developer
Any individual, subdivider, firm, association, syndicate, partnership, corporation, trust or other legal entity commencing proceedings under this chapter to effect the development of land for himself or herself or for another; any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
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Development:
Any manmade change to improved or unimproved land, including but not limited to the construction of buildings or other structures, mining, dredging, filing, grading, paving, excavation, or drilling.

Diameter at Breast Height (DBH)
Diameter-at-breast-height is used to measure the caliper of a tree trunk at the specific height of 4.5 feet above the ground.

Discontinued
For the purpose of nonconforming uses, to change a nonconforming use to another use that is a lawful use allowed by this code.

Distribution Facilities:
A use where goods are received and/or stored for delivery to the ultimate customer or user at remote locations.

Ditch
An open channel, either dug or natural, for the purpose of drainage or irrigation with intermittent flow. (See “stream” and “drainageway.”)

Dormitories
A building used principally to provide rooms for sleeping accommodations at an educational, public, or religious institution. Common kitchen, sanitary, and social gathering rooms may also be provided.

Drainage
- Surface water runoff; and
- The removal of surface water or ground water from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development; the means for preserving the water supply and the prevention or alleviation of flooding.

Drainageway
An area of concentrated water flow other than a river, stream, ditch, or other natural waterway.

Drive-Through Facility
An establishment that encourages or permits customers to receive services, or obtain goods while remaining in their motor vehicles.

Dwelling
A building or portion thereof designed or used for residential occupancy, but not including hotels, motels, bed and breakfasts, or dormitories.

Dwelling Unit
A single unit of one or more rooms providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, and sanitation but not including a tent, cabin, hotel, motel, recreational vehicle, or other temporary or transient structure or facility.

Dwelling, Multi-Family (Apartment Building)
A building designed to incorporate nine or more dwelling units, each dwelling unit to be totally separated from the other by a wall or a ceiling.

Dwelling, Multi-Family (Apartment House)
A building designed to incorporate four to eight dwelling units, each dwelling unit to be totally separated from the other by a wall or a ceiling. The apartment house is designed to appear as a large single-family dwelling unit rather than a traditional apartment building.
Dwelling, Multi-Family (Attached up to 6 Units)
A group of up to six attached dwelling units, separated by fire walls, in which each residence has its separate exterior entrance and there is no internal access to adjacent dwelling units.

Dwelling, Single-Family
Housing located on individual lots, physically unconnected with any adjacent homes, occupied by a single family.

Dwelling, Three-Family
A building designed or intended for occupancy by three families with each family in a separate dwelling unit to be totally separated from the other by a wall or a ceiling.

Dwelling, Two-Family
A building designed or intended for occupancy by two families with each family in a separate dwelling unit to be totally separated from the other by a wall or a ceiling.

Earth Material
Soil, sediment, rock, sand, gravel and organic material or residue associated with or attached to the soil.

Easement
Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his or her property.

Eating and Drinking Establishments (Use Category)
The eating and drinking establishments use category is comprised of uses characterized by the preparation and selling of food and beverages for immediate or direct on- or off-premise consumption.

Educational Facilities (Higher Education)
Any private or public post-secondary educational institution that includes, but is not limited to: secretarial schools, colleges and universities, business schools, seminaries, or any other institution providing collegiate level curriculum.

Educational Facilities (K-12)
A public or private facility that provides a curriculum of primary, elementary, secondary or college preparatory academic instruction, including, but not limited to, kindergartens, elementary schools, junior high schools, and high schools. This definition shall not be deemed to include colleges, trade or business schools, or other post-secondary education facilities. See “educational facilities (higher education).”

Electronic Message Center
A sign designed so that the characters, letter or illustrations can be changed or rearranged automatically on a lampbank or through mechanical means (e.g. electronic or digital signs).

Erected
Includes built, constructed, altered, reconstructed or moved upon, or any physical operations on a premises which are required for construction. Excavation, fill, drainage and the like shall be considered a part of erection.

Erosion
- The wearing away of the land surface by running water, wind, ice or other geological agents, including such processes as gravitational creep; and
- The detachment and movement of soil or rock fragments by wind, water, ice or gravity.
- The following terms are used to describe different types of water erosion:
**Essential Public Infrastructure**
See Subsection 1218.05(b): Essential Services Exempted, for a full definition of essential public infrastructure.

**Excavation**
Any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, and the conditions resulting therefrom.

**External Illumination**
Illumination of a sign or structure that is affected by an artificial source of light which is not contained within the sign itself.

**Façade**
The exterior walls of a building or building face exposed to public view; the exterior face of a building which gives it a distinctive character.

**Façade, Front**
The façade of a building that contains the primary entrance of the building.

**Face Change**
The removal or replacement of an existing surface display panel where the remaining structural frame is not altered. The changing of copy or poster on bulletin boards is not considered a face change.

**Family**
One or two persons or parents, with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of two or fewer persons living in such housekeeping unit shall be considered a separate family for the purpose of this code.

**Federal Emergency Management Agency (FEMA)**
The agency with the overall responsibility for administering the National Flood Insurance Program.

**Fence**
An artificially constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

**Fence, Invisible**
An electrical fence, buried underground, used to retain animals on-site.

**Fill**
Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface, and the conditions resulting therefrom; the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade; the material used to make a fill; a deposit of earth material placed by artificial means.

**Financial Guarantee**
Cash, bonds, or other sureties, provided to the City to ensure the construction of parks, open space, public improvements, landscaping, or similar improvements.

**Finished Grade**
The final grade or elevation of the ground surface conforming to the approved grading plan.

**Flag**
Any fabric or other flexible material attached to or designed to be flown from a flagpole or similar device.
Flood Or Flooding
A general and temporary condition of partial or complete inundation of normally dry land areas from:
- The overflow of inland or tidal waters; and/or
- The unusual and rapid accumulation or runoff of surface waters from any source.

Floodway
The channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one-foot at any point within the community. The floodway is an extremely hazardous area, and is usually characterized by any of the following: moderate to high velocity flood waters; high potential for debris and projectile impacts; and moderate to high erosion forces.

Floor Area
The sum of the gross horizontal areas of each floor of the principal building measured in accordance with Section 1226.01(b): General Site Development Standards.

Foot-candle
A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one standard candle

Fraternal, Charitable, and Service Oriented Clubs
A building or portion thereof or premises owned or operated by a corporation, association, or group of persons for a social, educational, religious, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Fraternities or Sororities
A building used for a meeting place for a women’s or men’s organization that has been officially recognized by a college, university, or seminary, in which sleeping accommodations may or may not be provided for members.

Frontage
The distance between the side lot lines measured along the required front setback line. In the case of a corner lot, frontage shall be measured along the shortest front lot line. Property lines which abut limited access roads shall not be construed to be included within any calculation of frontage.
**Frontage, Building**
The length of an enclosed building facing a public or private street. When a business does not front a public right-of-way the City Planner shall have the authority to designate the building frontage. In structures with more than one business, the frontage of each business shall be calculated separately in determining its sign area. See Figure 1244-C.

![Figure 1244-C: Illustration of building frontage versus street frontage.](image)

**Frontage, Lot**
The length of the front lot line measured at the street right-of-way line between side lot lines.

**Frontage, Street**
The distance for which the front boundary line of the lot and the street line are coincident. See Figure 1244-C.

**Funeral Homes and Mortuaries**
Any dwelling or establishment used and occupied by a professional licensed mortician for human burial preparation and funeral services.

**Garage Sales**
Sales by residents of used or surplus personal possessions including, but not limited to all sales entitled garage, yard, lawn, basement, attic, porch, room, tent, backyard, patio, or moving. This term shall include garage sales, lawn sales, attic sales, rummage sales or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large can be made aware of such sale.

**Grade**
The average level of the finished surface of the ground adjacent to the sign, building, or other structure being measured.

**Grading**
The stripping, cutting, filling or stockpiling, or any combination thereof of earth-disturbing activity, inclusive of land in its cut or filled conditions.

**Grass**
A species of perennial grass grown as permanent lawns or for landscape purposes.
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Greenhouses and Nurseries
An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales. Greenhouses and nurseries that are part of a larger agricultural use shall be considered accessory to the principal agricultural use of the land.

Ground Cover
A plant growing less than two feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides. Ground covers also provide permanent covering of open ground to prevent erosion and/or create visual appeal.

Group Living (Use Category)
The group living use category is comprised of residential uses characterized by a group of unrelated persons living in a group setting where there are shared bedroom, kitchen, and/or bathroom facilities and where the group is not living as a single family.

Hazard
Any danger to public health, welfare or safety, including exposure to risk or damage to property or liability for personal injury; or risk of harm to land, air or water resulting in environmental degradation. Hazards can include flooding and ponding compaction and settling, landslides, earthquakes, toxic chemicals, radiation, fire and disease.

Hedge
A barrier of natural vegetation usually consisting of evergreen trees, shrubs, or tall grasses that can be used to enclose, screen, or separate areas.

Home Occupation
A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling and is incidental and secondary to the residential use of the lot and does not adversely or perceptively affect the character of the lot or surrounding area.

Hospitals
An institution providing health services primarily for human in-patient medical/surgical care for the sick or injured and including related facilities such as laboratories. The use may also include out-patient departments, training facilities, central service facilities and staff offices that are an integral part of the facility and goes beyond general care typically administered within a doctor’s office.

Hotels or Motels
A building or portion thereof used for providing lodging for transient guests and operated for profit which may provide additional services such as restaurants, meeting rooms and recreational facilities.

Household Living (Use Category)
The group living use category is comprised of residential uses characterized by a family living together as a single housekeeping unit. See definition of “family.”

Housekeeping Unit
One or more persons occupying a dwelling unit and living as a single group, and doing their own cooking on the premises as distinguished from a group occupying a bed and breakfast establishment, hotel, or motel.
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**Improved Park and Recreational Facilities**
Any park or recreational facility that is owned or managed, in whole or in part, by the City, township, Greene County, State, or a non-profit agency, that requires grading of the land, construction of facilities, lighting, or is developed for athletic fields, tennis courts, swimming pools, skate parks, disc golf, and other similar outdoor facilities.

**Improvements**
Street pavement or resurfacing, curbs, gutters, sidewalks, water lines, sanitary sewer lines, storm sewer lines, storm drains, street lights, flood control and drainage facilities, utility lines, landscaping and other related matters normally associated with the development of raw land into building sites.

**Indoor Shooting Ranges**
An indoor facility designed and specifically delineated for safe shooting practice with firearms, whether open to the public, open only to private membership, open to organizational training such as law enforcement, or any combination of the above. Archery ranges and existing City of Xenia-owned firing ranges are excluded from this definition.

**Industrial Uses (Use Category)**
The industrial uses use category is comprised of use characterized by the manufacturing, processing, fabrication, packaging, or assembly of goods. Use types also may include those uses that involve the repair or servicing of industrial, business, or consumer machinery equipment, products, or by-products.

**Institutional Uses (Use Category)**
The institutional uses use category is comprised of uses that are generally public or quasi-public in nature that include uses such as schools, parks, cemeteries, religious places of worship, etc. and are generally provided for the betterment of the community.

**Internal Illumination**
The illumination of a sign, awning, or canopy, by an artificial source of light which is completely enclosed within the sign cabinet.

**Junk and Towing Operations (Use Category)**
The junk and towing operations use category are generally comprised of businesses that deal with the towing and storage of inoperable or damaged vehicles, storage of junk or junk vehicles and/or the salvage of materials.

**Junkyard or Salvage Center**
Land or buildings used for one of the following operations:

- The purchase, sale, exchange, storage, baling, packaging, disassembly, or handing of waste, used materials, or secondhand materials including, but not limited to, batteries, scrap iron and other old scrap ferrous or non-ferrous materials, metals, paper, rubber tires, tires, debris or waste, electronic parts, and bottles;

- The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled, or partially dismantled, obsolete, or wrecked vehicles or their parts; or

- The storage, keeping, buying or selling of wrecked, scrapped or dismantled motor vehicles or motor parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been removed for reuse or sale, shall constitute a vehicle or automotive wrecking or salvage yard.
Kennels and Animal Boarding
A facility for the boarding, breeding, raising, grooming, selling, training, or other animal husbandry activities for dogs, cats, or other animals for financial or other compensation.

Landscaping
The improvement of a lot, parcel, tract of land, or portion thereof, with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, trees, shrubs, and ornamental objects such as fountains, statuary, and other similar natural and artificial objects. In no case shall landscaping include the use of artificial plants or flowers as a replacement for living plant material unless such artificial plant closely resembles its natural counterpart in size, form, and color.

Light, Cutoff
An artificial outdoor light source designed to ensure that no light is directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section 1226.05: Outdoor Lighting Standards.

Light, Non-Cutoff
An artificial outdoor light source designed to allow light to be directly emitted above a horizontal line parallel to the ground as regulated and illustrated in Section 1226.05: Outdoor Lighting Standards.

Live/Work Units
A use that combines a commercial activity allowed in the zoning district with a residential living space for the owner of the commercial business, or the owner's employee, and that person's household. The unit is also where the resident owner or employee of the business is responsible for the commercial activity performed.

Loading Area
An off-street space or berth for the loading or unloading of freight carriers on the same lot as the structure they serve.

Loading Space
An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials; and which abuts upon a street, alley or other appropriate means of access.

Lot
A parcel of land occupied, or to be occupied, by a main building and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such open spaces as are required and having the minimum size required for a lot under the provisions of this code. Every lot shall abut upon and have permanent access to a public street and have a minimum frontage required in the zoning district in which the lot is located.

Lot Area
The total area within the lot lines, excluding dedicated public rights-of-way. See also Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot Coverage
The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves of less than two feet.

Lot Line
The property lines bounding the lot.
Lot Line, Front
In the case of an interior lot, means that line separating such lot from the street. In the case of a corner lot or double frontage lot, the front lot line is that line separating such lot from either street. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot Line, Rear
A lot line opposite a front yard. A rear lot line is generally parallel to or less than 45 degrees to the front street right-of-way line. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot Line, Side
A lot line generally extending perpendicular to the front and rear lot lines. The side lot line extends between the front lot line and the rear lot line. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot of Record
A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by City or Greene County officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

Lot Width
The horizontal distance between the side lot lines, measured in accordance with Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot, Corner
A lot abutting on and at the intersection of two or more streets and/or alleys. Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot, Curved or Cul-De-Sac
A lot with frontage along a curved street or cul-de-sac. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot, Double Frontage (Through)
A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot, Interior
A lot that has a single street frontage, a rear lot line, and at least two side lot lines. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Lot, Nonconforming
A vacant lot that does not meet the minimum lot width, street frontage, and/or lot area requirements of the applicable zoning district.

Lot, Panhandle (Flag)
A lot not fronting or abutting a public street and where access to the public street is limited to a narrow strip of land. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Lowest Floor
The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an “enclosure below the lowest floor” which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.
Luminarie
A complete lighting unit consisting of one or more lamps, together with the components designed to
distribute the light, to position and protect the lamps, and to connect the lamps to the electrical power
supply; also called the lighting fixture. Luminarie shall not include the light pole used to support the
luminarie.

Machinery and Heavy Equipment Sales, Leasing, and Storage
Any building or land used for the display, sale, storage, or leasing of new or used machinery, heavy
equipment, semi-trailers, etc. that are in operable condition and where no repair work is done.

Manufactured Home
A structure, transportable in one or more sections, which is built on a permanent chassis and is designed
for use with or without a permanent foundation when connected to the required utilities. The term
manufactured home does not include a “recreational vehicle.” For the purposes of these regulations, a
manufactured home includes manufactured homes and mobile homes as defined in Ohio R.C. Chapter
3733.

Manufacturing and Production (Heavy or Outdoors)
An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial
processing of products primarily from extracted or raw materials, or the bulk storage and handling of such
products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors
or vibration beyond its lot line. Such use shall also include any manufacturing or assembly facility that
requires outdoor storage areas that exceed 200 square feet in area. While the use of caustic or hazardous
materials may be present in the on-site activities, if the use utilizes substantial amounts of caustic or
hazardous materials as defined by Chapter 1620 of the City of Xenia Code of Ordinances, the use may be
classified as “manufacturing and production with caustic or hazardous materials.”

Manufacturing and Production (Indoors)
The manufacturing, processing, or assembly of products within a fully enclosed structure where noise,
odor, light, or vibrations is not noticeable from the adjacent properties. This use type shall not include
establishments that provide electroplating, metal stamping or forging, or vehicle processing. See also
“manufacturing and production (heavy or outdoors)” and “manufacturing and production with caustic or
hazardous materials.”

Manufacturing and Production with Caustic or Hazardous Materials
An establishment that is defined as a “manufacturing and production (heavy or outdoors)” use above but
that also utilizes substantial amounts of caustic or hazardous materials as defined by Chapter 1620 of the
City of Xenia Code of Ordinances and determined by the City Planner.

Massage Establishments
An establishment offering massage therapy and/or body work by a massage therapist licensed under the
Ohio Revised Code or under the direct supervision of a licensed physician.

Maximum Extent Feasible
That no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or
minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be
taken into consideration.

Maximum Extent Feasible
That no feasible and prudent alternative exists, and all possible efforts to comply with the regulation or
minimize the potential harm or adverse impacts have been undertaken. Economic considerations may be
taken into consideration.
Mechanical Equipment
Equipment, devices and accessories, the use of which relate to water supply, drainage, heating, ventilating, air conditioning and similar purposes.

Medical or Dental Clinics or Offices
Office or clinic uses concerned with the diagnosis, treatment, and care of human beings related to medicine or dental. This definition does not include “hospitals,” “skilled nursing facilities” or “personal care facilities.”

Mezzanine
An intermediate floor in any story occupying not more than two-thirds of the floor area of such story.

Mixed Use Buildings (With Residential Uses)
A lot or building that contains a mixture of uses that are permitted in the applicable zoning district but that exclude any uses permitted in the agricultural use category but does include residential dwelling units.

Mixed Uses (Use Category)
Development of a lot or structure with two or more different uses such as, but not limited to, residential, office, retail, public, or institutional.

Mobile Food Sales
The temporary sale of food or beverages from a vehicle or mobile cart on a public sidewalk, in off-street parking areas, or during permitted special events that may include, but is not limited to, food trucks, vending carts, or similar uses.

Modification
Any change in use, addition or alteration of a building or structure, or any change in type and/or increase in quantity of regulated substances used, stored, handled or produced.

Motor Home
A vehicle integrally constructed at a factory, containing its own motive power, designed for temporary dwelling while traveling or camping, so constructed as to permit free access between the driver’s compartment and the dwelling area, and designed to not depend on connection to external facilities for its use.

Motor Vehicle Sales and Leasing
Any building or land used for the display, sale or rental of new or used motor vehicles in operable condition. Such motor vehicles shall be limited to automobiles, vans, or light trucks that are categorized as Class 1 or Class 2, light duty vehicles by the Federal Highway Administration. Such use may also include the display, sale, or rental of motorcycles, mopeds, or other motorized two or three-wheeled vehicles.

Mulching
The application of suitable materials on the soil surface to conserve moisture, hold soil in place and aid in establishing plant cover.

Narrow Lot Developments
A residential subdivision that incorporates lots with narrower widths than what is typically allowed in the applicable zoning district provided the subdivision is approved in accordance with the procedures and standards established in this code.

National Flood Insurance Program (NFIP)
A federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding.
Natural Vegetation
Any ground cover in its original state before commencement of earth-disturbing activities.

New Construction (Floodplain Regulations)
Structures for which the “start of construction” commenced on or after the initial effective date of the City of Xenia Flood Insurance Rate Map, 4-1-1981, and includes any subsequent improvements to such structures.

Night Clubs/Private Clubs
A place operated for profit, where food may or may not be served for consumption on the premises and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons. This use type does not include “sexually oriented businesses” or “sweepstakes terminal device cafe.”

Noncommercial Message or Speech
Any sign, wording or logo that does not represent a commercial message or commercial speech. See also “commercial message or speech.”

Nonconformity
Lots, uses of land, structures, and uses of structures and land in combination, lawfully existing at the time of enactment of this ordinance or its amendments, which do not conform to the regulations of the applicable zoning district, and are therefore incompatible. See also the definitions for “use, nonconforming,” “lot of record,” “building, nonconforming,” and “structure, nonconforming.”

Nuisance
A public nuisance as known by common law or in equity jurisprudence.

Nursery Schools or Day Care Centers (Children or Adults)
This accessory use shall allow for the same activities as defined for "day care facilities (child or adult)" except the use shall be accessory to another principally permitted use.

Offices (Use Category)
The offices use category is characterized by commercial uses that are generally not retail-oriented that are utilized to provide services to residents and business.

Open Space
Open areas, including parks, nature areas, playgrounds, and trails. This does not include holding ponds, streets, driveways, or vehicular use areas.

Open Space and Conservation Areas
Parks or open spaces where there is no grading of the land, the construction of facilities, lighting, or development of ball fields with the exception that open spaces and conservation areas may include the development of trails and sidewalks.

Open Space Set-Aside
The amount of open space that is required to be set-aside for certain types of residential development as established in Chapter 1230: Open Space and Park Dedication.

Open Space, Formal
Formal open space is a generally planned and structured area that includes formally designed landscape plantings, activity areas, or is otherwise usable by the residents or occupants of the applicable development. The space is regularly maintained and may include streetscape furnishings (e.g., benches, lighting, and sculptures), recreational improvements (e.g., playground, swimming pool, tennis courts), and street improvements.
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ORC Section 5119.34(B)(1)(b) Residential Facility
As currently defined by ORC § 5119.34(B)(1)(b), a licensed publicly or privately operated home or facility that provides accommodations, supervision, and personal care services to any of the following: (i) one or two unrelated persons with mental illness; (ii) one or two unrelated adults who are receiving residential state supplement payments; or (iii) three to sixteen unrelated adults. (all terms herein are as defined by said statute). This definition shall be deemed amended as said statute is hereinafter amended.

ORC Section 5123.19(A)(5) Residential Facility
As currently defined by ORC § 5123.19(A)(5), a licensed home or facility, including an ICF/IID, in which an individual with mental retardation or a developmental disability resides. (all terms herein are as defined by said statute). This definition shall be deemed amended as said statute is hereinafter amended.

Ordinary High Water Mark
The line on the stream bank, established by the fluctuations of water, and indicated by physical characteristics such as a clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Other Vehicle Type Sales and Leasing
Facilities, other than “motor vehicle sales and leasing” where new or used boats, trailers, recreational vehicles, farm implements, tractors, or other types of vehicles, in operational condition, are sold or leased to customers.

Outdoor Dining
Areas on sidewalks (public or private), patios, or other unenclosed areas, excluding vehicular use areas) that are designated for outdoor seating where patrons may be served food and beverage for on-site dining.

Outdoor Displays and Sales
The placement of products or materials for sale outside of a retail or wholesale sales establishment.

Outdoor Lighting
Any source of light that is installed or mounted outside of an enclosed building or structure, but not including streetlights installed or maintained along public streets by a government agency or public utility. See Section 1226.05: Outdoor Lighting Standards.

Outdoor Storage and Bulk Sales (Accessory Use)
The keeping, storage, or sales of any goods, material, merchandise, or vehicles in the same place for more than 24 hours in an area that is not fully enclosed by a structure. This may include areas established for the sale of large and/or bulk items.

Outdoor Storage and Sales
A facility or lot used for the outdoor sales and storage of materials that are to be used for construction or for manufacturing processes and where such uses are the principal use of the lot.

Outdoor Vending Machines and Drop-Off Boxes
Vending machines are small machines that are capable of accepting money in return for the automatic dispensing of goods (e.g., drink machines, snack machines, video machines). Drop-off boxes are small collection facilities where recyclable materials, clothing, or household goods are accepted from the public (e.g., neighborhood recycling stations and thrift store collection boxes).
Outdoor Wood Boilers and Furnaces
Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. An outdoor wood furnace may also be referred to as an outdoor wood boiler or outdoor wood-fired hydronic heater.

Owner
Any individual, firm, association, syndicate, co-partnership corporation, trust or any other legal entity, having legal title to or sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Parapet or Parapet Wall
A building façade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

Parking Aisle
The driveway or access drive by which a car enters and departs a parking space.

Parking Area
An area designed for the parking of vehicles that includes parking spaces and any driveways or access drives specifically related to the parking spaces.

Parking Garage
A structure (e.g., parking garage) providing vehicular parking spaces along with adequate drives and aisle, for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles.

Parking Lot
Any area used for the display or parking of any and all vehicles, boats or heavy construction equipment, whether these vehicles are or are not for sale or lease.

Parking Lots or Garages
Surface areas or structures used to provide parking spaces along with adequate drives and aisle, for maneuvering, so as to provide access for entrance and exit for the parking of more than two vehicles. This may be permitted as a principal use of the lot in accordance with Chapter 1222: Zoning Districts and Principal Uses, or as an accessory to a principal use as established in Chapter 1234: Parking, Access, and Mobility.

Parking Space
A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Patios (Unenclosed)
Uncovered, non-enclosed outdoor hard surfaced areas that are no higher than 18 inches above the ground and does not require a building permit for construction.

Pawnshops
Any building, room, space or portion thereof where business is conducted in part or in whole of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property.
Payday Lending, Cash Advance, or Non-Chartered Financial Institution
Establishments or institutions that are not State or Federally chartered banks, savings and loan associations, mortgage lenders, credit unions, or industrial loan companies, that are used for any one of the following activities:

- The provision of unsecured, short-term cash advances, including those made against future pay checks;
- The provision of loans to individuals in exchange for personal checks as collateral;
- The cashing of checks in exchange for a percentage fee;
- The provision of loans secured by title of a vehicle unless the loan is made for the purpose of purchasing the vehicle;
- The deferment of checks pursuant to a written agreement in which the establishment accepts a check and agrees to hold the check for at least three days before presentment for payment or deposit.

Peak Rate of Runoff
The maximum rate of runoff for any 24-hour storm of a given frequency.

Pedestrian Connection
A pedestrian walkway that includes sidewalks but may also include sidewalks on private property (not in the right-of-way) through the form of trails, designated walking areas, and similar walkways that are strictly used for pedestrian activity.

Pennants
A triangular or irregular piece of fabric or other material, whether or not containing a message of any kind, commonly attached by strings or strands, or supported on small poles, intended to flap in the wind.

Permanent Vegetation
Producing long-term vegetative cover, e.g. bluegrass, tall fescue, crown vetch, and the like.

Permanently Sited Manufactured Home
A residential building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with applicable laws, as defined in the ORC.

Permittee
Any person to whom approval of a site plan according and pursuant to this chapter is granted, or who is subject to inspection under it.

Person
Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, Greene County or state agency within Ohio, the federal government, or any combination thereof. An agency is further defined in the Ohio R.C. 111.15 as any governmental entity of the State and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district or state community college. Agency does not include the general assembly, the controlling board, the adjutant general’s department, or any court.

Personal Care
Personal care means the provision of personal services such as help in walking and getting in and out of bed; assistance with bathing, dressing, and feeding; preparation of a special diet; and supervision over medications which can be self-administered.
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Personal Care Facility
A long-term or short-term residential facility that provides personal care in a facility that is not in a traditional dwelling type (e.g., single-family dwelling). Such facility shall not mean the same as “hospitals,” “large residential facility,” or “small residential facility.” See also “skilled nursing facility.”

Personal Services
Establishments that are primarily engaged in providing services generally involving the care of the person or person’s possessions. Personal services may include, but are not limited to, laundry and dry-cleaning services, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

Planned Unit Development (PUD)
A large development consisting of multiple uses and/or buildings that is considered in a master review process as specified in Section 1220.04: Planned Unit Developments.

Planning and Zoning Commission (PZC)
The Planning and Zoning Commission of the City of Xenia, Ohio

Plat
A map graphically indicating a proposed land subdivision or re-subdivision prepared in a form suitable for filing for record, with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots, blocks, streets, alleys, public areas, and other dimensions of land.

Playsets, Treehouses, and Trampolines
Recreational equipment for children that may include, but is not limited to, swings, slides, monkey bars, and play enclosures.

Pollution
The man-induced alteration of the chemical, physical or biological integrity of air, land and water resources.

Porches and Decks
An enclosed or unenclosed surface area attached to a building, that is not used for livable space but that is elevated above the ground, at its highest point, by at least 18 inches.

Portable Message Center
A sign not permanently affixed to the ground, building, or other structure, which may be moved from place to place, including, but not limited to, signs designed to be transported by means of wheels. Such signs may include changeable copy.

Portable Storage Unit
Any enclosed unit made of metal or other durable construction material designed for permanent or temporary storage of personal property which is designed to be transported by vehicle.

Premises
A parcel of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Private Water Towers, Tanks, or Reservoirs
A large container designed to hold water for the private use of the associated, principal industrial use.
Public or Quasi-Public Facilities (Use Category)
The public and quasi-public facilities use category is comprised of uses characterized by the provision of noncommercial or governmental services to the public including, but not limited to, infrastructure, government offices, parks, and other utilities.

Public Use or Building
Buildings, structures, or facilities used by a government agency or similar public agency for administrative or service purposes including, but not limited to, fire stations, police stations, government offices, and other similar uses.

Public Waters
Those waters within lakes (except private ponds and lakes on single properties), rivers, streams and ditches, and/or waters leaving that respective property.

Raceway
An elongated metal enclosure used to mount individual channel lettering and to conceal related transformers and wiring.

Radio and Television Studios
Facilities used to produce, operate, or develop radio or television programs for distribution through various telecommunication formats but that do not include on-site towers or satellites.

Real Estate Sales/Model Homes
A dwelling unit temporarily converted into a sales and display office or a temporary sales office established in a development or subdivision for the purpose of providing an example of the units in the development.

Recreation and Entertainment (Use Category)
The recreation and entertainment use category is comprised of uses characterized by public or commercial indoor or outdoor activities and recreation including, but not limited to, pool halls, athletic clubs, video arcades, bowling alleys, batting cages, etc.

Religious Institutions
A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Removal, Excavation, and Filling of Land (Temporary)
The temporary removal, excavation, and/or filling of land typically occurring prior to construction or development activities.

Research and Development or Laboratories
A facility for that includes offices and laboratories for operation and/or functioning of a research and development facility.

Residential Facility
A home or facility, as defined and regulated in the ORC including, but not limited to, Chapters 5119 and 5123.
Restaurants and Bars
An establishment whose principal business is the selling or dispensing of food and beverages to the customer in a ready to consume state, in individual servings. Restaurants and bars may include seating for on-site dining or may be for carry-out (excluding alcoholic beverages) by the consumer but shall not include a drive-in or drive-through facility. Such establishments may include the provision or dispensing, for on-site consumption, any fermented malt beverage, malt beverage, special malt, vinous, or spirituous liquors.

Restaurants, Drive-In or Drive-Through
A restaurant where customers order and are served food while remaining in their motor vehicles. Such purchases are either made at the building by utilizing a drive-through or the restaurant is designed so that vehicles can drive in and park in a designated parking space, allowing the occupants to be served and consume the food in the vehicle.

Retail Sales (Accessory Use)
The sale of goods, products, drinks, or food as an accessory use to another nonresidential use cafeterias, and food or beverage kiosks, book sales, sale of products built on-site, etc. where the retail sales are clearly incidental to the principal use.

Retail Sales and Service (Use Category)
The retail sales and service use category is comprised of uses characterized by the sale, lease, or rental of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.

Retail Sales and Services
Establishments primarily engaged in the sale of goods and materials to the general public. Retail commercial uses may include, but are not limited to, bookstores, antique stores, convenience stores, bakeries, grocery stores, and other similar uses.

Right-of-Way
A general term denoting land, property, or the interest therein, usually in the configuration of a strip acquired for or devoted to transportation purposes. When used in this context, right-of-way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the State or the City of Xenia.

Roof Line
Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette. Where a building has several roof levels, the pertinent roofline or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

Runoff
The portion of rainfall, melted snow or irrigation water that flows across the ground surface and eventually is discharged into streams.

Satellite Dishes
A parabolic dish antenna including its structural supports, used for reception of various satellite television programming signals.

Screening
A method of visually shielding or obscuring one abutting or nearby structure, mechanical equipment, refuse collection center or incompatible land use, from another and from public view by fencing, walls, beams or densely planted vegetation.
Seasonal Agricultural Sales
A temporary structure or vehicle used in the sale of seasonal items such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, which may be permitted on a temporary basis pursuant to Section 1224.02: Temporary Uses and Structures.

Sediment
The solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice, and has come to rest on the earth’s surface either above or below water.

Self-Storage Facilities
A structure containing separate, individual and private storage spaces of varying sizes which are leased or rented on individual leases for varying periods of time and whose tenants have access to such space for the purpose of storing and removing personal property.

Setback
The minimum distance a building or structure must be built from a lot line or road right-of-way as defined further in 1226.01(a): Measurements, Computations, and Exceptions.

Setback Line
The line created when applying the required setback distance to a lot.

Setback, Front
The minimum distance required between a building, structure, or improvement and the front lot line. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Setback, Rear
The minimum distance required between a building, structure, or improvement and the rear lot line. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Setback, Side
The minimum distance required between a building, structure, or improvement and a lot that that is shared with another lot where such lot line is defined as a side lot line. See Section 1226.01(a): Measurements, Computations, and Exceptions.

Sexually Oriented Businesses
For the purpose of this code, sexually oriented businesses are defined in Chapter 858 (Sexually Oriented Business and Employees) of the City of Xenia Code of Ordinances.

Shrub
A multi-stemmed woody plant other than a tree.

Sidewalk
That portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic. See also "walkway."

Sidewalk Sales
The temporary sale of goods or products on a sidewalk that is located adjacent to the principal building where the goods or products are typically sold as part of the principal use of the lot.
Sign
Any object, device, display or structure or part thereof situated outdoors or adjacent the interior of a window or doorway which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, illumination or projected images.

Sign Area
The entire display area of a sign including the advertising surface located on one or more sign faces and any framing, trim and molding, but not including the supporting structure as measured pursuant to Section 1236.03: Computations.

Sign Copy
Those letters, numerals, and figures, symbols, logos, and graphic elements comprising the content or message of a sign.

Sign Face
The surface of the sign upon, against or through which the message of the sign is exhibited.

Sign Height
The vertical distance to top of sign structure as measured pursuant to Section 1236.03: Computations.

Sign, Abandoned
An abandoned sign is a sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product or activity, and/or for which no legal owner can be found.

Sign, A-Frame (Sidewalk)
A freestanding sign which is ordinarily in the shape of an “A” or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition of T-frame signs.

Sign, Air-Activated
A sign, all or any part of, which is designed to be moved by action of forced air so as to make the sign appear to be animated or otherwise have motion.

Sign, Animated or Moving
Movement or the appearance of movement of a sign display through the use of patterns of lights, changes in color or light intensity, computerized special effects, video display, or through any other method; except for the scrolling or traveling of a static message or scene onto or off a sign board in one direction per message. Scrolling is the vertical movement of a static message or display on an electronic sign.

Sign, Awning
A sign painted on, printed on or attached flat against the surface of an awning.

Sign, Balloon
A sign that is an air inflated object, which may be of various shapes, made of flexible fabric, resting on the ground or a structure, and equipped with a portable blower motor that provides a constant flow of air into the device. Balloon signs are restrained, attached or held in place by a cord, rope, cable, or similar method. See also the definition for air-activated sign.

Sign, Banner
A temporary sign constructed of canvas, plastic, fabric or similar lightweight, non-rigid material that can be mounted to a structure with cord, rope, cable, or a similar method. Where a banner signs is supported by stakes or another type of supporting structure for posting in the ground, such sign shall be classified as a “temporary yard sign.”
Sign, Blade
A temporary sign that is constructed of cloth, canvas, plastic fabric or similar lightweight, non-rigid material and that is supported by a single vertical pole mounted into the ground or on a portable structure.

Sign, Canopy
A sign attached to the soffit or fascia of a canopy of a covered entrance or walkway, or to a permanent awning or marquee.

Sign, Changeable Copy
A sign designed so that the characters, letter or illustrations can be changed or rearranged manually or electronically without altering the sign display surface. May also be known as readerboards. See also the definition of “electronic message center.”

Sign, Drive-Through
Any signage allocated along a drive-through lane that is oriented toward the customer or user in the drive-through lane.

Sign, Driveway
A small permanent sign located near driveway access points and/or at the intersection of internal access drives.

Sign, Electronic Message Center
A sign containing a display that can be changed, by electrical, electronic or computerized process.

Sign, Entrance
A sign placed at the entrance of subdivisions.

Sign, Flag Banner
Any rigid cloth, plastic or canvas sign with no enclosing framework that is mounted to a building at one or more edges or on a pole. Flags with noncommercial speech shall not be considered flag banner signs.

Sign, Flashing
Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation or any externally mounted intermittent light source.

Sign, Freestanding
Any sign supported upon the ground by a monument, pedestal, pole, bracing, or other permanent measure and not attached to any building. See also the definition of “monument sign” and “pole sign.”

Sign, Illegal
A sign which does not meet the requirements of this chapter and which has not received legal nonconforming status.

Sign, Illuminated
A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

Sign, Manual Changeable Copy
A sign or portion of a sign where it is possible to change the copy on a frequent basis but where such sign change must be manually made and is not made electronically.

Sign, Monument
A permanent freestanding sign other than a pole sign, not attached to a building, which is placed upon or supported by the ground with a solid base independently of any other structure, typically on a monument or pedestal structure. See further definition of this sign type in Section 1236.09(b): Freestanding Signs.
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Sign, Nonconforming
Any sign which was erected legally prior to the adoption of this code, but which does not comply with subsequently enacted sign restrictions and regulations or a sign which does not conform to the sign code requirements.

Sign, Permanent
A sign permitted by this code to be located on the premises for an unlimited period of time and designed to be permanently attached to a structure or the ground.

Sign, Pole
A permanent freestanding sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building.

Sign, Projecting
A sign that is affixed perpendicular to a building or wall and extends more than eighteen inches beyond the face of such building or wall. A projecting sign shall also include a sign hung perpendicular to the building façade to the bottom of an arcade.

Sign, Roof
A sign which exists, is erected, made a part of or constructed on or above the roof of any building or structure or above the uppermost edge of a parapet wall of a building, or above the eave line of a building and which the building wholly or partially supports. Signs mounted on facades of mansard roofs, canopies or marquees shall not be considered to be roof signs.

Sign, Sidewalk
An “A-Frame sign” or “T-Frame sign” placed on a public sidewalk, private sidewalk, or similar walkway, in a manner established in Chapter 1236: Signage.

Sign, Temporary
Any sign which is movable, not permanently attached to the ground, a structure or other sign, designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes, intended for a limited period of display or constructed out of cloth, canvas, plastic sheet, cardboard or other like materials.

Sign, Temporary Yard
Any permanent or temporary sign placed on the ground or attached to a supporting structure, posts, or poles, that is not attached to any building.

Sign, T-Frame (Sidewalk)
A freestanding sign which is ordinarily in the shape of an upside down “T” or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure. See also the definition for A-frame signs.

Sign, Vehicle
Any sign permanently or temporarily attached to or placed on a vehicle or trailer. Signs attached to a motor vehicle or tractor trailer shall include any signage painted on, physically applied to, or otherwise affixed to the vehicle.

Sign, Wall
A sign attached directly to an exterior wall of a building and which does not extend more than eighteen inches from nor above the roof line or beyond the limits of the outside wall, with the exposed face of the sign in a plane parallel to the building wall. Murals and other painted signs are considered wall signs pursuant to this section.
Sign, Window
Any sign located within, attached or mounted to, or located within a space two feet inside of and positioned to be visible from outside a window or exterior glass door such that it is intended to be viewable from the exterior including, but not limited to, window paintings and signs located inside a building but visible primarily from the outside of the building. This does not include merchandise and other displays located in a window.

Skilled Nursing
Those nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond those which the untrained person possesses. It involves administering medications and carrying out procedures in accordance with the orders, instructions, and prescriptions of the attending physician or surgeon.

Skilled Nursing Facility
A long-term or short-term residential facility that provides skilled nursing services in a facility that is not in a traditional dwelling type (e.g., single-family dwelling). Such facility shall not mean the same as “hospitals,” “large residential facility,” or “small residential facility.” See also “personal care facility.”

Slope
The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the horizon. Slope is usually expressed in a percentage based upon vertical differences in feet per 100 feet of horizontal distance.

Soil
All earth material of whatever origin that overlies bedrock, which may include the decomposed zone of bedrock which can be readily excavated by mechanical equipment.

Soil and Mineral Extraction (Use Category)
The soil and mineral extraction use category is where the use types typically involve the extraction, removal, or basic processing of minerals, soil, or other natural resources from the earth. Such uses also include quarrying, mining, or other procedures typically done at an extraction site.

Soil and Mineral Extraction Activities
See definition of “soil and mineral extraction.”

Soil Loss
Soil moved from a given site by the forces of erosion and redeposited at another location.

Solar Energy Systems (Accessory Use)
A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

Special Flood Hazard Area
Also known as “areas of special flood hazard,” it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated and defined by the Federal Emergency Management Agency.

Stacking Space
A portion of the vehicular use area on a site that is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development.
Start of Construction
The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Static/Instant Message Change
On electronic message centers, a static or instant message change is when one message changes to another message instantly without scrolling, flashing, or other movement of the message.

Steep Slope
A slope over 15 percent grade, which is characterized by increased runoff, erosion and sediment hazards.

Storage Uses (Use Category)
The storage uses use category is characterized by use types that provide individual, self-contained units or areas leased to individuals, organizations, or businesses for storage of household and personal property, equipment, vehicles, goods, etc.

Stormwater Detention Basin
A barrier, dam or other suitable facility built across an area of waterflow to temporarily detain stormwater in excess of normal flow.

Story
The part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or, if there is no floor above, then the ceiling next above, and having a height consistent with the requirement of occupiable space as defined in the residential building code.

Story, Half
An uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet, six inches.

Stream
A body of water running or flowing on the earth’s surface or a channel in which such flow occurs. Flow is continuous or seasonally intermittent.

Streamer
A ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between two or more supports.

Street
The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic.

Street, Collector
Collector streets are designed to collect and distribute traffic between local access streets and other minor street streets to arterial streets and freeways.

Street, Cul-de-Sac
A local street of relatively short length with one end open to traffic and the other end permanently terminating in a vehicular turn-around.
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Street, Dead-End
A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.

Street, Local
A street designed primarily for providing access to residential, commercial or other abutting property.

Street, Local Access
A local access street is a street that provides direct and full access to individual lots that abut the street. Local access streets are typically laid out so that through traffic is discouraged.

Street, Major Arterial
Principal arterial streets are streets designed for the movement of large amounts of fast traffic between points of heavy traffic generation (e.g., freeways, large residential areas or business and industrial areas) and from one section of the community or communities to another. Major arterial streets have the widest right-of-ways and carry the largest volumes of traffic within the City with the exception of US-35.

Street, Marginal Access
A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets; also called frontage street.

Street, Minor Arterial
Minor arterial streets are intended to collect and distribute traffic in a manner similar to principal arterial streets, except that these streets service smaller traffic generating uses and areas within the City and can serve in place of collector streets for the purposes of moving traffic in between other collector streets and the freeway or other arterial streets.

Stripping
Any activity which removes or significantly disturbs the vegetative surface cover.

Structure
Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, fences, signs, sheds, detached garages, cabins, and manufactured homes.

Structure, Accessory
A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

Structure, Nonconforming
A structure where the use is permitted in the applicable zoning district but the structure does not meet the setbacks, development standards, site development standards, or other dimensional or numerical standards for the applicable district.

Structure, Temporary
A use or structure permitted for limited duration with the intent that such use will terminate or the structure will be removed automatically upon expiration of the fixed time period. A temporary structure is without a foundation or footing.

Subdivider
See “developer.”
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Subdivision
The division of any parcel of land, shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures, not involving the division or allocation of land for the opening, widening or extension of any street or streets, and the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities, shall be exempted.

Subdivision Modification
A modification to any of the public improvement or subdivision design standards of Chapter 1238: Subdivision Design, as authorized by the PZC in accordance with Section 1220.07(g): Subdivision Modifications.

Subdivision, Major
A subdivision that is not classified as a minor subdivision in Section 1220.07: Major Subdivisions.

Subdivision, Minor
A division of a parcel of land along an existing street not involving the opening, widening or extension of any street or road and involving no more than five lots after the original tract has been completely subdivided. See further distinction in Section 1220.06: Minor Subdivisions.

Substantial Damage
Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Substantial Improvement
Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. When the combined total of all previous improvements or repairs made during the life of the structure equals or exceeds 50 percent of a structure’s market value, that structure is considered a substantial improvement. The term does not, however, include:

- Any improvement to a structure which is considered “new construction;” or
- Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

Surface Soil
The uppermost part (five to eight inches) of the soil commonly stirred by tillage implements or the equivalent in uncultivated soils.

Swale
A low lying stretch of vegetated land which gathers and carries surface water runoff at a reduced rate of flow and conveys it downstream at less erosive velocities.
Sweepstakes Terminal Device
Any computer, machine, or apparatus which is capable of connection to the internet, regardless of whether such connection is utilized, through a wireless router, telephone line, digital subscriber line, satellite, cellular telephone, cable connection or any method, which is engaged or accessed upon the insertion of a coin, token, or similar object, or the sliding of a magnetic card or entry of a code, or similar process, or upon payment of anything of value, either directly or indirectly, and which may be operated by the public generally for use as entertainment, amusement or a contest of skill, whether or not registering a score, and which when so utilized produces, announces, reveals or discloses the eligibility, award or payment of a cash prize redeemable on or at the sweepstakes terminal device café, whether or not said prize was in fact announced, revealed or disclosed through the usage of the sweepstakes terminal device. Sweepstakes terminal device does not include machines designated for use by the State Lottery Commission.

Sweepstakes Terminal Device Cafe
Any premises upon which any sweepstakes terminal device is located for the use or entertainment of the public, whether or not such premises have other business purposes of any nature whatsoever.

Swimming Pool (Outdoor)
A water filled enclosure, permanently or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 36 inches, designed, used and maintained for swimming or bathing by the residents, tenants, or occupants of the subject property.

Tattoo Establishments
Any building, room, space or portion thereof that provides services for the creation of an indelible mark, figure, work, or graphic illustration upon a human body by the insertion of pigment under the skin or by the production of scars.

Telecommunication Distribution System
Any collective grouping of wireless telecommunication facilities, used either singularly or in combination for the purposes of transmission of audio, visual, data, digital, analog or electronic information of the user’s choosing, but not including the transmission of cable television service, unless the context specifically indicates otherwise.

Temporary Classrooms
A temporary structure that is temporarily used as classrooms in situations where an educational facility needs temporary space while planning for or constructing permanent space.

Temporary Events
A temporary use on private property that is not usual or customary for that property and the zoning district in which the subject property is located (e.g., festivals, circuses, and other temporary events).

Temporary Storage
A portable structure or container that allows for storage of goods or materials, on or off-site and which is not permanently affixed to a foundation. This category may be further divided into temporary storage for commercial uses and residential uses.

Temporary Vegetation
Short term vegetative cover used to stabilize the soil surface until final grading and/or installation of permanent vegetation, i.e. oats, rye or wheat.

Tennis and Other Recreational Courts (Outdoor)
An area of a yard that is permanently improved and surfaced for the recreational use of the property owner for games such as tennis, basketball, racquetball, and similar sports or games.
Tent
Any temporary structure used for temporary sleeping purposes, or for temporarily sheltering a gathering, constructed wholly or in part from canvas, tarpaulin, cotton, fabric or other similar materials.

Theaters
Any building or part of a building used for the showing of motion pictures or for dramatic, dance, musical, live or pre-recorded performances. Such use may include a lobby area and refreshment stand for the patrons.

Thoroughfare Plan
The adopted plan or policy that establishes the official right-of-way width of major streets and an overall plan for the transportation network.

Tourism (Use Category)
The tourism use category is comprised of uses characterized by the attraction of large numbers of persons (e.g., assembly halls and conference centers) or the provision of lodging units or space for short-term stays of less than 30 days for rent, lease, or interval occupancy.

Towing Services
A service that provides towing or conveyance of a wrecked, inoperable, disabled, or illegally parked motor vehicle.

Travel Trailer
See definition of “camper.”

Tree, Canopy
A tree that has an expected height at maturity greater than 40 feet and which produces significant shade because it has a crown that is oval, round, vase-shaped, or umbrella-shaped.

Tree, Deciduous
Generally, a tree that loses all of its leaves for part of the year. Sometimes called a broad-leaf tree or a hardwood tree.

Tree, Evergreen
A tree that remains green throughout the year.

Tree, Understory
A tree that has an expected height at maturity of no greater than 30 feet.

Truck Storage, Logistics, and Parking
A lot or building used for the storage or temporary parking of commercial trucks and for the dispatch of such trucks.

Type-B Day Care Home (1-6 Children)
A permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted; or as defined in the Ohio Revised Code.

Use
Any purpose for which a lot, building, or other structure, or a tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
Use, Accessory
A use subordinate to and servicing the principal use or structure on the same lot and customarily incidental thereto.

Use, Conditional
A use permitted only after review of an application by the PZC, such review being necessary because the provisions of this code covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by this code.

Use, Nonconforming
Any use lawfully being made of any land, building, or structure on the effective date of this code or any amendment thereto rendering such use nonconforming, which does not comply with all of the regulations of this code or any amendment thereto.

Use, Principal or Main
The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

Use, Temporary
A use permitted for a limited duration with the intent that such use will terminate upon expiration of the fixed time period. Certain temporary uses may require a zoning permit and may be subject to additional standards as set forth in Section 1224.02: Temporary Uses and Structures.

Utility Structures
Utility equipment and cabinets that exceed six square feet of surface area on any one side. Such equipment may be associated with telecommunications, video-ready access devices, fiber optics, cable, or similar utility provisions.

Variance
A modification of the strict terms of these regulations where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of these regulations would result in a practical difficulty. See Section 1220.10: Variances.

Vehicle Sales and Related Services (Use Category)
The vehicle sales and relates services use category is comprised of uses characterized by the direct sale and/or service of passenger vehicles, trucks, motorcycles, farm machinery, and other consumer motor vehicles intended for transport of goods or persons over land, water, or in the air; whether for recreation, commerce, or personal transport.

Vehicle Washing Establishments
A building that has its primary purpose as washing vehicles and may include self-service facilities or automatic washing facilities.

Vehicle, Commercial
Any vehicle licensed as commercial or used for a commercial purpose.

Vehicle, Fleet
Any vehicle owned or operated by the person, company, or business which is used for purposes of delivery, pick up, or service to patrons of the primary use

Vehicle, Inoperable
Any motor vehicle missing wheels, tires, windshield, motor or transmission, or which has been so damaged as to appear not safely operable. Any vehicle that remains parked or near the same location for more than 30 consecutive days shall be presumed to be inoperable.
Vehicle, Recreational
A vehicle which is:
- Built on a single chassis;
- Four hundred square feet or less when measured at the largest horizontal projection;
- Designed to be self-propelled or permanently towable by a light duty truck; and
- Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Vehicular Use Area
The entire paved area that encompasses all parking spaces, loading areas, stacking spaces, and the access drives that provide access to those spaces but that does not include the entry drive or driveway with no direct access to a parking space, stacking space, or loading space.

Violation
The failure of a structure or other development to be fully compliant with these regulations.

Walkway
A dedicated public way, four feet or more in width, for pedestrian use only, whether along the side of a road or not.

Wall
An architectural partition with a height and length greater than its thickness; used to divide or enclose an area or to support another structure

Wall Offset
Projections or recesses organized in a random or repeating pattern along a building wall used to visually interrupt the mass of the façade plane.

Wall, Retaining
A retaining wall is a structure that holds back soil or rock from a building, structure or area. Retaining walls prevent downslope movement or erosion and provide support for vertical or near-vertical grade changes.

Warehouses
A business establishment primarily engaged in the storage of merchandise, goods, and materials, not including “self-storage facilities.”

Watercourse
Any natural or artificial waterway (including, but not limited to, streams, rivers, creeks, ditches, channels, canals, conduits, culverts, drains, drainageways, waterways, gullies, ravines or washes) in which waters flow in a definite direction or course, either continuously or intermittently, and including any area adjacent thereto which is subject to inundation by reason of overflow of flood water.

Watershed
The area drained by a given stream or river.

Wholesale Establishments
An establishment for the sale of merchandise to retail and service commercial uses, office uses, or institutional uses, or to other wholesalers. Wholesale business may also mean acting as an agent or broker in the buying or selling of merchandise; but not selling to the general public.

Wireless Telecommunication Facility
Any antennas, cables, towers, wires and equipment or facilities associated with the transmission or reception of communications as authorized by the FCC.
Wireless Telecommunication Site
A tract, lot or parcel of land either owned or leased that contains the cellular or wireless telecommunication tower, antenna, support and accessory structures.

Wireless Telecommunication Tower
A structure that includes, but is not limited to, monopole, lattice and guyed towers on which telecommunication antennas are installed.

Wireless Telecommunications Antenna
An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC), excluding amateur radio operators’ antennas.

Yard
An open space on the same lot with a building unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in this code. See Section 1226.01: Site Development Standards for rules of measurement and determination for all yard types.

Yard, Front
Unless otherwise stated in Section 1226.01: Site Development Standards, a front yard is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

Yard, Rear
Unless otherwise stated in Section 1226.01: Site Development Standards, a rear yard is an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building.

Yard, Side
Unless otherwise stated in Section 1226.01: Site Development Standards, a side yard is an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.

Zoning District
An area within the City limits for which the regulations and requirements governing use are uniform as defined by Chapter 1222: Zoning Districts and Principal Uses.

Zoning District, Base
The base zoning district is the zoning district established for each property that includes any of the residential and nonresidential zoning districts established in Table 1222-1: Zoning Districts, as a base zoning district.

Zoning Districts, Nonresidential
The O-1, B-2, B-2, B-3, I-1, I-2, and P-1 Districts where the primary uses that are permitted are nonresidential uses. This term may be used interchangeably with “nonresidential districts.”

Zoning Districts, Residential
The A-1, R-1A, R-1B, R-1C, R-1D, R-2, and R-3 Districts where the primary uses that are permitted are residential uses. This term may be used interchangeably with “residential districts.”

Zoning Map
The Official Zoning Map of the City of Xenia, Ohio
Chapter 1244: Definitions
Section 1244.02: General Definitions

Zoning Map Amendment
An amendment or change to the Xenia Zoning Map reviewed and decided upon by the City Council in accordance with Section 1220.03(d): Code Text or Map Amendment Review Procedure.

Zoning Permit
A permit issued by the City Planner stating that a proposed development or activity complies with this code as established in Section 1220.11: Zoning Permit.