

Chapter 1214: Review Procedures

1214.01 Common Review Requirements

The requirements of this section shall apply to all applications and procedures subject to development review procedures established in this code, unless otherwise stated. While most review procedures are established within this chapter, the procedures for the Mixed-Use Overlay District and the Planned Unit Development review are established in separate chapters.

(a) Summary of Review Procedures

[Table 1214-1](#) provides a list of all review procedures utilized in the administration and enforcement of this code, the applicable review authority, the type of review hearing or meeting, and the decision-making responsibility of each review authority.

TABLE 1214-1: SUMMARY OF REVIEW PROCEDURES AND MEETING/HEARING TYPE

Review Procedure	See Section	City Council	Planning Commission	Zoning Board of Appeals	Historic Preservation Commission	Code Administrator
Code Text or Map Amendment	1214.02	PH/D	PM/R			
Conditional Use	1214.03	PM/D	AH/R			
Minor Subdivision	1214.04					D
Major Subdivision: Preliminary Plat	1214.05	PM/D	PM/R			
Major Subdivision: Final Plat		PM/D	PM/R			
Site Plan	1214.06		PM/D			
Certificate of Appropriateness	1214.07				PM/D	
Designation of Landmark or Historic District	1214.08	PH/D	PH/R		PM/R	
Variance	1214.09			AH/D		
Zoning Permit	1214.10					D
Appeals	1214.11			AH/D		
Interpretation of the Code	1214.12					D
MUO Development Plan	1218.03	PH/D	PM/R			
PUD Modification	1220.03	See Section 1220.03				
RPD Development Plan	1222.03	PH/D	PH/R			
Abbreviations:						
PH = Public Hearing AH = Adjudication Hearing PM = Public Meeting		R = Recommendation D = Decision				

(b) Authority to File Applications

- (1) Unless otherwise specified in this code, applications for development review procedures defined in this code may be initiated by:
 - A. An owner of the property that is the subject of the application; or
 - B. An agent authorized in writing by the owner, which may include a lessee of the property, attorney, or other representative.
- (2) Property owners or their authorized agents of all the lots subject to the review or submittal shall be required to sign the application or provide written documentation that all property owners wish to proceed with the application.
- (3) The Planning Commission 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.

(c) Application Submission Schedule for the ZBA

The schedule for the submission of applications in relation to scheduled meetings and hearings of the ZBA shall be established by the Code Administrator and made available to the public.

(d) Application Contents

- (1) Applications required under this code shall be submitted to the member of the DRC responsible for such applications, as determined by the DRC.
- (2) All applications shall be in a form and in such numbers as established by the DRC, and made available to the public.
- (3) Applications shall be accompanied by a fee as established by City Council pursuant to Section [1214.01\(g\): Fees](#).

(4) Complete Application Determination

- A. The responsible DRC member shall only initiate the review and processing of applications submitted under this chapter if such application is determined to be complete.
- B. An application shall be determined to be complete if the applicant has submitted all of the forms, maps, and other submittal requirements required for the specified application.
- C. The responsible DRC member 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 responsible DRC member 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 responsible DRC member 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 responsible DRC member, 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 responsible DRC member 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.

(e) Simultaneous Processing of Applications

- (1) Whenever two or more forms of review and approval are required by review boards under this code, the DRC shall determine the order and timing of review.
- (2) The DRC may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.

(f) Pre-application Conferences or Meetings

- (1) Prior to filing an application, an applicant may be required to meet with the Development Review Committee or, when not required, may request a meeting with the Committee or with any individual member of the Committee.
- (2) Where a pre-application meeting is required (i.e., mandatory), such requirement may be waived if the Development Review Committee unanimously agrees that the proposed development or work subject to review is of a small-enough scale as to not warrant a preliminary meeting of the Development Review Committee or that the proposal appears to generally meet all requirements upon an initial review.
- (3) An applicant may request a pre-application meeting with a review board for any review procedure in this task. The applicant may request such meeting by submitting a written request to the Development Review Committee for placement on the agenda of the next regularly scheduled meeting or any special meeting that may be called by the applicable review board.
- (4) The purpose of the pre-application conference or meeting shall be to discuss the proposed application or project, review submittal requirements, and discuss compliance with the provisions of this code and the comprehensive land use plan prior to the submission of an application.
- (5) No action can be taken by the staff and/or any review 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 review 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, review 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.

(g) 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 the Mayor, City Council or the Planning Commission.
- (2) The fees shall be in addition to any other fees that may be imposed by the City, State, Lorain 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 planning and 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 on 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 responsible DRC member is authorized to collect such additional costs from the applicant.
- (6) Application fees are not refundable except where the responsible DRC member 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 [1214.01\(g\): 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.

(h) Public Notification for Public Meetings

For all public meetings required by this code, the City shall comply with this code and all applicable State notice requirements.

(i) Public Notification for Public Hearings

- (1) Applications for development approval that require public hearings, including all adjudication hearings, shall comply with all applicable State requirements and the public meeting notice requirements established in Section [1214.01\(h\): Public Notification for Public Meetings](#), above.
- (2) The responsible DRC member shall be responsible for providing the required notice as specified in [Table 1214-2](#).

(3) Content

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

- A. Provide 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, Lorain County parcel identification number, or by legal description;
- D. Describe the nature, scope, and purpose of the application or proposal;
- E. Identify the location (e.g., the offices of the Code Administrator) 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 1214-2](#).

TABLE 1214-2: NOTICE REQUIREMENTS

Development Review Procedure	Published Notice	Written (Mailed) Notice
Code Text Amendment		No written notice is required for a text amendment.
Zoning Map Amendment	Published notice required a minimum of 10 days before the initial public hearing.	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 10 days before the initial public hearing.
RPD Development Plan		
MUO Development Plan	Published notice required a minimum of 10 days before a public hearing.	Written notice to the applicant and all property owners within 300 feet from the boundary of all properties subject to the application shall be required a minimum of 10 days prior to a public hearing.
Conditional Use		
Major PUD or RPD Modification		
Appeals		
Variance or Subdivision Modifications	No published notice is required.	Written notice to the applicant and all property owners within 300 feet from the boundary of all properties subject to the application shall be required a minimum of 10 days prior to the hearing.
Historic Landmark or Historic District Nomination	Published notice required a minimum of 10 days before a public hearing.	Written notice shall be provided to all property owners within a proposed historic district at least 10 days prior to a public hearing. Additionally, a public notice shall be posted on the property proposed for a landmark designation or on four cornering properties proposed for a historic district designation at least 10 days before a public hearing.

(5) Published Notice

- A. Published notice shall be provided in a newspaper of general circulation and the City may also provide additional published notice by electronic media including, but not limited to, posting online at the City’s website.
- 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 1214-2](#) prior to the hearing date at which the item will be considered.

(7) Constructive Notice

- A.** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not 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.

(j) Conduct of Public Hearing

(1) Rights of All Persons at Public Hearings

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 Code Administrator prior to the publication of notice as may be required by this code. The Code Administrator 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 Code Administrator 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 provide the date, time, and place is publicly announced at the time of continuance.

(k) Withdrawal of Application

Any request for withdrawal of an application shall be either submitted in writing to the Code Administrator or made through a verbal request by the applicant prior to action by the review or decision-making body.

- (1)** The Code Administrator shall approve a request for withdrawal of an application if it has been submitted prior to publication of notice for the public hearing on the application in accordance with this code.
- (2)** If the request for withdrawal of an application is submitted after publication of notice for the public hearing in accordance with this code, the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review or decision-making body.

(l) Examination and Copying of Application and Other Documents

Documents and/or records may be inspected and/or copied as provided for by State law.

(m) Notification of Decisions

- (1) When City Council is responsible for making a final decision on any application, the Clerk of Council shall be responsible for providing notice of the decision to the applicant.
- (2) When Planning Commission or the Zoning Board of Appeals is responsible for making a final decision on any application, the secretary or clerk of each board shall be responsible for providing notice of the decision to the applicant. Where a secretary or clerk is not appointed, the Code Administrator may designate a staff member to provide notice to the applicant.

(n) 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 and shall not be affected by change in ownership.

(o) Modifications or Amendments of Approved Applications

- (1) For any review procedure, the Code Administrator is authorized to allow minor changes related to design of an approved application where the change is insignificant and has minimal impact to the overall design of the development or subdivision. This shall not give the Code Administrator the authority to vary the requirements of this code or any conditions of approval.
- (2) Where the Code Administrator determines that the proposed modification, amendment, or change is not minor, the applicant shall be required to resubmit an application and payment of additional fees for the application to be reviewed in accordance with the procedures and standards established for its original approval.

(p) Reapplication after Denial of an Application

If an application is denied, the applicant may:

- (1) Appeal the decision in accordance with the applicable appeals procedure established in this code; or
- (2) Make changes to the application that will fully address all issues and findings identified for the denial and resubmit a new application, including any required fees. Any such resubmission shall contain evidence that shows how the new application has substantially changed to address each of the findings of the original decision. The Development Review Committee shall have the authority to determine if the evidence submitted substantially changes the application to address all issues as part of the complete application determination in Section [1214.01\(d\)\(4\)](#). If it does not, the Development Review Committee shall return the application, with reasons for their determination in writing, along with any paid fees; or
- (3) Submit the same application after a 24-month waiting period; or
- (4) Submit a new application if the proposed use and design of the site will be substantially different than the denied application.

(q) 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's Codified Ordinances.

- (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 Lorain County, the State, or other agencies having jurisdiction.

(r) Records

The City shall maintain permanent and current records of all applications and the decisions related to those applications in City Hall.

(s) 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 observed by the City of Avon Lake where the City administrative offices are closed for the entire day, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.
- (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 Avon Lake in which the City administrative offices are closed for the entire day.
- (4) All days shall be calendar days, including weekends, unless otherwise stated as business days, in which case the time excludes weekends.

1214.02 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 District Map of the City of Avon Lake, 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 for such property may initiate an amendment by filing an application with the Code Administrator.
- (2) Only Members of the Development Review Committee, City Council, or the Planning Commission 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 Planning Commission.
- (4) The Planning Commission 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 – Pre-Application Meeting (Required)

An applicant shall be required to have a pre-application meeting with the Development Review Committee to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1214.01\(f\)](#).

(2) Step 2 – Application

- A. For amendments that are not initiated by the Planning Commission or City Council, the applicant shall submit an application in accordance with Section [1214.01: Common Review Requirements](#), and with the provisions of this section.
- B. Amendments initiated by City Council shall be referred to the Planning Commission for initiation of review.

(3) Step 3 – Development Review Committee Review

- A. Upon determination that a text or zoning map amendment application is complete, the Development Review Committee shall review the application and may distribute the application 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 application 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.

(4) Step 4 – Planning Commission Review and Recommendation

- A. *The Planning Commission shall review the 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, Planning Commission shall at a minimum, consider the review criteria of this section.
- C. Within 45 days of the initial meeting to review the application, the Planning Commission shall make a recommendation to City Council on the application. In making its recommendation, the Planning Commission may recommend approval, approval with some modification, or denial of the application.
- D. If the Planning Commission fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application will move forward to Step 5 with a recommendation of approval.

(5) Step 5 – City Council Review and Decision

- A. Following receipt of the recommendation from the Planning Commission (Step 4), 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 Planning Commission's recommendation.
- B. Notification of the public hearing shall be provided in accordance with Section [1214.01\(i\)](#).
- 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 recommendation from Planning Commission and the review criteria of this section.

** Revisions to the Planning & Zoning Code effective March 14, 2023, per Ordinance NO. 23-46. Those revisions are italicized. **

- D. City Council shall adopt, adopt with some modification, or deny the recommendation of the Planning Commission. Such action shall only require concurring vote of a simple majority of City Council unless the City Council votes to approve, in any form, an application where the Planning Commission recommended denial, in which case the approval shall require a three-fourths majority vote of City Council.
- E. If the City Council fails to make a decision within 180 calendar days, or an extended timeframe approved by the applicant, the application shall be deemed approved.
- F. The effective date of any amendment shall be in accordance with the applicable provisions of the 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 land use plan, other adopted City plans, and the stated purposes of this code;
- (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 will promote the public health, safety, and general welfare;
- (4) The proposed amendment, if amending the zoning map, is consistent with the stated purpose of the proposed zoning district;
- (5) The proposed amendment, if to the zoning map, follows lot lines or the centerlines of streets, railroads, or other rights-of-way.
- (6) 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;
- (7) 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/or
- (8) The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract.

1214.03 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 – Pre-Application Meeting (Required)

An applicant shall be required to have a pre-application meeting with the Development Review Committee to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1214.01\(f\)](#).

(2) Step 2 – Application

The applicant shall submit an application in accordance with Section [1214.01: Common Review Requirements](#), and with the provisions of this section.

(3) Step 3 – Development Review Committee Review

- A. Upon determination that a conditional use application is complete, the Development Review Committee shall review the application and may distribute the application 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 application 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.

(4) Step 4 – Planning Commission Review and Recommendation

- A. The Planning Commission 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. Notification of the public hearing shall be provided in accordance with Section [1214.01\(i\)](#).
- C. See Section [1212.04\(b\)\(4\)](#) for special provisions provided to the Planning Commission as part of a conditional use review.
- D. In reviewing the application, the Planning Commission shall at a minimum, consider the review criteria of this section.
- E. Within 60 days of the close of the public hearing, the Planning Commission shall make a recommendation on the application to City Council. In making its recommendation, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
- F. If the Planning Commission fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed approved.

(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.

(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 land use plan, the general purpose of this code, and the purpose of the zoning district in which the conditional use will be located;
- (3) The proposed use complies with any use-specific standards as may be established for the use;
- (4) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;
- (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 such use will not change the essential character of the same area;
- (7) The conditional use will not be hazardous or disturbing to the existing and future use and enjoyment of property in the immediate vicinity for the uses permitted, nor substantially diminish or impair property values within the neighborhood;
- (8) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (9) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
- (10) Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets; and considering the proximity of access drives to street intersections relative to the anticipated volume of traffic.
- (11) 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;
- (12) The establishment of the conditional use will not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools;
- (13) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible; and
- (14) Wherever no specific areas, frontage, height, or setback requirements are specified for a specific conditional use, then such use shall be subject to the lot and site regulations for the applicable zoning district.

(e) Additional Criteria and Conditions

The Planning Commission may impose such 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.

(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 1244: 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 one year may be granted by the Code Administrator if the applicant can show good cause for a delay.
- (5) As part of the conditional use approval, the Planning Commission 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 City Council shall have the right to appeal the decision the Court of Common Pleas as provided in ORC Chapters 2505 and 2506.

1214.04 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 (including combination of lots into a zoning lot), 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 lot (e.g., four new lots and the remainder of the original lot);
 - 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 rights-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 without adequate reciprocal easement agreements or common ownership arrangements that allow for all parcels to have access to a public right-of-way.
- (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) 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 [1214.01: 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 instruments of conveyance shall be submitted for both resulting lots.

(2) Step 2 – Development Review Committee Review

Upon determination that the application for a minor subdivision is complete, the Development Review Committee shall review the application and may distribute the application to other departments or agencies for review and comment prior to the decision in Step 3.

(3) Step 3 – Review and Decision

- A. Within 30 days of the determination that the application (Step 1) is complete, the Development Review Committee shall review the application and make a recommendation to the Code Administrator who shall have the authority to make the decision to 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. If the Code Administrator denies an application for a minor subdivision, the Code Administrator shall provide the applicant with written finding for the denial.
- C. If the application is approved, the Code Administrator and City Engineer shall be required to sign the conveyance.

(4) Step 4 – Recording

- A. If the application is approved, the Code Administrator and City Engineer shall sign and date all required deeds in the minor subdivision, or other forms of conveyance allowed by the Lorain County Auditor.
- B. The subdivider shall then be responsible for submitting the signed conveyance with the Lorain County Auditor for the transfer of property and to the Lorain County Recorder for the recording of the lots as legal lots of record and providing a copy of said conveyance to the Code Administrator, after recording.
- C. In the case of a transfer of land between two adjacent lots, the recording of the revised lots shall take place simultaneously.
- D. If the application includes a consolidation of lots to create a zoning lot, then the applicant shall be required to conduct a legal survey of the consolidated lot to submit to the county. See Section [1226.01\(b\)\(2\)](#).
- E. Within 30 days after all required deeds are recorded in the office of the County Recorder, the applicant shall provide the Code Administrator with all new permanent parcel numbers assigned to the new lots by Lorain County.

(d) Review Criteria

In order for a minor subdivision to be approved, the Development Review Committee shall review and make recommendations, and the Code Administrator must determine the following:

- (1) The Development Review Committee unanimously agrees on a recommendation to approve the application;
- (2) That the minor subdivision complies with all applicable provisions of this code including, but not limited to, the development standards of Section [1226.01: Lot and Principal Building Regulations](#);
- (3) That the minor subdivision complies with all other applicable regulations of the City; and

(4) That all valid objections to the minor subdivision raised by the departments of the City have been or will be satisfactorily resolved by the applicant.

(e) 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: Lot and Principal Building Regulations](#), the applicant will be required to apply for and receive variance approvals (See Section [1214.09: Variances](#).) prior to approval of the minor subdivision.

(f) Time Limit

The minor subdivision approval shall expire one year after the Code Administrator signs and dates the minor subdivision unless the minor subdivision is recorded in the office with the Lorain County Recorder during said period.

(g) Appeals

Any person or entity claiming to be injured or aggrieved by any final action with respect to the proposed minor subdivision shall have the right to appeal the decision to the ZBA as established in Section [1214.11: Appeals](#).

1214.05 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.

(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 [1214.04\(b\)](#), shall be subject to the requirements of this section.

(c) Major Subdivision Review Procedure

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

(1) Step 1 – Pre-Application Meeting (Required)

An applicant shall be required to have a pre-application meeting with the Development Review Committee to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1214.01\(f\)](#).

(2) Step 2 – Application and Filing of the Preliminary Plat

- A. The applicant shall submit an application, including a preliminary plat, in accordance with Section [1214.01: 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.

(3) Step 3 – Development Review Committee Review

- A. Upon determination that the application for a major subdivision is complete, Development Review Committee shall review the application and may distribute the application 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 application 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.
- (4) Step 4 – Review and Recommendation on the Preliminary Plat by the Planning Commission**
- A. The Planning Commission 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 recommendation, the Planning Commission shall approve, approve with conditions, or deny the preliminary plat. The Planning Commission may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.
 - C. The Planning Commission shall make a recommendation within 60 days of the filing of the preliminary plat (Step 2) unless the Planning Commission and subdivider agree to an extension of this time frame. If the Planning Commission fails to act within the 60 days or there is no agreement for an extension of time, the application for a preliminary plat will be considered approved.
- (5) Step 5 – Review and Decision on the Preliminary Plat by City Council**
- A. The City Council shall review the preliminary plat application at its next regularly scheduled meeting, or at a special meeting, following the receipt of recommendation from the Planning Commission
 - B. In making its decision, the City Council shall approve, approve with conditions, or deny the preliminary plat. The City Council may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.
 - C. The City Council shall make a decision within 60 days of the filing of the preliminary plat (Step 2) unless the City Council and subdivider agree to an extension of this time frame. If the City Council fails to act within the 60 days or there is no agreement for an extension of time, the application for a preliminary plat will be considered approved.
 - D. If the City Council denies the preliminary plat, the applicant shall not move forward in the review process until a preliminary plat is approved by the City Council.
 - E. In the event the City Council denies the preliminary plat or approves with conditions, the Code Administrator, on behalf of the City Council shall provide the subdivider with a statement in writing setting forth the reasons for the denial or the conditions of approval.
 - F. Approval of the preliminary plat by the City Council does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat and improvement plans.
- (6) Step 6 – Submission of Improvement Plans and Final Plat**
- A. The applicant shall submit the final plat and related improvement plans and specifications in accordance with [Section 1214.01: Common Review Requirements](#), and with the provisions of this section. The submission of the improvements plans may occur prior to the final plat or simultaneously. Such improvement plans must be approved prior to the final plat’s review by Planning Commission.

- B. The submission shall also include a subdivider's agreement in conformance with Section [1238.05: Subdivider's Agreement](#). Such agreement shall be considered a part of the improvement plans and must be approved with such improvement plans.
 - C. If a preliminary plat has been previously approved, the final plat shall have incorporated all changes required in the preliminary plat approval.
 - D. The applicant shall submit all necessary improvement plans, subdivider's agreement (See Section [1238.05: Subdivider's Agreement](#).), and a final plat for review within two years of the decision on the preliminary plat 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.
 - E. 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 [1238.06: Pavement Guarantee and Financial Guarantees](#).
 - F. Upon determination by the Code Administrator that the improvement plans and final plat has been properly submitted, the final plat shall be accepted as being filed.
 - G. In cases where the applicant proposes to develop the subdivision in phases, the final plat and improvement plans shall be submitted for each individual phase.
 - H. The final plat and improvement plans shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.
- (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 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](#).
- (8) Step 8 – Review and Recommendation on the Final Plat by the Planning Commission**
- A. The Planning Commission shall review the final plat at its next regularly scheduled meeting, or at a special meeting, after the final plat is submitted and determined to be complete.

- B. The Planning Commission shall make a recommendation to approve, approve with conditions, or deny the final plat. The Planning Commission may also continue the meeting if questions regarding the plat are not satisfactorily answered by the applicant.
- C. The Planning Commission shall make a recommendation within 60 days of the filing of the final plat (Step 6) unless the Planning Commission and subdivider agree to an extension of this time frame. If the Planning Commission fails to act within the 60 days or there is no agreement for an extension of time, the application for a preliminary plat will be considered approved.
- D. If the Planning Commission denies the final plat, the applicant shall not move forward in the review process until a final plat has a recommendation for approval by the Planning Commission.

(9) Step 8 – City Council Review and Decision on Final Plat and Acceptance of Improvements by City Council

- A. The City Council shall review the final plat at its next regularly scheduled meeting, or at a special meeting, following the review and recommendation from the Planning Commission (Step 8).
- B. The City Council shall make a decision within 60 days of the receiving the final plan and recommendation from the Planning Commission unless the City Council and subdivider agree to an extension of this time frame. If the City Council fails to act within the 60 days or there is no agreement for an extension of time, the application for a preliminary plat will be considered approved.
- C. If City Council denies the final plat, the applicant shall not move forward in the review process until a final plat and the improvement plans are approved by City Council.
- D. The City, through action by the City Council, may approve the final plat and accept public improvements made by a subdivider that meet the following conditions:
 - i. The public improvements have been made in accordance with the requirements of this code, and any other manuals or documents referenced in [Section 1238.03: Conformity with Plans and Regulations](#) ;
 - ii. Installation of the public improvements has been completed in accordance with the applicable design standards;
 - iii. 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 Code Administrator; and
 - iv. After all public improvements have been installed to the satisfaction of the City, the subdivider shall submit an original copy of as-built improvement plans (showing how all public improvements were actually installed) to the Code Administrator in a format acceptable to the Code Administrator.
- E. After all public improvements have been installed in accordance with the subdivider's 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 financial guarantee.

(10) Step 9 – Disposition of Approved Plat and Recordation

- A. All required deeds, agreements, and other required legal instruments shall be submitted to the Code Administrator within 45 days from the date of the Planning Commission's approval or such approval shall thereafter be rendered null and void.

- B. Before an approved plat can be recorded, it shall be signed by the Code Administrator, the Clerk of Council and the Law Director only provided that all conditions imposed by the Planning Commission and Council, as applicable, have been met. Any plat recorded which has not been approved according to the regulations in this chapter shall be considered invalid.
- C. The subdivider shall then be responsible for submitting the signed plat to the Lorain County Recorder for the recording of the lots as legal lots of record and providing a copy of said plat to the City after recording.
- D. The approval of a plat shall expire within 120 days after City Council approval is effective unless the plat has been duly filed and recorded, by the applicant as required by law.

(d) Review Criteria

In order to approve a major subdivision, the Planning Commission 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 the proposed subdivision is designed to be harmonious with the existing immediate or surrounding area or in keeping with the intended character of such area;
- (4) That the proposed streets are in accordance with the Master Thoroughfare Plan and have been coordinated with existing streets and that adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion in public streets;
- (5) That the proposed subdivision will not adversely affect the delivery of governmental services;
- (6) That any comments from applicable review agencies been adequately considered and addressed by the applicant; and
- (7) That the final plat and improvement plans conform to the approved preliminary plat, if submitted and approved.

(e) 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 Planning Commission and an endorsement is made in writing on the plat, unless the plat is first resubmitted and the changes approved by the Planning Commission.
- (2) If the applicant finds, in the process of preparing improvement plans, that the approved preliminary plat, if submitted, is not workable and changes in layout are required, the applicant shall inform the Code Administrator. The Code Administrator may require that a revised preliminary plat be submitted for re-approval following the review procedure in Section [1214.05\(c\)](#), above if the changes significantly alter the design of the subdivision. If the proposed changes are technical or minor and do not substantively alter the approved preliminary plat, the Code Administrator may approve the revisions. Failure to submit and receive approval of a revised preliminary plat shall void approval of the preliminary plat and any new submission shall be subject to a new application.
- (3) During the final plat process, the Code Administrator 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 Code Administrator 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 plans, the subdivider shall submit the modified improvement plans (which have now become as-built drawings) to the Code Administrator, who, if in agreement with such modifications, shall sign these drawings to indicate approval of the modifications. If the Code Administrator does not approve the modifications, the applicant shall be required to bring the improvements into compliance with the approved improvement plans or the City may utilize the financial guarantee to correct the issue.

(f) 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: Lot and Principal Building Regulations](#), the applicant will be required to apply for and receive all the necessary variance (See [Section 1214.09: Variances](#).) approvals prior to approval of a preliminary plat.
- B. If the applicant seeks a modification of standards required by [Chapter 1238: Subdivision Design Standards](#), then the request for a modification shall be accomplished through the procedure outlined in this section.

(3) Subdivision Modification Review

- A. A request for a subdivision modification shall be reviewed as part of the preliminary plat review procedure.
- B. The Planning Commission shall review the subdivision modification application at a public hearing that shall be noticed in accordance with [Section 1214.01\(j\)](#).
- C. In reviewing the application, the Planning Commission shall at a minimum, consider the review criteria of this section.
- D. The Planning Commission shall review the request and may approve, approve with conditions, or deny the request to modify any or all of the modifications.
- E. In approving a modification, the Planning Commission may impose conditions on the approval as it determines are required to ensure compliance with the provisions and purpose of these regulations.
- F. 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 modification shall be the same as those for a variance as established in Section [1214.09\(c\)](#).

(g) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the ZBA as established in Section [1214.11: Appeals](#).

1214.06 Site Plans

(a) Purpose

The purpose of the site plan review procedure is to ensure that multi-family residential development and all nonresidential developments comply with the development and design standards of this code. Zoning permits for any building, structure, expansions, or use of land subject to this section, shall not be issued without an approved site plan.

(b) Applicability

The following forms of development shall require site plan review by the Planning Commission in accordance with this section:

- (1) New construction, structural alterations, and site improvements of all uses in nonresidential zoning districts and in R-2 and R-3 Districts;
- (2) All conditional uses, in all zoning districts;
- (3) Improvements to public property;
- (4) Any proposal to alter, reconstruct, or otherwise modify any existing or previously approved site plan for a permitted use, conditional use, or similar use that increases the number of dwelling units in a multi-family development; or changes the use in a manner which requires an increase in the amount of parking or a change in the site's circulation.

(5) Exemptions

The following forms of development within the above zoning districts shall be exempt from site plan review:

- A. Single-family dwellings; and
- B. Re-occupancy of an existing building or the internal construction or change in floor area of a building or structure that does not increase the gross floor area, increase the intensity of use, or affect parking or landscaping requirements on a site that meets all of the development standards of this code; and
- C. Accessory and temporary uses as established in [Chapter 1224: Accessory and Temporary Use Regulations](#).

(c) Site Plan Review Procedure

The site review procedures shall proceed as follows:

(1) Step 1 – Pre-Application Meeting (Required)

An applicant shall be required to have a pre-application meeting with the Development Review Committee to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1214.01\(f\)](#).

(2) Step 2 – Application

The applicant shall submit an application in accordance with Section [1214.01: Common Review Requirements](#), and with the provisions of this section.

- (3) **Step 3 – Development Review Committee Review**
- A. Upon determination that a site plan application is complete, the Development Review Committee shall review the application and may distribute the application 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 application 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.
- (4) **Step 4 – Planning Commission Review and Decision**
- A. The Planning Commission shall review the site plan application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete. If the site plan application includes an application for alternative equivalency review (See Section [1214.06\(e\)](#).), then such applications shall be simultaneously reviewed as part of this procedure.
 - B. In reviewing the application, the Planning Commission shall at a minimum, consider the review criteria of this section.
 - C. Within 60 days of the Code Administrator determining that the application is complete, the Planning Commission shall make a decision on the application. In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
 - D. If the Planning Commission fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed approved.

(d) Review Criteria

In order to approve a site plan, the Planning Commission shall determine that:

- (1) The proposed development is consistent with all the requirements of this code, and other related codes and ordinances of the City;
- (2) The proposed development is in compliance with the applicable zoning district regulations;
- (3) The proposed development complies with any established standards or requirements in the approved comprehensive land use plan or thoroughfare plan;
- (4) The proposed development meets all the requirements or conditions of any applicable development approvals (e.g., previously approved planned developments, conditional use approvals, variance approvals, etc.);
- (5) The development will result in a harmonious grouping of buildings within the proposed development and in relationship to existing and proposed uses on adjacent property;
- (6) The development will preserve and be sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this code;
- (7) Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
- (8) The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas;
- (9) Upon review and recommendation of the Code Administrator, points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments;

- (10) Adequate provision is made for emergency vehicle access and circulation; and
- (11) If the project is to be carried out in progressive stages, each stage shall be so planned that the foregoing criteria are complied with at the completion of each stage.

(e) Alternative Equivalency Review

(1) Purpose

Alternative equivalency 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. 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 equivalency review shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.

(2) Applicability

- A. The alternative equivalency review procedure shall be available only for the following sections of this code:
 - i. Setbacks and yards as established in Section [1226.01: Lot and Principal Building Regulations](#) provided the adjustment to the setback or yard is less than 20 percent of the applicable requirements.
 - ii. Section [1226.03: Fences and Walls](#)
 - iii. Section [1226.04: Outdoor Lighting](#)
 - iv. [Chapter 1228: Architectural Standards](#)
 - v. [Chapter 1232: Landscaping and Screening Standards](#)
 - vi. [Chapter 1234: Parking, Access, and Mobility Standards](#)
- B. Where an applicant is seeking a variance of standards that is not an alternative equivalency review, such application shall comply with Section [1214.09: Variances](#).

(3) Review Timing and Decisions

- A. A request for alternative equivalency review shall be made concurrently with the applicable site plan application.
- B. The Planning Commission shall have the authority to work with an applicant on an alternative equivalency approach to meeting the applicable standards as part of site plan review, regardless if a formal application is made.
- C. The Planning Commission shall have the authority to approve, approve with conditions, or deny the alternative equivalency review application. Such action shall be separate from the decision on the applicable site plan application.

(4) Review Criteria

Decisions on an alternative equivalency review application shall be based on consideration of the following criteria:

- A. That the proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;
- B. That the proposed alternative achieves the goals and policies of the comprehensive plan to the same or better degree than the subject standard;
- C. That the proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and
- D. That the proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this code.

(5) Conditions

The Planning Commission may impose conditions on an approval for alternative equivalency review provided such conditions are related to ensuring the performance of the alternative equivalency 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 equivalency review.

(6) Decisions

Any decision on an alternative equivalency 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 reviewed and decided upon based on the individual circumstances.

(7) Time Limit

- A. An approval of an alternative equivalency review application shall expire if the site plan approval or zoning permit approval such alternative equivalency review application is associated with expires.
- B. Upon expiration of an alternative equivalency review approval, a new application, including all applicable fees, shall be required before a new application will be reviewed.

(8) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the ZBA as established in Section [1214.11: Appeals](#).

(f) Significance of an Approved Site Plan

- (1) An approved site plan shall become, for the proposed development, a binding commitment of the specific elements approved for development. The approved site plan may be transferred to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit.
- (2) All construction and development under any zoning permit and building permit shall be in accordance with the approved site plan. Any departure from such plan shall be cause for revocation of the zoning permit and/or building permit, and the property owner or other responsible parties are subject to penalties as prescribed by this code.

(g) Time Limit

- (1) The applicant shall submit a completed application for a zoning permit within one year of the date the site plan was approved or the site plan approval shall expire.
- (2) Upon expiration of a site plan approval, a new application, including all applicable fees, shall be required before a new site plan will be reviewed.
- (3) Upon written request, one extension of six months may be granted by the Code Administrator if the applicant can show good cause for a delay.
- (4) The Planning Commission may authorize alternative time limits for zoning permit issuance, as part of its approval, 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 Planning Commission shall have the right to appeal the decision to the ZBA as established in Section [1214.11: Appeals](#).

1214.07 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 approved by the HPC and a zoning permit, if required, has also been issued.
- (2) Minor site improvements such as the establishment of a paved surfaces with less than 200 square feet of surface areas, landscaping, or other minor site work or changes to components of a property not specifically identified by the ordinance that applies to the historic district or property, shall not require a COA.
- (3) Projects and activities that are exempt from the COA review procedure include:
 - A. The reconstruction, alteration or demolition of a structure or feature which has been ordered by the Chief Building Official upon certification of an unsafe condition constituting an emergency
 - B. Painting or general maintenance of a structure that does not alter exterior architectural features including not altering the materials or color of such architectural features;
 - C. Changes in occupancy not involving structural or exterior work; and
 - D. 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) COA Review Procedure

The review procedure for a COA shall be as follows:

(1) Step 1 – Pre-Application Meeting (Optional)

An applicant may request to have a pre-application meeting with the HPC to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1214.01\(f\)](#).

(2) Step 2 - Application

- A. The applicant shall submit an application in accordance with Section [1214.01: Common Review Requirements](#), and with the provisions of this section.
- B. In making application, the Code Administrator or the HPC may request that the applicant provide exhibits, sketches, examples of materials, renderings, or other documentation to assist in their decision.

(3) Step 3 - Staff Review

Upon determination that a COA application is complete, the Code Administrator shall refer the application to the HPC.

(4) Step 4 – HPC Review and Decision

- A. The HPC 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 HPC shall at a minimum, consider the review criteria of this section.
- C. Notification of the public meeting shall be provided in accordance with Section [1214.01\(h\)](#).
- D. Within 60 days after the COA application is determined to be complete or is forwarded to them by the Code Administrator, the HPC shall hold a public meeting to review the application and make a decision on the application. In making its decision, the HPC may approve, approve with modifications, or deny the application. The HPC shall make every effort to work with the applicant within this time period to develop a proposal that the HPC can approve or approve with modifications.
- E. If a COA is denied, the City shall not issue any permits that would allow modifications for which the COA was denied. In cases where the HPC has denied a COA, the HPC shall state the reasons for such disapproval in writing and transmit the written statement to the applicant together with any recommendation the HPC may have made for appropriate changes.
- F. If the HPC fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed approved.
- G. 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.

(d) 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 HPC 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 HPC finds are not historically or architecturally significant, the HPC may relax or waive the standards or guidelines that apply to the project.
- (3) If the HPC finds that the structure is historically or architecturally significant, the standards and guidelines of this code shall be fully applied as determined by the HPC.
- (4) The HPC 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.

(e) 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 [1228.05\(b\)](#)), to the maximum extent feasible;
- (3) The proposed development meets all the requirements or conditions of any applicable development approvals (e.g., PUD approvals, RPD approvals, conditional use approvals, variance approvals, etc.); and
- (4) There is no feasible and prudent alternative alteration or change which would conform to the guidelines, and adhering to the guidelines would deny the owner a reasonable rate of return on the real property or amount to a taking of property without just compensation.

(f) Denial of a COA Application for Demolition

In the case of a denial of a COA for demolition:

- (1) The HPC and applicant shall undertake meaningful and continuing discussion to find a means of preserving the property.
- (2) If the applicant fails to meet with the HPC in good faith and at specified times, then denial of the application will stand.
- (3) After meeting with the applicant, if the HPC determines that denial would create a substantial hardship to the applicant, it shall propose a compromise which relieves the hardship, if it exists.
- (4) If, after meeting with the applicant, the HPC has not reached a compromise with the applicant that relieves substantial hardship, then the applicant may appeal the decision, within 30 days of the said meeting, directly to the City. City Council may affirm, modify or reverse the HPC's decision.
- (5) In the specific cases of demolition, the HPC may delay a decision for up to 180 days upon finding that a structure is of such importance that alternatives to demolition should be actively pursued by both the HPC and the applicant. Alternate steps to be investigated include, but are not limited to:
 - A. Consultation with civic groups, public agencies and interested citizens;
 - B. Recommendations for acquisition of the property by public or private bodies; and
 - C. Exploration of the possibility of moving one or more structures or other features.

(g) Compliance and Modifications of a COA

- (1) The Code Administrator shall review the construction drawings, final plans, and other similar documents for compliance with an approved COA, any conditions attached thereto, and any approved or required modifications thereof.
- (2) If it is determined that a deviation from an approved COA is planned or constructed, a stop work order shall be issued by the Code Administrator.
- (3) The Code Administrator and the HPC Chair together shall determine the impact of the modification with regard to the intent of an approved COA. Such determination shall be made within 72 hours following the issuance of a stop work order, if possible.
- (4) Any modification may be approved administratively and the stop work order lifted if the Code Administrator and the HPC Chair determine that it is a minor modification to the approved COA.
- (5) Any modification that is determined to be a major modification or that does not satisfy the intent of the approved COA will require a new application for a COA. The stop work order shall not be lifted until the new application has been heard and approved by the HPC.

(h) 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 Code Administrator 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 HPC if the applicant can show good cause for a delay.
- (4) The HPC may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(i) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the HPC shall have the right to appeal the decision to the City Council in a manner similar to the appeals process established for the ZBA in Section [1214.11: Appeals](#).

1214.08 Designation of Historic Landmarks and Historic Districts**(a) Purpose**

The purpose of this designation procedure is to provide a clear method by which certain sites, buildings, and larger districts are considered for formal designation as a historic landmark or historic district within the City of Avon Lake, subject to enhanced review to ensure that the sites, buildings, or districts retain their historic significance.

(b) Historic Landmark and Historic District Designation Procedure

The review procedure for the designation of a historic landmark or historic district shall be as established in this section.

(1) Step 1 – Nomination

- A. The nomination for a single property, structure, landscape, site element or object in the City for historic landmark designation may be initiated by any of the following with written consent from all property owners specified in the nomination:
 - i. The owner of any property included in the nomination;
 - ii. One or more HPC members;
 - iii. One or more City Council members;
 - iv. The Mayor; or
 - v. An organization or individual with a stated interest.
- B. The nomination for an area to in the City for historic district designation may be initiated by a petition signed by the owners of no less than 75 percent of the total square footage of the area to be included in the district and shall include verification of such requirements with reference to the Lorain County Auditor's real property records.

(2) Step 2 – HPC Review and Recommendation

- A. The HPC shall review the nomination at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.
- B. Within 60 days after the nomination is determined to be complete, the HPC shall consider the nomination and forward the nomination and the HPC's recommendation to the Planning Commission.

(3) Step 3 – Planning Commission Review and Recommendation

- A. The Planning Commission shall hold a public hearing on the nomination at its next regularly scheduled meeting, or at a special meeting, after the HPC’s recommendation.
- B. Notification of the public hearing shall be provided in accordance with Section [1214.01\(i\)](#).
- C. The applicant(s) shall be exempt from the Planning Commission agenda fee.
- D. Within 60 days after HPC makes its recommendation (Step 2), the Planning Commission shall consider the nomination and the HPC recommendation and recommend to City Council that the nomination be approved, approved with some modification, or denied.

(4) Step 4 – City Council Review and Decision

- A. The City Council shall hold a public hearing on the nomination at its next regularly scheduled meeting, or at a special meeting, after the Planning Commission’s recommendation.
- B. Notification of the public hearing shall be provided in accordance with Section [1214.01\(i\)](#).
- C. Within 60 days after the Planning Commission makes a recommendation (Step 3), City Council shall consider the nomination, the HPC’s recommendation, and the Planning Commission’s recommendation and make one of the following decisions:
 - i. Approve the nomination as requested and designate the landmark or district as a historic property. Approval shall require a two-thirds majority to override a proposal previously denied by the Planning Commission; or
 - ii. Deny the proposal.
- D. After a decision by City Council, the Clerk of Council shall notify all persons known to have a legal or equitable interest in said property. The Planning Commission, the Code Administrator, and HPC shall also be notified.
- E. The Clerk of Council shall notify any appropriate county, State or Federal offices after a designation is approved. The Clerk of Council shall cause to be recorded in the office of the Lorain County Recorder a copy of each ordinance designating a preservation district or landmark.
- F. Designation of a historic district or landmark shall be considered a district overlay with the regulations of the underlying zoning district remaining in effect for any property designated as a landmark or included in a historic district.
- G. Following the designation of the landmark property, the HPC may place or cause to be placed on such landmark an official City plaque, indicating that such property or part thereof has been designated a landmark in the City. In case of designation of a district, the HPC may place or cause to be placed official City plaques at appropriate location(s) near all entranceways to the new district. Plaques shall be installed subject to the provisions of [Chapter 1236: Sign Standards](#). These official plaques shall remain the property of the City.

(c) Review Criteria

In considering the designation of any building, structure, site, work of art or object as a landmark or any area which contains within definable geographic boundaries, buildings, structures or sites of historic architectural or archaeological significance as a historic district, the HPC shall apply the following criteria:

- (1) The character, interest or value of the area, property, or site as part of the development, heritage or cultural characteristics of the city, state, or nation;

- (2) The location as a site of a significant historic event;
- (3) The identification with a person or persons significant in our past;
- (4) The exemplification by the area, property, or site of the cultural, economic or social heritage of the city, state, or nation;
- (5) The portrayal of a group of people in an era of history, characterized by a distinctive architectural style;
- (6) The embodiment of distinguishing characteristics of a building type or architectural style;
- (7) The embodiment of elements of architectural design, detail, materials or craftsmanship, which represent architecture of significant character;
- (8) The identification as the work of an architect or master builder whose work has influenced the city, state, or nation;
- (9) The potential to yield information important in prehistory or history; and
- (10) A unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood or of the City.

1214.09 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 on 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) Variance Review Procedure

The review procedure for a variance shall be as follows:

(1) Step 1 – Application

The applicant shall submit an application in accordance with Section [1214.01: Common Review Requirements](#), and with the provisions of this section.

(2) Step 2 – Staff Review

- A. Upon determination that a variance application is complete, the Code Administrator shall distribute the application, and all related plans, to applicable city departments for internal review.
- B. The Code Administrator will provide the ZBA with a summary of comments received from the city departments.
- C. Upon receipt of comments, the applicant shall have the option to make revisions to the application and plans based on the comments prior to being forwarded to the ZBA or may request that the application be forwarded to the ZBA without revisions.

(3) Step 3 – ZBA Review and Decision

- A. The ZBA shall hold a public hearing within 45 days of the filing of the variance application provided adequate notification is provided pursuant to Section [1214.01\(i\)](#).
- B. In reviewing the application, the ZBA shall at a minimum, consider the review criteria of this section.
- C. The ZBA may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance.

- D. In making its decision, the ZBA may approve, approve with modifications or supplementary conditions, or deny the application.
- E. In making its decision, the ZBA shall make specific findings of fact based directly on the particular evidence presented that the reasons set forth in the application and as presented by the applicant during the public hearing, justify the approval, approval with modifications or supplementary conditions, or denial of the variance application that will make possible a reasonable use of the land, building, or structure.
- F. Within 60 days of the close of the public hearing, the ZBA shall render a decision on the variance application. The Code Administrator shall notify the appellant in writing of the decision of the ZBA.
- G. If the ZBA fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed approved.
- H. The decision of the ZBA shall become effective immediately.
- I. In approving a variance, the ZBA 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 ZBA shall relate directly to the requested variance.
- J. Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of [Chapter 1244: Enforcement and Penalties](#).

(c) Review Criteria

(1) Area or Dimensional Variance

Where an applicant is seeking an area or dimensional variance, the following factors shall be considered and weighed by the ZBA to determine if a practical difficulty exists that would justify approval of the variance. However, no single factor listed below may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

- A. 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 proximity to non-conforming and inharmonious uses, structures or conditions;
- B. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- C. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;
- D. 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;
- E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;
- F. Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;

- H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;
- I. 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; and
- J. Whether a literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code.

(2) Use Variance

In order to grant a use variance, the ZBA shall determine that strict compliance with the terms of this code will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;
- B. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
- C. The hardship condition is not created by actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- E. If there is an existing building on the lot, such building, due to its design, cannot be reasonably reused for a permitted use in the district;
- F. The granting of the variance will not adversely affect the public health, safety or general welfare;
- G. The variance will be consistent with the general spirit and intent of this code; and
- H. The variance sought is the minimum that will afford relief to the applicant.

(d) Time Limit

- (1) The applicant shall submit a completed application for a zoning permit and start work within one year of the date the variance was approved or the approval shall expire.
- (2) Upon expiration of a variance approval, a new application, including all applicable fees, shall be required before a variance application will be reviewed.
- (3) Upon written request, one extension of one year may be granted by the Code Administrator if the applicant can show good cause for a delay.
- (4) As part of the variance approval, the ZBA may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(e) Appeals

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

1214.10 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 without a zoning permit issued by the Code Administrator.
- (2) Any change in use within an existing building shall require a zoning permit with the exception that a change in tenancy or ownership of a residential dwelling unit shall not be required to receive a zoning permit.
- (3) 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](#).
- (4) The use of vacant land shall require the issuance of a zoning permit.
- (5) Unless otherwise specifically exempted in Section [Chapter 1236: Sign Standards](#), signs shall require a zoning permit.
- (6) Zoning permits shall be issued only in conformity with the provisions of this code unless the application is subject to an approval by the ZBA or Planning Commission 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.
- (7) Failure to obtain a zoning permit shall be a violation of this code subject to the provisions of [Chapter 1244: Enforcement and Penalties](#).

(c) Terminology

For the purposes of this code, the zoning permit review shall be an administrative review that may be applied to permits or certificates of other names (e.g., sign permits, temporary use permits, zoning occupancy permit, etc.) if stated in this code. In such cases, the procedure of this section shall still apply.

(d) 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 [1214.01: Common Review Requirements](#), and with the provisions of this section.

(2) Step 2 – Code Administrator Review and Decision

- A. The Code Administrator 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 Code Administrator shall be required to also review and make a decision on the zoning permit application as it relates to any flood-related regulations.
- C. Within 30 days after the application is determined to be complete, the Code Administrator shall make a decision either approving or denying the permit application. An extension on the decision may be granted with approval from the applicant. Where the proposed development is within a special flood hazard area, the Code Administrator shall be required to make a decision within the same timeframe.

- D. Prior to finalizing approval of the application, the Code Administrator 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 Code Administrator.

(e) Review Criteria

In order to approve any zoning permit, the Code Administrator shall determine the following:

- (1) The application complies with all applicable provisions of this code and the applicable zoning district; and
- (2) The application complies with all approved plans, conditions, or other development approvals.

(f) Time Limit and Abandoned or Suspended Work

- (1) The applicant shall obtain an approved building permit, and begin construction, within one year of the date the zoning permit is approved or the approval shall be revoked. The date of approval shall be the date the Code Administrator provides a signed copy of the permit to the applicant.
- (2) 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 Code Administrator.
- (3) The deadlines in paragraph (1) or (2) may be reduced if the work is mandated by this code or by order of the Code Administrator or ZBA. In such cases, the deadline for construction shall be noted on the zoning permit.
- (4) 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.
- (5) If construction activities for which a zoning permit has been issued are 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.
- (6) Upon written request, up to two extensions of six months may be granted by the Code Administrator if the applicant can show good cause for a delay.
- (7) The Code Administrator 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.
- (8) 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.
- (9) The above time limits shall not apply if alternative time limits have been approved by Planning Commission or City Council as part of a site plan or Planned Unit Development approval.
- (10) For the purposes of this section, construction is deemed to have begun when all necessary excavation and piers or footings for one or more principal buildings included in the plan shall have been completed.

(g) Revoking a Zoning Permit

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 ZBA in accordance with Section [1214.11: Appeals](#), of this code.

(h) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Code Administrator shall have the right to appeal the decision to the ZBA as established in Section [1214.11: Appeals](#).

1214.11 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 administration 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 Planning Commission or Code Administrator.
- (2) An appeal may not be made to the ZBA when the Planning Commission 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 to the Code Administrator in accordance Section [1214.01: Common Review Requirements](#).

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

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

(3) Step 3 – ZBA Review and Decision

- A. The ZBA shall hold a public hearing within 45 days of the filing of the appeal provided adequate notification is provided pursuant to Section [1214.01\(i\)](#).
- B. In reviewing the appeal, the ZBA shall at a minimum, consider the review criteria of this section.
- C. Within 60 days of the close of the public hearing, the ZBA shall render a decision on the appeal. The Code Administrator shall notify the appellant in writing of the decision of the Board.

- D. If the ZBA fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.
- E. The decision of the ZBA 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 Code Administrator certifies to the ZBA 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 ZBA or by a court of competent jurisdiction, for good cause shown.

(g) Appeals of ZBA Decisions

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

1214.12 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 Code Administrator, and that such questions shall be presented to the ZBA only on appeal from the decision of the Code Administrator. Such appeals shall be in accordance with Section [1214.11: Appeals](#).