

Chapter 1105: Review Procedures

1105.01 Purpose

The purpose of this chapter is to establish the review procedures that will ensure that the regulations set forth in this code are soundly and consistently applied, and that this code be vigorously administered.

1105.02 Common Review Standards

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

(a) Authority to File Applications

- (1) Unless otherwise specified in this code, development review procedures established in this code may be initiated by:
 - A. An owner of the property that is subject of the application; or
 - B. An agent authorized by the owner, which may include a lessee of the property.
- (2) 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.

(b) Application Submission Schedule

The schedule for the submission of applications in relation to scheduled meetings and hearings of the review bodies shall be established by the Zoning Administrator, and made available to the public.

(c) Application Contents

- (1) Applications required under this code shall be submitted in a form, in such numbers, and in a manner (digital or hard copy) as established by the Zoning Administrator, and made available to the public.
- (2) Applications shall be accompanied by a fee as established by City Council pursuant to Section [1105.02\(f\)](#).
- (3) **Complete Application Determination**
 - A. The Zoning Administrator 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, in the numbers required.
 - C. The Zoning Administrator shall make a determination of application completeness within 14 calendar 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 Zoning Administrator 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 Zoning Administrator 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 90 days of the notice provided by the Zoning Administrator, 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 Zoning Administrator may grant one 60-day extension if just cause is shown.
- H. No reconsideration of an incomplete application shall occur after expiration of the 90-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements this chapter, submit a new application, and submit a new filing fee.
- I. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(d) Simultaneous Processing of Applications

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

(e) Pre-application Meetings

- (1) Prior to filing an application, an applicant may request a meeting with the Zoning Administrator or City Engineer for a pre-application meeting to discuss the proposed application or project.
- (2) The purpose of the pre-application 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 plan prior to the submission of an application.
- (3) The applicant should be prepared to provide all of the application submittal requirements established for the applicable review procedure pursuant to Section [1105.02\(c\)](#).
- (4) Applicants for planned developments or zoning map amendments may request an informal pre-application meeting with the Planning Commission to informally discuss the proposed amendment. However, no action shall be taken at such a meeting.
- (5) No action can be taken by the staff and/or any boards until the applicant submits an actual application and/or plan to the City pursuant to the laws and policies of the City. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff, and/or City boards, that occur prior to the date the applicant submits an actual application and/or plan including, but not limited to, any informal meetings with City staff, boards, any pre-application conferences or meetings, are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

(f) Fees

- (1) Any application for development review under this code shall be accompanied by such fee as shall be specified from time to time by ordinance of City Council. There shall be no fee, however, in the case of applications filed by City Council or the Planning Commission.
- (2) The fees shall be in addition to any other fees that may be imposed by the City, State, Wayne County, or other agency having jurisdiction.
- (3) Such fees are adopted to cover the cost to the City for investigations, legal advertising, postage, and other expenses resulting from the administration of the respective zoning activities.
- (4) Unless otherwise identified in the fee schedule adopted by City Council, no application shall be processed or determined to be complete until the established fee has been paid.
- (5) Application fees are not refundable except where the Zoning Administrator 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.

(g) Public Notification for Public Meetings

- (1) For all public meetings required by this code, the City shall comply with the City of Wooster Codified Ordinances and all applicable State requirements.
- (2) For development plans that are reviewed by Planning Commission (See Section [1105.07](#).), the following shall be the special notice requirement for the applicable public meeting where the Planning Commission will review the application.
 - A. The applicant shall be required to post signs on the property subject to the application a minimum of seven days prior to the Planning Commission's public meeting where they will review the subject application.
 - i. The signs shall contain information on the change proposed and the date, time, and place of the public meeting. Failure to post the signs shall result in the cancellation or continuation of the scheduled meeting.
 - ii. The Zoning Administrator shall determine the number of signs required, however, there shall be at least one sign posted along each public right-of-way abutting the property. At least one sign shall be posted every 300 feet along any single right-of-way. All signs must be clearly visible from the adjacent right-of-way and shall be no larger than 3 feet by 4 feet in size. For properties that lack any public right-of-way, all required signs shall be posted along at least two property lines, as determined by the Zoning Administrator.
 - iii. The Zoning Administrator may also reduce the number of signs required for projects on sites that are five acres or more when the proposed work will only occur on a small portion of the site. In such cases, the Zoning Administrator may define where such signs shall be posted.
 - iv. The applicant shall have the responsibility to determine and provide adequate structural elements necessary to erect the sign on the property.
 - v. All public meeting signs posted shall be removed from the property by the applicant within 2 days after the Planning Commission's public meeting.
 - vi. The temporary absence of any posted sign, due to vandalism or climatic conditions, shall not violate the intent of this section.

- B. If the development requires a preliminary development plan and a final development plan, the sign(s) shall be posted in advance of the meetings to review each development plan.
- C. In addition to the signs, the Zoning Administrator shall post a public notice of the meeting in the main lobby of the Municipal Building. The public notice will be the Planning Commission's agenda on which the development plans to be considered will appear.

(h) Public Notification for Public Hearings

- (1) Applications for development approvals that require public hearings shall comply with all applicable State requirements and the public meeting notice requirements established in Section [1105.02\(g\)](#), above.
- (2) The Zoning Administrator shall be responsible for providing the required notice as specified by this subsection.

(3) Content

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

- A. Identify the address or location of the property subject to the application and the name of the applicant or the applicant's agent;
- B. Indicate the date, time, and place of the public hearing;
- C. Describe the land involved by street address, Wayne 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 Zoning 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 1105-1](#).

TABLE 1105-1: NOTICE REQUIREMENTS		
Development Review Procedure	Published Notice	Written (Mailed) Notice
Code Text Amendment	Published notice required a minimum of 10 calendar days before the initial public hearing of Planning Commission and City Council	No written notice is required for a text amendment.
Zoning Map Amendment and PD Preliminary Development Plans		Written notice shall be sent to all owners of property within 200 feet from the outermost boundary of all properties subject to the rezoning application. The notice shall be required a minimum of 10 calendar days before the initial public hearing of Planning Commission and City Council. Written notice shall not be required where the application involves more than 10 separate lots.
Conditional Use, PD Final Development Plans, and Subdivision Modifications	Published notice required a minimum of 10 calendar days before the applicable public hearing	Written notice to the applicant and all property owners within 200 feet out the outermost boundaries of the project shall be required a minimum of 10 calendar days prior to the hearing.
Equivalency Provision Reviews		
All Applications Subject to BZA Hearings		
Designation of Landmarks and Landmark Districts	Published notice required a minimum of 10 calendar days before the initial public hearing of the Design and Review Board and City Council	Written notice to the applicant and all property owners of properties included in the nomination submission shall be required a minimum of 10 calendar days prior to the hearing.

(5) Published Notice

- A. Published notice shall be provided in a minimum of one newspaper of general circulation.
- 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 amount of days specified in [Table 1105-1](#) prior to the hearing date at which the item will be considered.
- C. Notice shall be sent to the address of such owners appearing on the Wayne County Auditor's current tax list or the County Treasurer's mailing list.

(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.

(8) Incorrect Notice

If there is an instance where notice is not provided, or is incorrectly provided (excluding minor issues addressed in Subsection [1105.02\(h\)\(7\)](#), above), due to an error outside of the applicant's control, the hearing or meeting shall be rescheduled for the next regularly scheduled meeting or may be rescheduled as a special meeting at the discretion of the applicable review board or City Council.

(i) Conduct of Public Meetings and Hearings

(1) Rights of All Persons

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

(2) Continuance of a Public Meeting or 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 Zoning Administrator prior to the publication of notice as may be required by this code. The Zoning 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 Zoning 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. No additional notice is required if the fixed date, time, and place is announced at the time of the continuance.

(3) Tabling or Continuation of Public Meetings or Hearings by a Review Board or City Council

If any review procedure is tabled or continued by a review board or City Council for a period that exceeds six months, the application shall be deemed as denied and the applicant shall be required to resubmit an application or may appeal the denial.

(j) Withdrawal of Application

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

- (1) The Zoning 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. Such action shall not be deemed as a decision on the subject application.

(k) Examination and Copying of Application and Other Documents

Documents and/or records may be inspected and/or copied as provided for by State law. At a minimum, the documents and/or records shall be available in the office of the Zoning Administrator during the same time that notice is required in [Table 1105-1](#).

(l) Effect of any Approvals

- (1) The issuance of any approval, certificate, 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.

(m) Amendments of Approved Applications

(1) Minor Amendments

- A. For any review procedure, the Zoning 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 Zoning Administrator the authority to vary the requirements of this code or any conditions of approval.
 - B. In cases where the proposed minor amendment is related to a public improvement or another element that the City Engineer has authority over, the City Engineer shall have the same authority to authorize minor changes.
- (2) Unless otherwise stated, any approval granted through the provisions of this code may be otherwise be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(n) 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 must contain evidence that shows how the new application has substantially changed to address each of the findings of the original decision. The Zoning Administrator 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 [1105.02\(c\)\(3\)](#). If it does not, the Zoning Administrator shall return the application, with reasons for their determination in writing, along with any paid fees; or
- (3) Submit a new application if the proposed use and design of the site will be entirely different than the denied application.

(o) Subsequent Development

- (1) Development authorized by any approval under this section and this code shall not be carried out until the applicant has secured all other approvals required by this code or any other applicable provisions of the City.
- (2) The granting of any approval, certificate, or permit shall not guarantee the approval of any other required certificate, permit, or application.
- (3) The City shall not be responsible for reviewing the application for compliance with any permits, certificates, or other approvals that may be required by the Wayne County, State, or other agencies having jurisdiction.

(p) Computation of Time

- (1) In computing any period of time prescribed or allowed by this code, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as observed by the City of Wooster where the City administrative offices are closed for the entire day.
- (2) When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).
- (3) When the City offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by the City of Wooster in which the City administrative offices are closed for the entire day.

1105.03 Code Text and Map Amendments

(a) Purpose

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

(b) Applicability

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

(c) Initiation

- (1) For a zoning map amendment of a specific property, any person who has authority to file an application (See Section [1105.02\(a\)](#).) for such property may initiate an amendment by filing an application with the Zoning Administrator.
- (2) Only City Council or the Planning Commission may initiate code text amendments.
- (3) City Council may initiate a code text or map amendment by the passing of a resolution to make such an amendment.
- (4) The Planning Commission may initiate a code text or map amendment by adopting a motion to make such an amendment.

(d) Code Text or Map Amendment Review Procedure

The review procedure for a code text or map amendment shall be as established in this section. A pre-application meeting (See Section [1105.02\(e\)](#).) with staff and/or the Planning Commission is encouraged, but not mandatory, prior to submission of the application.

(1) Step 1 – 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 [1105.02](#), and with the provisions of this section.
- B. Amendments initiated by City Council shall be referred to the Planning Commission for review in accordance with the procedure of this section.

(2) Step 2 – Staff Review and Transmission to the Planning Commission

- A. Upon determination that a zoning map amendment application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the Planning Commission.
- B. The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.03\(d\)\(2\)A](#) above, at least three business days prior to the Planning Commission's meeting where the application is to be reviewed.

(3) Step 3 – Planning Commission Review and Recommendation

- A. Within 60 days after the application is determined to be complete, the Planning Commission shall hold a public hearing on the code or zoning map amendment application.
- B. Notification of the public hearing shall be provided in accordance with Section [1105.02\(h\)](#).

- C. In reviewing the application, the Planning Commission shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
 - D. Within 60 days of the close of the public hearing, 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. If the Planning Commission fails to make a recommendation within the established timeframe, the application will move forward to [Section 1105.03\(d\)\(4\)](#) with a recommendation of denial.
 - E. All recommendations shall also be forwarded to the applicant, as applicable.
- (4) Step 4 – City Council Review and Decision**
- A. Within 45 days after the Planning Commission makes a recommendation (Step 3), the application shall be placed on City Council’s agenda and City Council shall set a time for a public hearing on the proposed amendment.
 - B. Notification of the public hearing shall be provided in accordance with Section [1105.02\(h\)](#).
 - C. City Council shall hold a public hearing regarding the text or zoning map amendment application.
 - D. In reviewing the application, City Council shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator, the recommendation from Planning Commission, and the review criteria of this section.
 - E. City Council shall adopt, adopt with some modification, or deny the recommendation of the Planning Commission with the concurrence of a simple majority of City Council.
 - i. When the Planning Commission recommends approval, or approval with some modification, of a proposed amendment, then no such amendment shall be adopted unless approved by a majority vote of the membership of City Council.
 - ii. When the Planning Commission recommends denial of a proposed amendment then no such amendment shall be adopted unless approved by a majority vote of the membership of Council.
 - F. Any such application may be amended prior to the voting thereon by Council without further notice or postponement if such amendment to the proposal is germane to the subject matter thereof and is in accordance with the recommendation of the Planning Commission.
 - G. If a proposed amendment is not adopted by City Council within 120 days after City Council’s first meeting following Planning Commission’s recommendation, such proposed amendment shall be deemed to have been defeated and denied and shall not thereafter be passed without a resubmission of an application.
 - H. The effective date of any amendment shall be 30 days following final action by City Council unless subject to a referendum in accordance with the Ohio Revised Code.

(e) Review Criteria

(1) Zoning Map Amendments

Recommendations and decisions on zoning 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.

- A.** The proposed amendment is consistent with the comprehensive plan, other adopted City plans, and the stated purposes of this code;
- B.** The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
- C.** The proposed amendment will promote the public health, safety, and general welfare;
- D.** The uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
- E.** The proposed amendment follows lot lines or the centerlines of streets, railroads, or other rights-of-way;
- F.** Adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified;
- G.** 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;
- H.** The proposed amendment will not constitute an instance 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;
- I.** The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract; and
- J.** The proposed amendment would correct an error in the application of this Planning and Zoning Code as applied to the subject property.

(2) Planning and Zoning Code Text Amendments

Recommendations and decisions on planning and zoning code amendment applications shall be based on consideration of the following review criteria:

- A.** The proposed amendment is consistent with the comprehensive plan, other adopted City plans, and the stated purposes of this code;
- B.** The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
- C.** The proposed amendment will promote the public health, safety, and general welfare; and
- D.** The proposed amendment would correct an error in the application of this Planning and Zoning Code as applied to the subject property.

1105.04 Conditional Use Review

(a) Purpose

The purpose of a conditional use procedure is to allow consideration for certain uses that due to the use's unique and special nature relative to location, design, size, operations, circulation, and general impact on the community, need to be evaluated on a case-by-case basis.

(b) Applicability

- (1)** This section shall apply to all applications for establishment of a new conditional use.
- (2)** This section shall also apply to any proposed change, modification, enlargement, or alteration of an approved conditional use, or the site development conditions, or operations of an approved conditional use unless the Zoning Administrator determines that the alteration is minor in nature, in which case, the alteration can be reviewed through the zoning certificate application.

(c) Existing Used Deemed a Conditional Use

Any lawfully existing use that, at the time of its establishment, was not classified as a conditional use, but which now, because of the passage of an amendment to this code, is listed as a conditional use in the district in which it is located, shall be deemed without further action to be an approved conditional use.

(d) Conditional Use Review Procedure

The review procedure for a conditional use review shall be as established in this section. A pre-application meeting (See Section [1105.02\(e\)](#)) is encouraged, but not mandatory, prior to submission of the application.

(1) Step 1 – Application

The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.

(2) Step 2 – Staff Review and Transmission to the Planning Commission

- A.** Upon determination that a conditional use application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the Planning Commission.
- B.** The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.04\(d\)\(2\)A](#) prior to the Planning Commission's meeting where the application is to be reviewed.

(3) Step 3 – Planning Commission Review and Decision

- A.** Within 60 days after the application is determined to be complete, the Planning Commission shall hold a public hearing on the conditional use application.
- B.** In reviewing the application, the Planning Commission shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
- C.** Notification of the public hearing shall be provided in accordance with Section [1105.02\(h\)](#).

- D. In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
- E. If the Planning Commission fails to act within 60 days from the date of the initial public hearing, or an extended period as may be agreed upon by the Planning Commission and applicant, then the application shall be considered denied.

(e) 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 established in [Chapter 1109: Principal Use Regulations](#).

- (1) The proposed conditional use is established as an allowed conditional use in the applicable zoning district;
- (2) The proposed use and design is consistent with the spirit, purpose and intent of the comprehensive plan and the general purpose of this code;
- (3) The proposed use complies with any use-specific standards as may be established for the use;
- (4) Any building or structure constructed, reconstructed, or altered as part of a conditional use in a residential zoning district shall, to the maximum extent feasible, have an exterior appearance that the Planning Commission deems compatible with surrounding residential buildings in scale, height, and building materials.
- (5) The conditional use shall have suitable landscaping, screening, and fencing wherever deemed necessary by the Planning Commission to protect surrounding uses;
- (6) The proposed use will comply with all applicable development standards;
- (7) The proposed use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;
- (8) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (9) The circulation on and access to the property shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
- (10) 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;
- (11) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and
- (12) Wherever no specific areas, frontage, height, or setback requirements are specified in the requirements for a specific conditional use, then such use shall be subject to the site development standards for the applicable zoning district.

(f) Additional Criteria and Conditions

- (1) The Planning Commission shall be authorized to waive or modify requirements that apply to the conditional use as may be necessary to achieve compatible development with adjacent land areas and use as well as in the interest of the community in general where the Planning Commission finds that such waiver or modification will further the protection of the general welfare, protect individual property rights, and ensure that the conditional use will meet the intent and purposes of this code.
- (2) The Planning Commission may also impose additional conditions, guarantees, and safeguards as it deems necessary to protect the general welfare and individual property rights, and to ensure that the conditional use will meet the intent and purposes of this code.
- (3) All activities, programs and other events proposed on plans shall be directly related to the conditional use so granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.

(g) 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 1133: Enforcement and Penalties](#).

(h) Existing Use Reclassified as a Conditional Use

In the event an existing use that was permitted by right at the time the use was established is thereafter reclassified as a conditional use in the applicable district due to a zoning text amendment, such use shall be considered to be an approved conditional use without any further action. However, any subsequent change to such use shall require review and approval by the Planning Commission in accordance with this section. Such use, provided it is conditionally permitted in the applicable district, shall not be considered a nonconforming use.

(i) 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 one year.
- (2) The applicant shall receive approval of a zoning certificate within one year of the date the conditional use was approved and comply with the time limits of the approved zoning certificate or the approval shall expire.
- (3) Upon expiration of a conditional use approval, a new application, including all applicable fees, shall be required before a conditional use application will be reviewed.
- (4) Upon written request, one extension of six months may be granted by the Zoning 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 certificate issuance based on the scale of the proposed development.

(j) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission shall have the right to appeal the decision to the BZA as established in Section [1105.13](#).

1105.05 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 (unless specifically allowed herein), or a need for any public improvements.

(b) Applicability

- (1)** For the purposes of these regulations, a minor subdivision is a lot split, lot consolidation, or transfer of land between adjacent property owners that complies with all of the following requirements:
 - A.** The proposed subdivision is located along an existing public street and involves no opening of any new street or the widening or extension of an existing street or the installation of any other public improvements;
 - B.** The subdivision shall not result in or create more than five lots after the original parcels have been completely subdivided;
 - C.** The subdivision shall be in compliance with all applicable site development standards in this code or with any approved variance from such standards;
 - D.** The subdivision shall not require the installation or modification of any public improvements;
 - E.** The subdivision shall not require the dedication of rights-of-way except in cases where all other applicability requirements of this section are met and:
 - i. The lots were not originally platted within the City of Wooster but includes a right-of-way easement; or
 - ii. When a minor right-of-way dedication is required by the City Engineer but there are no related public improvements.
 - F.** 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
 - G.** No landlocking of parcels shall occur as a result of the minor subdivision.
- (2)** A minor subdivision also includes the recombination of land, consolidation of lots, transfer of property from one lot to an adjacent lot, and for the dedication of additional land for the widening of existing streets, where no new lots are created.
- (3)** The use of panhandle (flag) lots in any application shall require approval by the Planning Commission through a major subdivision review.

(c) Sale of Land in Subdivisions, Start of Construction, and Permitting

- (1) No owner, or authorized agent, of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, by exhibition of, or by the use of, a plan or plat of a subdivision, nor proceed with any construction work before such plan or plat has been approved and recorded in the manner prescribed in these regulations.
- (2) Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.
- (3) The Zoning Administrator shall not issue zoning certificates for any structure or activity on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in these regulations.
- (4) No owner or agent of the owner of any land shall be entitled to a permit for the installation of wells and septic tanks upon any lots in a subdivision for which a plat has not been approved, certified, and recorded in the manner prescribed in Chapter in this section.

(d) Minor Subdivision Review Procedure

The review procedure for a minor subdivision shall be as established in this section.

(1) Step 1 – Application

- A. The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.
- B. If the minor subdivision involves the transfer of land area from one lot to an adjacent lot, both property owners shall be required to authorize the application and deeds or other instruments of conveyance shall be submitted for both lots.

(2) Step 2 – Review and Comment by Applicable Agencies

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

(3) Step 3 – Review and Decision by the Zoning Administrator

- A. Within 30 days of the determination that the application (Step 1) is complete, the Zoning Administrator shall review the application and approve, approve with modifications that will bring the application into compliance with codes, or deny the application for a minor subdivision based on the review criteria established below. An extension on the decision may be granted with approval from the applicant.
- B. In reviewing the minor subdivision, the Zoning Administrator, on recommendation of the City Engineer, may require the addition of easements and/or setbacks as part of a transfer of land area between two lots.

- C. If the application is approved with modifications, the applicant shall be required to revise all documents prior to final signing and recording.
- D. If the Zoning Administrator denies an application for a minor subdivision, the Zoning Administrator shall provide the applicant with written finding for the denial.

(e) Review Criteria

In order to approve a minor subdivision, the Zoning Administrator shall determine the following:

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

(f) Recording

- (1) When the application is approved, the Zoning Administrator and City Engineer shall sign and date the plat.
- (2) The subdivider shall then be responsible for submitting the signed conveyance with the Wayne County Auditor for the transfer of property and to the Wayne County Recorder for the recording of the lots as legal lots of record and providing a copy of said minor subdivision/plat to the Zoning Administrator after recording.
- (3) In the case of a transfer of land between two adjacent lots, the recording of the revised lots shall take place simultaneously.

(g) Administrative Waivers and Variances

If a deviation from the minimum site development standards (e.g., lot area, lot width, etc.) is required, the applicant will be required to receive all variance and/or administrative waiver approvals (See Section [1105.11](#) or Section [1105.12\(f\)](#).) prior to approval of the minor subdivision.

(h) Time Limit

If the subdivider does not record the minor subdivision within 90 days of signed approval, the minor subdivision approval will be void. After a minor subdivision approval is voided, any new subdivision will require a new application and related fees in accordance with this code.

(i) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Zoning Administrator shall have the right to appeal the decision to the BZA as established in Section [1105.13](#).

1105.06 Major Subdivisions

(a) Purpose

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

(b) Applicability

- (1) Any subdivision of land or replat of an existing subdivision that does not meet the applicability requirements of a minor subdivision in Section [1105.05\(b\)](#) shall be subject to the requirements of this section and require the submission and approval of a concept plan, preliminary subdivision plat, and a final subdivision plat.
- (2) The requirement to submit a concept plan or preliminary subdivision may be waived by the Zoning Administrator after a pre-application meeting with the applicant if the Zoning Administrator finds that the subdivision is of a size and scope that does not warrant concept plan or preliminary subdivision review.
- (3) Whenever a single parcel is proposed for development and the installation of public improvements is required, such development shall require the approval of a final subdivision plat.

(4) Planned Developments

In order to provide efficient review of planned developments, it is the intent of this section that subdivision review be carried out simultaneously with the review of development plans for planned developments, as noted below:

- A. Preliminary development plan approval and preliminary subdivision plat approval may proceed simultaneously.
- B. Final development plan approval and final subdivision plat approval shall proceed simultaneously, unless a final subdivision plat is not required for completion of the project.

(c) Sale of Land in Subdivisions, Start of Construction, and Permitting

- (1) No owner, or authorized agent, of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, by exhibition of, or by the use of, a plan or plat of a subdivision, nor proceed with any construction work before such plan or plat has been approved and recorded in the manner prescribed in these regulations.
- (2) Any sale or transfer contrary to the provisions of this section is void. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these regulations.
- (3) The Zoning Administrator shall not issue zoning certificates for any structure or activity on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed in these regulations.
- (4) No owner or agent of the owner of any land shall be entitled to a permit for the installation of wells and septic tanks upon any lots in a subdivision for which a plat has not been approved, certified, and recorded in the manner prescribed in Chapter in this section.

(d) Major Subdivision Review Procedure

The review procedure for a major subdivision shall be as established in this section. A pre-application meeting (See Section [1105.02\(e\)](#)) is encouraged, but not mandatory, prior to submission of the application for any of the required plans.

(1) Step 1 – Application and Filling of the Concept Plan

The concept plan is intended to outline the basic scope, character, and nature of a proposed project, enable the applicant to discuss the location of proposed streets, parkways, parks, playgrounds, school sites, and planned developments, and to familiarize the applicant with the comprehensive plan, other adopted plans applicable to the site, the requirements of this code, and the drainage, sewerage and water systems for the City. The review is to provide input in the formative stages of design.

- A. The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.
- B. Upon determination by the Zoning Administrator that the application is complete, the concept plan shall be accepted as being officially filed.

(2) Step 2 – Staff Review and Transmission to the Planning Commission

- A. Upon determination that the application for a concept plan is complete, the Zoning Administrator may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer and any other agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.
- B. During the course of its review, the staff may meet with the applicant to review its evaluation, and the applicant may revise the concept plan in response to staff's comments.
- C. Any comments or expert opinions shall be returned to the Zoning Administrator.
- D. Within 30 days of the application being determined to be complete, or an extended time period agreed upon by the applicant, the Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.06\(d\)\(2\)A](#), above, to the Planning Commission.

(3) Step 3 – Review and Decision on the Concept Plan by the Planning Commission

- A. Within 60 days after the application is determined to be complete, the Planning Commission shall review the concept plan application.
- B. In making its decision, the Planning Commission shall approve, approve with modifications, or deny the concept plan. The Planning Commission may also continue the meeting if questions regarding the concept plan are not satisfactorily addressed by the applicant.
- C. If the Planning Commission fails to act within 60 days from the date of the initial meeting regarding the concept plan application, or an extended period as may be agreed upon by the Planning Commission and applicant, then the application shall be considered denied.

- D. If the Planning Commission finds that the land proposed to be subdivided is unsuitable for subdivision development due to flooding, poor or inadequate drainage, topography, inadequate water or sanitary sewer service, traffic circulation systems, or other such conditions that may endanger health, life or property; and, if from investigations conducted by the public agencies concerned, it is determined that in the best interest of the public, the land should not be developed for the proposed purpose, the Planning Commission shall deny the approval of the concept plan unless adequate methods are advanced by the applicant for solving the problems that will be created by the development of the land.
 - E. If the Planning Commission denies the concept plan, the applicant shall not move forward in the review process until a concept plan is approved by the Planning Commission.
 - F. In the event the Planning Commission denies the concept plan or approves with modifications, the Zoning Administrator, on behalf of the Planning Commission, shall provide the subdivider with a statement in writing setting forth the reasons for the deny or the conditions of approval. In the case of approval with modifications, the applicant shall be required to revise the concept plan to address the conditions of approval and submit them to the Zoning Administrator prior to submitting the preliminary subdivision plat application.
 - G. Approval of the concept plan by the Planning Commission does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the preliminary subdivision plat.
 - H. The applicant shall be required to submit a complete preliminary subdivision plat application within 12 months after the date of approval of the concept plan, otherwise the concept plan approval shall be considered void unless an extension is requested by the developer and granted by the Planning Commission in writing. If the concept plan is voided, any new request to subdivide the land shall require a new concept plan application in accordance with the provisions of this section.
- (4) Step 4 – Application, Filing, and Staff Review of the Preliminary Subdivision Plat**
- A. An application for a preliminary subdivision plat review shall be submitted in the same manner as the concept plan. See Section [1105.06\(d\)\(1\)](#).
 - B. Preliminary subdivision plats are required to be prepared, signed, and sealed by an engineer or surveyor licensed in the State of Ohio.
 - C. The staff review and distribution of the application for a preliminary subdivision plat shall be accomplished in the same manner as established for a concept plan in Section [1105.06\(d\)\(2\)](#).
 - D. Within 30 days of the application being determined to be complete, or an extended time period agreed upon by the applicant, the Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.06\(d\)\(4\)A](#), to the Planning Commission.

- (5) Step 5 – Review and Decision on the Preliminary Subdivision Plat by the Planning Commission**
- A.** Within 60 days after the application is determined to be complete, the Planning Commission shall review the preliminary subdivision plat application.
 - B.** In its review of an application, the Planning Commission may request additional information it deems necessary to adequately review and evaluate the proposed subdivision, and/or may request the applicant to revise elements of the application. When this occurs, the Planning Commission may table the application.
 - C.** In making its decision, the Planning Commission shall approve, approve with modifications, or deny the preliminary subdivision plat and its supporting document. The Planning Commission may also continue the meeting if questions regarding the preliminary subdivision plat are not satisfactorily addressed by the applicant.
 - D.** If the Planning Commission fails to act within 60 days from the date of the initial meeting regarding the preliminary plat application, or an extended period as may be agreed upon by the Planning Commission and applicant, then the application shall be considered denied.
 - E.** The Planning Commission may require a reduction in the number of lots proposed in a subdivision when it is determined necessary in order for the preliminary subdivision plat to comply with the requirements of all applicable City codes.
 - F.** If the Planning Commission denies the preliminary subdivision plat, the applicant shall not move forward in the review process until a preliminary subdivision plat is approved by the Planning Commission.
 - G.** In the event the Planning Commission denies the preliminary subdivision plat or approves with modifications, the Zoning Administrator, on behalf of the Planning Commission, shall provide the subdivider with a statement in writing setting forth the reasons for the denial or the conditions of approval. In the case of approval with modifications, the applicant shall be required to revise the preliminary subdivision plat to address the conditions of approval and submit them to the Zoning Administrator prior to submitting the final subdivision plat application.
 - H.** Approval of the preliminary subdivision plat by the Planning Commission does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final subdivision plat.
 - I.** One record of the approved preliminary subdivision plat shall be retained.
 - J.** Approval of the preliminary subdivision plat is authorization for the subdivider to proceed with the preparation of detailed plans and specifications for the minimum improvements required in the subdivision regulations, and with the preparation of the final subdivision plat.
 - K.** The applicant shall be required to submit a complete final subdivision plat application with 12 months after the date of approval of the preliminary subdivision plat, otherwise the preliminary subdivision plat approval shall be considered void unless an extension is requested by the developer and granted by the Planning Commission in writing. If the preliminary subdivision plat is voided, any new request to subdivide the land shall require a new preliminary subdivision plat application in accordance with the provisions of this section.

- (6) Step 6 – Application, Filing, and Staff Review of the Final Subdivision Plat**
- A.** An application for a final subdivision plat review shall be submitted in the same manner as the concept plan. See Section [1105.06\(d\)\(1\)](#).
 - B.** Final subdivision plats are required to be prepared, signed, and sealed by an engineer or surveyor licensed in the State of Ohio.
 - C.** If a preliminary subdivision plat has been previously approved, the final subdivision plat shall have incorporated all changes in the preliminary subdivision plat approval.
 - D.** The staff review and distribution of the application for a final subdivision plat shall be accomplished in the same manner as established for a concept plan in Section [1105.06\(d\)\(2\)](#).
 - E.** Within 30 days of the application being determined to be complete, or an extended time period agreed upon by the applicant, the Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.06\(d\)\(6\)A](#), to the Planning Commission.
 - F. Submission of Engineering Plans and Construction Drawings for Public Improvements**
 - i.** The applicant shall submit all detailed plans and specifications for all public improvements as required in Section [1105.02\(c\)](#) shall be submitted to the City Engineer.
 - ii.** Review of the engineering plans and construction drawings shall occur simultaneously with or prior to the review of the final subdivision plat.
 - iii.** The City Engineer shall review the engineering plans and construction drawings as well as the final subdivision plat. If the City Engineer determines that the engineering plans and construction drawings comply with the City's construction and material specifications and that the final subdivision plat includes all of the necessary right-of-way and easement dedications, the City Engineer shall grant preliminary approval of the construction drawings.
 - iv.** Other approvals from the Ohio Environmental Protection Agency or other regulatory agencies shall be obtained after the City Engineer's preliminary approval, when applicable.
- (7) Step 7 – Review and Decision on the Final Subdivision Plat by the Planning Commission**
- A.** Within 60 days after the application is determined to be complete, the Planning Commission shall review the final subdivision plat application.
 - B.** As part of the submission, a copy of the property owners or homeowners' association covenants and restrictions shall be submitted for review.
 - C.** The Planning Commission shall approve, approve with conditions, or deny the final subdivision plat. The Planning Commission may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.
 - D.** The Planning Commission shall make a decision within 60 days of the filing of the final subdivision plat, engineering plans, and construction drawings unless the Planning Commission has continued the meeting or if the Planning Commission and subdivider agree to an extension of this time frame. If the Planning Commission fails to act within this timeframe, or an approved extension, then the application shall be considered denied.

- E. If the Planning Commission denies the final subdivision plat, the applicant shall not move forward in the review process until a final subdivision plat is approved by the Planning Commission.
 - F. In the event the Planning Commission denies the final subdivision plat application the Planning Commission shall provide the subdivider with a statement in writing setting forth the reasons for the denial.
 - G. Approval of the final subdivision plat, engineering plans, and construction drawings by the Planning Commission shall not be an acceptance by the public of the offer of dedication of any street, or other public ways or open space on the final subdivision plat unless they are accepted by the City Council in the form of the adoption of an ordinance.
- (8) Step 8 – Review and Decision on the Engineering Plans and Construction Drawings by the City Engineer**
- A. Following approval of the final subdivision plat, the subdivider shall resubmit the engineering plans and construction drawings revised as necessary to coincide with the approved final subdivision plat.
 - B. The City Engineer shall review the engineering plans and constructions drawings and if found to be in total compliance with the approved final subdivision plat and applicable engineering policies and construction standards shall grant final approval to the engineering plans and construction drawings.
 - C. Upon approval of the final subdivision plat by the Planning Commission and approval of the engineering plans and construction drawings by the City Engineer, the subdivider may secure the necessary permits to proceed with construction of the required street, sanitary, water, drainage or other public improvements or provide a financial guarantee as authorized by this code.
- (9) Step 9 - Completion of Improvements or Provision of Financial Guarantees**
- A. When the subdivider has completed the construction of the public improvements and all utilities including, but not limited to, the streets, signs, public/private utilities, drainage facilities, and traffic control signs.
 - B. The specifications of the City shall in all respects govern all construction work. The work shall be done under City supervision and inspection. The subdivider shall pay the cost of City inspection, and an amount of money estimated by the City Engineer for such purpose shall be deposited in advance with the City or otherwise provided for in the construction agreement and financial guarantee requirements as required in [Section 1129.04\(g\)](#).
 - C. If the City Engineer determines that the improvements are complete and have been constructed in compliance with these regulations, that all conditions of the subdivision approval have been fulfilled and that all required payments, including any payment in lieu of parkland dedication or open space fee, have been made, the City Engineer shall issue a letter to the applicant stating that the improvements are completed and acceptable for City maintenance.

(10) Step 10 – Certification and Recording of the Final Subdivision Plat

- A.** Once the City Engineer determines the improvements are complete, determined unnecessary prior to recording, or the applicant has provided the financial guarantees required by this code, the Zoning Administrator and City Engineer shall certify or sign the final subdivision plat. After the final subdivision plat is certified, the final subdivision plat and all associated covenants and restrictions shall be recorded in the office of the Wayne County Recorder within one year of the date of signing.
- B.** No plat of any subdivision shall be entitled to record in the office of the Wayne County Recorder or have any validity until the Planning Commission shall have approved it, and it shall have been certified by the City Engineer and the Zoning Administrator. In the event any such unapproved plat is recorded, it shall be considered invalid and the City shall institute proceedings to have the plat stricken from the records of Wayne County.

(e) Review Criteria

(1) Concept Plan Review Criteria

Decisions on concept plan applications shall be based on consideration of the following criteria:

- A.** That the proposed subdivision complies with any established standards or requirements in the approved comprehensive plan or thoroughfare plan;
- B.** That the proposed subdivision general complies with the purpose of this code and with the general rules and standards for subdivisions as established in this code;
- C.** That the proposed subdivision will not result in an isolated subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels;
- D.** That the subdivider has allowed sufficient area to meet the requirements for open space, if applicable; and
- E.** That the subdivider has taken every effort to ensure that the public health, safety, and welfare are perpetuated by the proposed subdivision.

(2) Preliminary Plat Review Criteria

Decisions on preliminary applications shall be based on consideration of the following criteria:

- A.** That the subdivision plat complies with all applicable provisions of this code;
- B.** That the subdivision plat does not conflict with other regulations, the comprehensive plan, or other adopted plans and policies of the City;
- C.** That applicable review agencies have no objections that cannot be resolved by the applicant;
- D.** That public facilities, including but not limited to streets, water, sanitary and storm sewers will be adequate to support and service the area of the proposed subdivision, and that definite provision has been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

- E. That all areas of the proposed subdivision that may involve soil or topographical conditions presenting hazards or that require special precautions have been identified by the subdivider and that the proposed uses of these areas are compatible with such conditions, or the areas have been designated as “No Build” Zone, or “No Disturb” Zone. See Section [1117.02\(c\)](#).
- F. That the proposed subdivision will not result in an isolated subdivision of land that leaves undeveloped parcels of land lacking urban services between developed parcels;
- G. That the subdivider has allowed sufficient area to meet the requirements for open space, if applicable;
- H. That the subdivider has taken every effort to ensure that the public health, safety, and welfare are perpetuated by the proposed subdivision; and
- I. That the subdivider has incorporated in the proposed subdivision the recommendations described in the approved traffic impact study, when such study is required, that are determined necessary by the Planning Commission or the City Engineer.

(3) Final Plat Review Criteria

Decisions final applications shall be based on consideration of the following criteria:

- A. That where a concept plan or preliminary subdivision plat is not required, the proposed subdivision complies with the preliminary subdivision plat review criteria established in Section [1105.06\(e\)\(2\)](#);
- B. That the final subdivision plat complies with all applicable provisions of this code;
- C. That the final subdivision plat, engineering plans, and construction drawings substantially comply with all specific requirements, the purposes, intent and basic objectives of the preliminary subdivision plat, and any commitments made or conditions agreed to with approval of the preliminary subdivision plat, and any applicable regulations in this code.
- D. That applicable review agencies have no objections that cannot be resolved by the applicant; and
- E. That the final subdivision plat is in full compliance with the approved preliminary subdivision plat, where applicable.

(f) Amendments and Withdrawal of Application

- (1) No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after final approval has been given by the 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 or unless otherwise authorized under this section.
- (2) If the applicant finds, in the process of preparing improvement drawings, that the approved preliminary subdivision plat, if submitted, is not workable and changes in layout are required, the applicant shall inform the Zoning Administrator and City Engineer. The Zoning Administrator may require that a revised preliminary subdivision plat be submitted for re-approval following the review procedure in Section [1105.06\(d\)](#), above if the changes significantly alter the design of the subdivision.

- (3) During the final subdivision plat process, the Zoning Administrator and City Engineer are authorized to allow minor changes related to the public improvements or design where there is minimal impact to the overall design of the subdivision. This shall not give the Zoning Administrator or City Engineer the authority to vary the requirements of this code.
- (4) Before approval of the final subdivision 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 engineering plans or construction drawings, the subdivider shall submit the modified engineering plans or construction drawings to the City Engineer, who, if in agreement with such modifications, shall affix their signature to these drawings indicating approval of the modifications.

(g) Dedication of Improvements for Public Use

If the final subdivision plat indicates land for public use, such land shall be considered dedicated to the City of Wooster after the final subdivision plat has been signed by the City Engineer and the Zoning Administrator and recorded in the office of the Wayne County Recorder.

(h) 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 [Chapter 1115: Site Development Standards](#), the applicant will be required to apply for and receive all the necessary variance (See Section [1105.11](#).) or administrative waiver (See Section [1105.12\(f\)](#).) approvals prior to approval of a preliminary subdivision plat.
- B. If the applicant seeks a modification of standards required by [Chapter 1129: Subdivision Design](#), 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 subdivision plat review procedure but a public hearing will be required with notice provided in accordance with Section [1105.02\(h\)](#).
- B. 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.

- C. 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.
- D. If the preliminary subdivision plat is denied or if the approval of the preliminary subdivision plat expires, so does the approval of the subdivision modification. Any future request for preliminary subdivision 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 [1105.11\(c\)](#).

(i) 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 BZA as established in Section [1105.13](#).

1105.07 Development Plan Review

(a) Purpose

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

(b) Applicability and Review Authority

- (1) Unless specifically exempted in [1105.07\(c\)](#), no construction, expansion, or demolition of a building or structure, or use of land, buildings, or structures, shall be permitted without the review and approval of a development plan pursuant to this section.
- (2) The following activities require a minor development plan that shall be reviewed by the Zoning Administrator as part of the zoning certificate review procedure of Section [1105.12](#). In such cases, the application shall be subject to the review criteria for both minor development plans and zoning certificates, as established in the respective sections.
 - A. All nonresidential developments or expansions containing up to 10,000 square feet in gross floor area, provided the development is not adjacent to a single-family residential district;
 - B. All off-street surface parking lots;
 - C. Alterations to site conditions including, but not limited to, alterations to landscaping areas, required buffers, and the location or relocation of trash collection areas, if the area of such site condition is 24,000 square feet or smaller in area;
 - D. Multi-family dwellings with four or fewer dwelling units;
 - E. Demolition of buildings; and
 - F. Whenever expressly required by any other part of this code.

- (3) The Zoning Administrator shall have the authority to forward an application for any development or use in Subsection [1105.07\(b\)\(2\)](#), above to the Planning Commission for review pursuant to this section if the Zoning Administrator finds:
 - A. That the proposed use or development could potentially create significant impacts on an adjacent property based on the intensity or proximity of the proposed use or development; or
 - B. There is difficulty in interpreting the application of a standard or regulation as it pertains to the subject site.
- (4) All other development and activities not identified in Section [1105.07\(b\)\(2\)](#), including the following, shall be subject to a preliminary and final development plan review by the Planning Commission in accordance with this section:
 - A. New construction, structural alterations, and site improvements of all permitted uses in the CF, R-3, R-4, R-5, C-1, C-2, C-3, I-1, I-2, and I-3 Districts;
 - B. New construction, structural alterations, and site improvements of all permitted nonresidential uses in the R-1, R-2, and R-T Districts;
 - C. New construction, structural alterations, and site improvements of all conditional uses unless determined to be a minor alteration or improvement by the Zoning Administrator that can be reviewed through the zoning certificate procedure per Section [1105.12](#);
 - D. Any existing or previously approved development meeting the criteria of subsections (A) and (B) above that proposes to alter, reconstruct, or otherwise modify a use or site including expanding the floor area of the permitted use; increasing the number of dwelling units in a multi-family development; or changing the use which requires an increase in the amount of parking or a change in the site's circulation.
 - E. All development plan applications subject to review by the Planning Commission shall submit a preliminary and final development plan in accordance with this section unless the Zoning Administrator finds that the development or activity is of a size and/or scope that does not warrant a preliminary development plan review, in which case, only a final development plan review shall be required.
- (5) For any development plan application that is within the C-4 District, the Design and Review Board shall review and provide a recommendation on the application prior to the final development plan decision.

(c) Exemptions

The following shall be exempted from development plan review:

- (1) Single-family dwellings;
- (2) Re-occupancy of an existing building or the internal construction or change in floor area of a building or structure that does not increase 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
- (3) Accessory and temporary uses as established in [Chapter 1113: Accessory and Temporary Use Regulations](#).

(d) Development Plan Review Procedure

The review procedure for a development plan review shall be as established in this section. A pre-application meeting (See Section [1105.02\(e\)](#).) is encouraged, but not mandatory, prior to submission of the application.

(1) Step 1 – Application for a Preliminary Development Plan

The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.

(2) Step 2 – Staff Review and Transmission to the Planning Commission

- A.** Upon determination that a preliminary development plan application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the Planning Commission.
- B.** The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.07\(d\)\(2\)A](#), prior to the Planning Commission's meeting where the application is to be reviewed.

(3) Step 3 –Review and Decision on the Preliminary Development Plan by the Planning Commission

- A.** Within 60 days after the application is determined to be complete, the Planning Commission shall review the preliminary development plan application.
- B.** In reviewing the application, the Planning Commission shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria for preliminary development plans as established in this section.
- C.** Notification of the public meeting shall be provided in accordance with Section [1105.02\(g\)](#).
- D.** In their review of an application, the Planning Commission may request that the applicant supply additional information that the Planning Commission deems necessary to adequately review and evaluate the proposed development.
- E.** In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
- F.** If the Planning Commission denies the application, they shall provide findings for denial in writing to the applicant upon the applicant's request.
- G.** If the Planning Commission fails to act within 60 days from the date of the initial meeting regarding the preliminary development plan application, or an extended period as may be agreed upon by the Planning Commission and applicant, then the application shall be considered denied.
- H.** Approval of the preliminary development by the Planning Commission does not constitute approval of the development, but is merely an authorization to proceed with the preparation of the final development plan.

- I. The applicant shall be required to submit a complete final development plan application within 12 months after the date of approval of the preliminary development plan, otherwise the preliminary development plan approval shall be considered void unless an extension is requested by the applicant and granted by the Planning Commission in writing. If the preliminary development plan is voided, any new request to for development approval shall require a new preliminary development plan application in accordance with the provisions of this section.
- (4) Step 4 – Application, Filing, Staff Review, and Design and Review Board Review of the Final Development Plan**
- A. An application for a final development review shall be submitted in the same manner as the preliminary development plan. See Section [1105.07\(d\)\(1\)](#).
 - B. Upon determination that a final development plan application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the Planning Commission.
 - C. **Design and Review Board Review and Recommendation**
 - i. If an application is required to be reviewed by the Design Review Board, the Zoning Administrator shall distribute the application to the Design and Review Board after the application is determined to be complete but prior to the Planning Commission’s review.
 - ii. Within 45 days after the application is determined to be complete, the Design and Review Board shall review the final development plan application and make a recommendation to the Planning Commission.
 - iii. If the Planning Commission fails to act within 45 days from the date of the initial meeting regarding the final development plan application, or an extended period as may be agreed upon by the Design and Review Board and applicant, then the recommendation shall be considered a denial.
 - D. The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.07\(d\)\(2\)A](#) prior to the Planning Commission's meeting where the application is to be reviewed.
- (5) Step 5 –Review and Decision on the Final Development Plan by the Planning Commission**
- A. Within 60 days after the application is determined to be complete, the Planning Commission shall review the final development plan application. If a recommendation from the Design and Review Board is required, then the Planning Commission shall review the final development plan within 60 days from the date the recommendation is received from the Design and Review Board.
 - B. In reviewing the application, the Planning Commission shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria for final development plans as established in this section.
 - C. Notification of the public meeting shall be provided in accordance with Section [1105.02\(g\)](#).

- D. In their review of an application, the Planning Commission may request that the applicant supply additional information that the Planning Commission deems necessary to adequately review and evaluate the proposed development.
- E. In making its decision, the Planning Commission may approve, approve with modifications or supplementary conditions, or deny the application.
- F. If the Planning Commission denies the application, they shall provide findings for denial in writing to the applicant upon the applicant's request.
- G. If the Planning Commission fails to act within 60 days from the date of the initial meeting regarding the final development plan application, or an extended period as may be agreed upon by the Planning Commission and applicant, then the application shall be considered denied.
- H. Upon approval of the final development plan, the applicant shall be authorized to submit an application for a zoning certificate.

(e) Review Criteria

(1) Preliminary Development Plan Review Criteria

Decisions on preliminary development plan review applications shall be based on consideration of the following criteria:

- A. That the proposed development complies with any established standards or requirements in the approved comprehensive plan or thoroughfare plan;
- B. 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;
- C. 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; and
- D. Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property.

(2) Minor or Final Development Plan Review Criteria

Decisions on minor or final development plan review applications shall be based on consideration of the following criteria:

- A. That the proposed development is consistent with all the requirements of this code, and other related codes and ordinances enforced by the City;
- B. That the proposed development is in compliance with the applicable zoning district regulations;
- C. That the proposed development complies with any established standards or requirements in the approved comprehensive plan or thoroughfare plan;
- D. That 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.);
- E. 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;

- F. 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;
- G. Adequate provision is made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;
- H. The development will provide adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas;
- I. Upon review and recommendation of the City Engineer, points of ingress/egress to the development shall be controlled and designed in such manner as to minimize conflicts with adjacent properties and developments;
- J. Adequate provision is made for emergency vehicle access and circulation; and
- K. 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.

(f) Significance of an Approved Plan

- (1) An approved development plan shall become, for the proposed development, a binding commitment of the specific elements approved for development. The approved development plan may be transferred to another person, corporation, or group of individuals or corporations prior to the issuance of a building permit. Such a transfer shall occur only upon approval of the Zoning Administrator. A request for such a transfer or change of ownership shall be presented to the Zoning Administrator and granted only if the new ownership entity satisfies the administrative, financial, legal and all other financial guarantees approved with the original development plan.
- (2) All construction and development under any building permit shall be in accordance with the approved development plan. Any departure from such plan shall be cause for revocation of the zoning certificate 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 receive approval of a zoning certificate within one year of the date the final development plan was approved and comply with the time limits of the approved zoning certificate or the approval shall expire.
- (2) Upon expiration of a development plan approval, a new application, including all applicable fees, shall be required before a new development plan will be reviewed.
- (3) Upon written request, one extension of six months may be granted by the Zoning Administrator if the applicant can show good cause for a delay.
- (4) The Planning Commission may authorize alternative time limits for zoning certificate issuance, as part of their 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 BZA as established in Section [1105.13](#).

1105.08 Certificate of Appropriateness (COA)

(a) Purpose

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

(b) Applicability

- (1)** No construction, reconstruction, demolition, relocation, or other exterior alteration to any structure or site element designated as, or upon, a Landmark or located within a Landmark District shall occur until a COA has been applied for, and issued by, the Design and Review Board in accordance with this code.
- (2)** No zoning certificate or certificate of zoning compliance and/or other appropriate permits shall be issued by the Zoning Administrator for any construction, reconstruction, demolition, relocation, or other exterior alteration to a structure or site element designated as, or upon, a Landmark or located within a Landmark District unless a COA has been issued.
- (3)** All permanent signs in the C-4 District shall require a COA approval prior to the Zoning Administrator making a decision on a zoning certificate.
- (4)** Projects and activities that are exempt from the COA review procedure include:
 - A.** Painting or general maintenance of a structure that does not alter exterior colors or architectural features;
 - B.** Changes in occupancy not involving structural or exterior work; and
 - C.** Any interior renovations which will not alter and/or affect the exterior elevations and facade of the building or structure or any architectural features that are visible from the outside.

(c) COA Review Procedure

(1) Step 1 - Application

- A.** The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.
- B.** In making application, the Zoning Administrator or the Design and Review Board may request that the applicant provide exhibits, sketches, examples of materials, renderings, or other documentation to assist in their decision.

(2) Step 2 – Staff Review and Transmission to the Design and Review Board

- A.** Upon determination that a COA application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the Design and Review Board.

- B. The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.08\(c\)\(2\)A](#) prior to the Design and Review Board's meeting where the application is to be reviewed.

(3) Step 3 – Design and Review Board Review and Decision

- A. Within 60 days after the application is determined to be complete, the Design and Review Board shall review the COA application.
- B. In reviewing the application, the Design and Review Board shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
- C. The Design and Review Board may review any related equivalency provision review applications simultaneously with the COA application.
- D. In making its decision, the Design and Review Board may approve, approve with modifications or supplementary conditions, or deny the application.
- E. If the Design and Review Board fails to act within 60 days from the date of the initial meeting regarding the COA application, or an extended period as may be agreed upon by the Design and Review Board and applicant, then the application shall be considered denied.
- F. If a zoning certificate is required for the subject work, the applicant may proceed with applying for the zoning certificate following approval of the COA. Such zoning certificate applications shall comply with the COA approval and any related modifications or special conditions.

(d) Guidelines

The Design and Review Board shall utilize the *City of Wooster Design Guidelines for Landmarks and Landmark Districts* when considering construction, expansion, or demolition (partial or complete) of all new or existing buildings and structures subject to COA review.

(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 guidelines (See Section [1105.08\(d\)](#)), to the maximum extent feasible;
- (3) The application is appropriate to the preservation of the environmental, architectural, or the historic character of the structure and property pursuant to the design criteria found in Section [1119.06](#) and the City of Wooster Design Guidelines;
- (4) The application is consistent with the spirit and purposes of this code and the "Standards for Rehabilitation" adopted by the U.S. Secretary of the Interior, as found in Title 36 of the Code of Federal Regulations, Part 1208;
- (5) The application is in concert with the Archaeological Guidelines as prepared by the OHPO;
- (6) The proposed development meets all the requirements or conditions of any applicable development approvals (e.g., planned development approvals, conditional use approvals, variance approvals, etc.); and
- (7) That the application, if related to the demolition of a structure, is in accordance with the above criteria as well as the following considerations:

- A. The demolition of the structure will not be detrimental to the character of the area and City and will be an improvement to existing conditions; and
 - B. The applicant has adequately documented the existing structure for the purpose of historical records.
- (f) **Time Limit**
- (1) The applicant shall receive approval of a zoning certificate or sign permit, as applicable, within one year of the date the COA was approved and comply with the time limits of the approved zoning certificate or sign permit or the approval shall expire. The date of approval shall be the date the Zoning 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 six months may be granted by the Zoning Administrator if the applicant can show good cause for a delay.
 - (4) The Design and Review Board may authorize alternative time limits for zoning certificate issuance based on the scale of the proposed development.
- (g) **Appeals**
- Any person or entity claiming to be injured or aggrieved by any final action of the Design and Review Board shall have the right to appeal the decision to the BZA as established in Section [1105.13](#).

1105.09 Designation of Landmarks and Landmark 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 Landmark or Landmark District within the City of Wooster, subject to elevate review to ensure that the sites, buildings, or districts retain their historic significance.

(b) **Landmark and Landmark District Designation Procedure**

The review procedure for the designation of a Landmark or Landmark District shall be as established in this section.

(1) **Step 1 – Nomination**

Any area, property, structure, landscape, site element or object in the City may be nominated for Landmark or Landmark District designation by any of the following with written consent from all property owners specified in the nomination:

- A. The owner of any property included in the nomination;
- B. One or more Design and Review Board members;
- C. One or more City Council members;
- D. The City Administrator; or
- E. An organization or individual with a stated interest.

(2) Step 2 – Consideration

In determining whether or not a nomination should be designated a Landmark or Landmark District, the Design and Review Board and City Council shall consider the following criteria:

- A. Its character, interest or value as part of the development, heritage, archeological, or cultural characteristics of the City of Wooster, State of Ohio, or the United States;
- B. Its location as a site of a significant historic event;
- C. Its identification with a person or persons who significantly contributed to the culture and development of the City;
- D. Its exemplification of the cultural, economic, social or historic heritage of the City;
- E. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
- F. Its embodiment of a distinguishing characteristic of an architectural type or specimen;
- G. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City;
- H. Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;
- I. Its relationship to other distinctive areas which are eligible for preservation according to a plan based on a historic, cultural or architectural motif;
- J. Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City; and
- K. Such other individual characteristics as shall be relevant to its designation as a Landmark or Landmark District.

(3) Step 3 – Design and Review Board Review and Recommendation

- A. Within 60 days after the application is determined to be complete, the Design and Review Board shall hold a public hearing on the nomination to designate a Landmark or Landmark District.
- B. Notification of the public hearing shall be provided in accordance with Section [1105.02\(h\)](#).
- C. Within 60 days of the close of the public hearing, the Design and Review Board shall make a recommendation to City Council on the nomination. In making its recommendation, the Design and Review may recommend approval, approval with some modification, or denial of the application. If the Design and Review Board fails to make a recommendation within the established timeframe, the application will move forward to Section [1105.09\(b\)\(4\)](#) with a recommendation of denial.

(4) Step 4 – City Council Review and Decision

- A. Within 45 days after the Design and Review Board makes a recommendation (Step 3), the application shall be placed on City Council's agenda and City Council shall set a time for a public hearing on the proposed designation of a Landmark or Landmark District.

- B. Notification of the public hearing shall be provided in accordance with Section [1105.02\(h\)](#).
- C. At the conclusion of the public hearing, City Council shall make a decision to approve the recommendation of the Design and Review Board, approve the recommendation of the Design and Review Board with modifications, or deny the recommendation of the Design and Review Board.
- D. A majority vote of the full membership of City Council shall be necessary for the adoption of a Landmark or Landmark District.
- E. If the recommendation for a nominated Landmark or Landmark District is not adopted by City Council within 120 days after the most recent recommendation from the Design and Board, such proposed recommendation shall be deemed to have been defeated and denied.

1105.10 Equivalency Provision Review

(a) Purpose

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

(b) Applicability

The equivalency provision review procedure shall be available only for the following sections of this code:

- (1) Section [1117.03: Exterior Lighting](#);
- (2) [Chapter 1119: Architectural and Historic Preservation Standards](#);
- (3) [Chapter 1123: Landscaping and Buffering](#);
- (4) [Chapter 1125: Parking, Access, and Mobility](#); and
- (5) Any design standards or guidelines that apply to a Landmark or Landmark District.

(c) Review Board

- (1) Any equivalency provision review application related to a design standard or guideline that applies to a Landmark or Landmark District shall be reviewed by the Design Review Board.
- (2) All other equivalency provision review applications shall be reviewed by the Planning Commission.

(d) Review Timing

A request for equivalency provision review shall be made concurrently with a zoning certificate, development plan, or a COA application, whichever is applicable.

(e) Equivalency Provision Review Procedure

The review procedure for any equivalency provision review application shall be as follows:

(1) Step 1 – Application

The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.

(2) Step 2 – Staff Review and Transmission to the Planning Commission or Design Review Board

A. Upon determination that an equivalency provision review application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the Planning Commission or Design Review Board, as applicable.

B. The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.10\(e\)\(2\)A](#), prior to the Planning Commission or Design Review Board's meeting, as applicable, where the application is to be reviewed.

(3) Step 3 – Board Review and Decision

A. Within 60 days after the application is determined to be complete, the Planning Commission or Design Review Board, as applicable, shall review the equivalency review application.

B. In reviewing the application, the Planning Commission or Design and Review Board, as applicable, shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.

C. Notification of the public hearing shall be provided in accordance with Section [1105.02\(h\)](#).

D. The Planning Commission or Design Review Board, as applicable, shall make a decision on the application. In making its decision, the Planning Commission or Design Review Board, as applicable, may approve, approve with modifications or supplementary conditions, or deny the application.

E. If the Planning Commission or Design and Review Board, as applicable, fails to act within 60 days from the date of the initial meeting regarding the equivalency provision review application, or an extended period as may be agreed upon by the Planning Commission or Design and Review Board, as applicable, and the applicant, then the application shall be considered denied.

F. If approved, any zoning certificate, development plan, COA, or other related applications shall demonstrate compliance with the equivalency provision review approval.

(f) Review Criteria

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

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

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

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

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

(g) Conditions

The Planning Commission or the Design and Review Board, as applicable, may impose conditions on an approval for an equivalency provision review provided such conditions are related to ensuring the performance of the equivalency provision 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 an equivalency provision review.

(h) Decisions

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

(i) Time Limit

- (1) An approval of an equivalency provision review application shall expire if the zoning certificate or certificate of appropriateness, as applicable, expires.
- (2) Upon expiration of an equivalency provision review approval, a new application, including all applicable fees, shall be required before a new application will be reviewed.

(j) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Planning Commission or the Design and Review Board, as applicable, shall have the right to appeal the decision to the BZA as established in Section [1105.13](#).

1105.11 Variances

(a) Purpose

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

(b) Variance Review Procedure

The review procedure for a variance shall be as established in this section. A pre-application meeting (See Section [1105.02\(e\)](#).) is encouraged, but not mandatory, prior to submission of the application.

(1) Step 1 – Application

The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.

- (2) Step 2 – Staff Review and Transmission to the Planning Commission**
- A.** Upon determination that a variance application is complete, the Zoning Administrator shall distribute the application to all appropriate City departments and professional consultants for review and comment. Any comments or expert opinions shall be returned to the Zoning Administrator for transmission to the BZA.
 - B.** The Zoning Administrator shall distribute the application and any reports prepared as part of Subsection [1105.11\(b\)\(2\)A](#), prior to the BZA's meeting, as applicable, where the application is to be reviewed.
- (3) Step 3 – BZA Review and Decision**
- A.** Within 60 days after the application is determined to be complete, BZA shall hold a public hearing on the variance application.
 - B.** The BZA shall review the variance application during a public hearing.
 - C.** Notification of the public hearing shall be provided in accordance with Section [1105.02\(h\)](#).
 - D.** In reviewing the application, the BZA shall at a minimum, consider the reports and opinions transmitted by the Zoning Administrator and the review criteria of this section.
 - E.** The BZA may request that the applicant supply additional information that the Board deems necessary to review and evaluate the request for a variance.
 - F.** In making its decision, the BZA may approve, approve with modifications or supplementary conditions, or deny the application.
 - G.** In making its decision, the BZA 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.
 - H.** If the BZA fails to act within 60 days from the date of the initial public hearing, or an extended period as may be agreed upon by the BZA and applicant, then the application shall be considered denied.
 - I.** The decision of the BZA shall become effective immediately.
 - J.** In approving a variance, the BZA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to be ensure compliance with the standards of this section and the purpose of this code. Any conditions established by the BZA shall relate directly to the requested variance.
 - K.** Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of [Chapter 1133: 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 BZA 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 owner, not including 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 BZA 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, that 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 receive approval of a zoning certificate or sign permit, as applicable, within one year of the date the variance was approved and comply with the time limits of the approved zoning certificate or sign permit or the approval shall expire unless an alternative schedule was approved by the BZA in its approval.
- (2) Upon expiration of a variance approval, a new application, including all applicable fees, shall be required before a new variance will be reviewed.

(e) Appeals

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

1105.12 Zoning Certificate

(a) Purpose

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

(b) Terminology

For the purposes of this code, the zoning certificate review shall be an administrative review that may be applied to permits or certificates of other names (e.g., sign permits, temporary use permits, etc.) if so stated in this code. In such cases, the procedure of Section [1105.12\(d\)](#), below, shall still apply, including the applicability of administrative waiver requests.

(c) Applicability

- (1) No building or other structure shall be erected, moved, structurally altered, or added to, in whole or in part, nor shall any building, structure, or land be used or changed in use without a zoning certificate issued by the Zoning Administrator. A change in tenancy or ownership of a residential dwelling unit shall be exempt from the zoning certificate requirement unless such change in tenancy changes the classification of the use.
- (2) A zoning certificate may be required for the establishment of certain temporary or accessory use as established in [Chapter 1113: Accessory and Temporary Use Regulations](#).

- (3) A zoning certificate shall be required for any changes to any site element, vehicular use area, patio, or other improvements to land as may be established under the applicability sections of individual sections or chapters in this code.
- (4) The establishment of a use of vacant land shall require the issuance of a zoning certificate.
- (5) Unless otherwise specifically exempted in [Chapter 1127: Signage](#), signs shall require a zoning certificate.
- (6) Zoning certificates shall be issued only in conformity with the provisions of this code unless the application is subject to an approval by the BZA or Planning Commission providing for additional standards, conditions, or modifications, in which case, the zoning certificate shall be issued in conformity with the provisions of those approvals, as applicable.
- (7) Failure to obtain a zoning certificate shall be a violation of this code subject to the provisions of [Chapter 1133: Enforcement and Penalties](#).
- (8) After completion of work allowed under an approved zoning certificate, the applicant shall also be required to obtain a certificate of zoning compliance demonstrating that all work was completed under the provision of the approvals and this code.

(d) Zoning Certificate Review Procedure

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

(1) Step 1 – Application

The applicant shall submit an application in accordance with Section [1105.02](#), and with the provisions of this section.

(2) Step 2 – Zoning Administrator Review and Decision on a Zoning Certificate

- A. The Zoning Administrator may distribute the application to other staff members and other City departments to solicit comment on the zoning certificate application.
- B. Within 30 days after the application is determined to be complete, the Zoning Administrator shall make a decision on the zoning certificate application. In making its decision, the Zoning Administrator may approve or deny the application. The Zoning Administrator may also approve with modifications or supplementary conditions necessary to ensure the proposed activity will be in full compliance with this code. If the application is for a sign permit in the C-4 District, requiring a COA approval, this timeline shall be extended to 75 days to allow for such review.
- C. Prior to making a decision, the Zoning Administrator shall have the authority to provide comments to the applicant regarding necessary revisions to bring the application into full compliance.
- D. If the Zoning Administrator fails to act within 30 days, or 75 days if applicable, from the date the application is determined to be complete, or an extended period as may be agreed upon by the Zoning Administrator and applicant, then the application shall be considered denied.
- E. Where revisions are necessary for approval, 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 Zoning Administrator.

F. When the Zoning Administrator denies an application, the Zoning Administrator shall inform the applicant of the reason for the denial, including the regulation(s) which would be violated by the proposed use or development.

G. Public Improvements Required

If the installation of public improvements is required, the following requirements shall apply regardless if the development is part of a subdivision application or not:

- i. A zoning certificate shall not be issued until an agreement is provided to the City to construct the required improvements.
- ii. The applicant shall be required to provide a financial guarantee (See Section [1129.04\(g\)](#).) in the amount of the estimated cost of the required public improvements as determined by the City Engineer.
- iii. The agreement and the financial guarantee shall provide for completion of all work within a time specified to be determined by the City Engineer or before occupancy is allowed in any structure, whichever shall occur first.
- iv. The approval of the site design plan or the installation of public improvements as required by this code shall not obligate the City to accept improvements for maintenance, repair or operation. Acceptance shall be subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.

H. Upon issuance of a zoning certificate, the applicant may proceed with the approved work.

(3) Step 3 – Zoning Administrator Review and Decision on a Certificate of Zoning Compliance

- A.** Upon completion of the work, change in occupancy, or other development approved under a zoning certificate, the applicant shall submit a request for a certificate of zoning compliance.
- B.** The Zoning Administrator shall confirm that all changes or work was completed in accordance with the zoning certificate and make a decision to approve the certificate of zoning compliance or require additional changes to bring the work into compliance with the approved zoning certificate.
- C.** No building or use may be occupied until a certificate of zoning compliance has been approved by the Zoning Administrator.

(e) Review Criteria for a Zoning Certificate

In order to approve any zoning certificate, the Zoning 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 issued pursuant to the rules of this code (e.g., variances, administrative waivers, conditional uses, equivalency provision reviews, Design and Review Board decision on sign permits in the C-4 District, etc.).

(f) Administrative Waiver Requests

(1) Applicability

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

(2) Administrative Waiver Review Procedure and Decision

- A. Administrative waivers shall be reviewed as part of the zoning certificate review procedure.
- B. In making a decision on the administrative waiver, the Zoning Administrator shall approve or deny the application.
- C. In approving an administrative waiver, the Zoning Administrator may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as he or she determines are required to ensure compliance with the standards of this section and the purpose of this code. Any conditions established by the Zoning Administrator shall relate directly to the requested administrative waiver.

(3) Review Criteria for Administrative Waivers

Decisions on an administrative waiver shall be based on consideration of the following criteria:

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

(g) Time Limits

- (1) The applicant shall obtain an approved building permit, where required, and have initiated work within six months of the approval of a zoning certificate or the approval shall be revoked. The initiation of work shall be when the ground has been broken, construction on site improvements has begun, or construction of structures has begun.

- (2) All work authorized by a zoning certificate shall have been completed and the certificate of zoning compliance issued within two years of the approval of a zoning certificate.
- (3) Time limits for permitted temporary uses and structures shall be as authorized in Section [1113.02](#). An approval of a zoning certificate for a temporary use shall include the approved start and end dates for the proposed temporary use.
- (4) If construction activities for which a zoning certificate has been issued is abandoned or suspended for a period of six months after the time of commencing the work, the zoning certificate 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 certificate.
- (5) Upon written request, up to two extensions of six months may be granted by the Zoning Administrator if the applicant can show good cause for a delay.
- (6) The Zoning Administrator shall notify the application of the revocation of a zoning certificate including notice that further work as described in the canceled permit shall not proceed unless and until a new zoning certificate has been obtained or extension granted.
- (7) Upon revocation of a zoning certificate approval, a new application, including all applicable fees, shall be required before a new zoning certificate application will be reviewed.
- (8) The above time limits shall not apply if alternative time limits that have been approved by the Zoning Administrator, Planning Commission, Design and Review Board, or BZA, in accordance with the applicable review procedure.

(h) Revoking a Zoning Certificate

A zoning certificate shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and certificate granted thereon or the decision to approve the zoning certificate was based on false or misleading information provided by the applicant. In the event of the revocation of a certificate, an appeal may be taken to the BZA in accordance with Section [1105.13](#), of this code.

(i) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the Zoning Administrator shall have the right to appeal the decision to the BZA as established in Section [1105.13](#).

1105.13 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, Design and Review Board, Zoning Administrator, City Engineer, or any other administrative staff given the authority to make a decision as authorized by this code.

- (2) An appeal may not be made to the BZA 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 20 days of the administrative order, decision, determination, or interpretation, the person appealing the decision or their authorized agent shall submit all required information in accordance Section [1105.02](#).

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

Upon receiving the written appeal of an administrative decision or determination, the Zoning Administrator or other staff member responsible for maintaining the related records, shall transmit the written appeal with all papers, documents, and other materials related to the appealed decision or determination to the BZA. This material shall constitute the record of the appeal.

(3) Step 3 – BZA Review and Decision

- A. The BZA shall hold a public hearing within 45 days of the filing of the appeal provided adequate notification is provided pursuant to Section [1105.02\(h\)](#).
- B. To aid in their review, the BZA may transmit the application to appropriate administrative departments and professional consultants for review and comment. Any reports, comments or expert opinions shall be compiled by the Zoning Administrator and transmitted to the BZA prior to the time of the BZA's hearing related to the appeal.
- C. Any person affected by the appeal may appear at the public hearing and testify in person, or by attorney or agent.
- D. Within 30 days of the close of the public hearing, the BZA shall render a decision on the appeal. The Zoning Administrator shall notify the appellant in writing of the decision of the BZA. An extended timeframe may be authorized if agreed upon by the BZA and applicant.
- E. The decision of the BZA shall become effective immediately.

(e) Review Criteria

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

(f) Stay

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

(g) Appeals of BZA Decisions

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

1105.14 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 Zoning Administrator, and that such questions shall be presented to the BZA only on appeal from the decision of the Zoning Administrator. Such appeals shall be in accordance with Section [1105.13: Appeals](#).