

AN ORDINANCE AMENDING PLANNING AND ZONING CODE CHAPTERS 1214, REVIEW PROCEDURES; 1224, ACCESSORY AND TEMPORARY USE REGULATIONS; 1226, GENERAL DEVELOPMENT STANDARDS; 1232, LANDSCAPING AND SCREENING STANDARDS; 1234, PARKING, ACCESS, AND MOBILITY STANDARDS; 1238 SUBDIVISION DESIGN STANDARDS; AND 1246, DEFINITIONS AND DECLARING AN EMERGENCY.

WHEREAS, Planning Commission, at its meeting on February 6, 2024, recommended amending Planning and Zoning Code Sections 1214, Review Procedures; 1224, Accessory and Temporary Use Regulations; 1226, General Development Standards; 1234, Parking, Access, and Mobility Standards; 1238, Subdivision Design Standards; and 1246, Definitions; and

WHEREAS, Council, coming now to consider said recommendation, approves it in full.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Planning and Zoning Code Chapter 1214 is hereby amended as follows:

Chapter 1214: Review Procedures

1214.03(c)(5)B.ii.

(5) Step 5 – City Council Review and Confirmation or Rejection

- A.** City Council shall review the Planning Commission’s recommendation at a regularly scheduled meeting or special meeting.
- B.** By a majority vote, City Council may:
 - i. Confirm the recommendation of Planning Commission; or
 - ii. Reject the recommendation of the Planning Commission. ~~in which case the application shall be deemed denied.~~
- C.** Failure of City Council to act within 90 days from the date City Council receives the recommendation from the Planning Commission, shall be deemed a confirmation of the Planning Commission’s recommendation.

1214.03(h)

(h) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of City Council shall have the right to appeal the decision to the Court of Common Pleas as provided in ORC Chapters 2505 and 2506.

1214.05(c)(7)D.

(7) Step 7 – Development Committee Review on the Final Plat and Improvement Plans

- A. Upon determination that the submission of the final plat and improvement plans, including the subdivider’s agreement, is complete, the Development Review Committee shall review the application and plans, and may distribute the application and plans to other departments or agencies for review and comment.
- B. The Development Review Committee will review the application and provide a summary report of comments to the applicant.
- C. Upon receipt of comments, the applicant shall have the option to make revisions to the final plat and plans based on the comments prior to being forwarded to the Planning Commission or may request that the application be forwarded to the Planning Commission without revisions. In all cases, the Development Review Committee will forward their report to the Planning Commission.
- D. The ~~Director of Public Works~~ City Engineer or engineering consultant(s) to the city shall have the authority to make a decision on the improvement plans and subdivider’s agreement prior to review of the final plat by Planning Commission and City Council based on comments and revisions suggest by the Development Review Committee and other agencies having jurisdiction.
- E. **Construction of Improvements**
All improvements shall be constructed in accordance with the subdivider’s agreement in Section 1238.05: Subdivider’s Agreement.

Section No. 2: That Planning and Zoning Code Chapter 1224 is hereby amended as follows:

Chapter 1224: Accessory and Temporary Use Regulations

1224.01(f)(9)

(9) Home Occupations

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

Section No. 3: That Planning and Zoning Code Section 1226 is hereby amended as follows:

Chapter 1226: General Development Standards

1226.05(f)

Intersection Visibility

- (f) No structure, sign, or landscape element shall exceed 30 inches in height, measured from the top of the curb, within the area established above, unless approved by the ~~Director of Public Works~~ Community Development Department. Trees may be located within these areas provided they are pruned and/or the canopy is trimmed to provide clear visibility (with the exception of the tree trunk) up to eight feet above the top of the curb.

Section No. 4: That Planning and Zoning Code Chapter 1232 is hereby amended as follows:

Chapter 1232: Landscaping and Screen Standards

1232.05(b)(1)

TABLE 1232-1: SCREENING REQUIREMENTS					
		Adjacent Development or Zoning District			
		Single-Family Residential	Multi-Family Residential	Commercial, Office, and Mixed Use	Industrial
Proposed Development	Single-Family Residential			<u>Screening Required</u>	<u>Screening Required</u>
	Multi-Family Residential	<u>Screening Required</u>			<u>Screening Required</u>
	Commercial, Office, and Mixed Use	<u>Screening Required</u>	<u>Screening Required</u>		<u>Screening Required</u>
	Industrial	<u>Screening Required</u>	<u>Screening Required</u>	<u>Screening Required</u>	

Section No. 5: That Planning and Zoning Code Chapter 1234 is hereby amended as follows:

Chapter 1234: Parking, Access, and Mobility Standards

1234.22(b)(4)

(b) Applicability

A TIA shall be required in the following cases:

- (1) Any zoning map amendment application that seeks to rezone properties from R-1A, R-1B, R-1C, or R-1D to an R-2 or R-3 zoning district;
- (2) Any application for a RPD Development Plan where there is a proposed density of four units per acre or more and the site is located adjacent to a R-1A, R-1B, R-1C, or R-D District;

- (3) Any application for a MUO Development Plan; and
- (4) Any site plan application that due to its size, density, traffic generation rates, or location can reasonably be expected to create traffic issues, as determined by the ~~Director of Public Works~~ City Engineer or engineering consultant(s) to the city, are required to submit a TIA.

1234.22(c)(5)C.

(5) Determination of the Capacity of Intersections

- A.** A load-factor analysis shall be conducted for one 24-hour period on a weekday on all intersections within the study area. The highest average hourly load factor between 3 p.m. and 6 p.m. shall also be recorded. A maximum load factor of 3/10 is operating below level of service C (inclusive of levels D, E, and F) and shall be identified as congested locations.
- B.** A maximum load factor of 7/10 will be allowed for intersections involving two collector roads. All such intersections with a load factor greater than 7/10 are operating below level of service D (levels E and F) and shall be identified as congested locations.
- C.** To determine intersection capacity at levels of service C and D, Figure 6.8 and Tables 6.4, 6.5, and 6.6 of the Highway Capacity Manual shall be consulted or any other applicable figures or tables as determined by the ~~Director of Public Works~~ City Engineer or engineering consultant(s) to the city.

1234.22(d)

(d) Mitigating Traffic Impacts

If the TIA results in the conclusion that the level of service of adjacent roadways 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 developer's expense, by the ~~Director of Public Works~~ City Engineer or engineering consultant(s) to the city. The ~~Director of Public Works~~ City Engineer or engineering consultant(s) to the city shall make their determination prior to approval of a RPD Development Plan, MUO Development Plan, site plan, or zoning permit, whichever is applicable.

Section No. 6: That Planning and Zoning Code Chapter 1238 is hereby amended as follows:

Chapter 1238: Subdivision Design Standards

1238.06(a)(1)

(a) Pavement Guarantee

- (1)** The subdivider shall, prior to the approval of the final plat, be required to post

with the City a financial guarantee in an amount equal to 20 percent of the cost of pavement construction in the subdivision as computed by the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city. Such financial guarantee shall be held by the City to ensure that the subdivider shall replace or repair, upon request of the City, any defective pavement areas which may appear during the time period of the guarantee.

1238.06(b)(3)A.

(3) Maintenance Bonds

The following standards shall apply if a maintenance bond is utilized as a financial guarantee:

- A. A bond in the amount determined in accordance with this section shall be filed with the City ~~of Avon-Lake~~ Engineer or engineering consultant(s) to the city.
- B. The bond may be in the form of a maintenance bond or a cash bond of the kind approved by law for securing deposits of public money.
- C. The bond shall be executed by the subdivider as principal, and if a maintenance bond, shall be executed by a corporation authorized to act as the guarantor under the laws of the State of Ohio.

1238.07(b), (c)(3), and (d)(1)and(2)

(b) Projection of Improvements

Where adjoining areas are not subdivided or developed, the arrangement of streets and utilities in new subdivisions shall make provision for the proper projection of streets (i.e., provide for temporary dead-end streets and utilities where street connections can be made to the adjacent land) as required by the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city. Such arrangements shall be made to the subdivision boundary or up to the edge of the phase of buildable lots.

(c) Topography, Floodplain Areas, Wetlands, and Natural Areas

- (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) All subdivisions of land and installation of public improvements involving areas subject to flooding, as defined by National Flood Insurance Program Maps and Data, shall conform to all applicable floodplain regulations and the requirements of adopted regulations involving the City's participation in the National Flood Insurance Program.
- (3) Land which is determined by the Planning Commission to be unsuitable for subdivision or development due to flooding, the presence of Federal Jurisdiction Wetlands, or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas shall not be subdivided or developed unless

methods adequate to resolve the problems are formulated by the developer and approved by Council, upon recommendation by the Planning Commission and upon advice of the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city.

- (4) 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.

(d) Creeks, Ditches, and Waterways

- (1) Where a major watercourse, as defined and mapped by the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city, exists within a proposed subdivision, the developer thereof shall grant unto the City an easement for necessary maintenance and shall also grant unto the City an easement to provide access to the watercourse. The width of the dominant maintenance easement shall be determined by the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city, and the width and precise location of the subservient access easement shall be determined by the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city in consultation with the developer, with due regard for the preservation of natural features of such area.
- (2) No permanently attached or unmovable fixture or structure, except for a footbridge or the like, as necessary to join sections of the same property, shall be permitted within the maintenance easement or access easement. A footbridge or similar structure shall be approved by the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city and shall not be constructed and placed within said maintenance easement without the appropriate approval of the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city. Any construction in areas designated as floodways by the Federal Emergency Management Agency (FEMA) shall be subject to the regulations of that agency.

1238.07(h)(4) and (i)(1) and (2)

(h) Monuments and Markers

- (1) Monuments and monument boxes shall be installed at the intersection of all centerlines of all streets, points of curvature and points of tangency on all curves.
- (2) Property pins shall be set at all lot corners, points of tangency and points of curvature.
- (3) Steel rods shall be used for property pins permanently installed that comply with the State of Ohio's requirements.
- (4) Monuments and lot corner markers shall be of a design approved by the ~~Code Administrator~~ City Engineer or engineering consultant(s) to the city and meeting State of Ohio Minimum Standards for Boundary Surveys.

(i) Street Trees and Street Tree Fund

- (1) Trees planted within a street right of way shall conform to the City Master Tree Plan. Prior to construction a planting plan shall be approved by the ~~Municipal Arborist~~ Urban Forester.

- (2) All new subdivisions shall be required to contribute to the Street Tree Fund for the installation of trees in public rights-of-way. The fee shall be payable as a cash amount calculated by the ~~Code Administrator~~ Urban Forester and shall be paid prior to Final Plat approval. The fund shall be used by the City to install tree lawn trees within public rights-of- way of new subdivisions. The fund shall not apply to private streets. The cost for said fee shall be as set forth in Chapter 208 of the Codified Ordinances.

Section No. 7: That Planning and Zoning Code Chapter 1246 is hereby amended as follows:

Chapter 1246: Definitions

1246.02

Construction

~~The act of constructing an addition to an existing building or structure or the erection of a new principal or accessory structure on a lot of property. Any act or process that requires a building permit and that adds an addition or modification onto an existing building or erects a new principal or accessory structure.~~

Construction

~~The erection of a new structure, a new site element, or any additions to existing structures.~~

Construction, start of

A substantial change or alteration in the physical properties of a zoning lot or structure where the incorporation of labor and materials incurs substantial cost or liability.

Home Occupation

A business, profession, occupation, or trade that is conducted ~~within a residential dwelling unit on a residential property~~ for the economic gain or support of a resident ~~of the dwelling living on that property~~ 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.

Site Improvement

Alterations to land that enhance the utility of any new or existing structure on the lot(s).

Section No. 8: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 9: That this Ordinance is hereby declared to be an emergency measure, the emergency being the necessity of revising Code Chapters that were determined to be problematic and/or unclear and to maintain the integrity of the

Planning and Zoning Code, thus for the public health, safety, and welfare. Therefore, this Ordinance shall go into immediate force and effect from and after its passage and approval by the Mayor.

1st reading: 2/26/2024

2nd reading: 3/11/2024

3rd reading:

PASSED: 3/25/2024

/s/ Martin E. O'Donnell
President of Council

POSTED: 3/29/2024

APPROVED: 3/26/2024

ATTEST: /s/ Valerie E. Rosmarin
Clerk of Council

/s/ Mark A. Spaetzel
Mayor