

**CHAPTER 1105**  
**Administration Procedures and Enforcement**

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**1105.01 PLANNING COMMISSION ESTABLISHED.**

The Municipal Planning Commission is hereby established. The composition of the Planning Commission shall be as specified by the Charter of the City of Maumee. The powers and duties of the Planning Commission with respect to the administration of this Zoning Code shall include making recommendations to Council, approving or denying petitions and applications brought before it, and such other powers and duties as are conferred by the Charter of the City of Maumee and the provisions of this Zoning Code.

- (a) Procedures of Planning Commission: The Planning Commission shall adopt rules necessary to the conduct of its affairs and hold meetings in keeping with the provisions of the charter and this Zoning Code. All meetings of the Planning Commission shall be open to the public. The Planning Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, showing such fact, and shall keep records of its official actions all of which shall be a public record and kept in the office of the Municipal Clerk. The presence of four members of the Planning Commission shall constitute a quorum and valid votes shall be constituted by a majority vote of those present and voting.
- (b) Duties of Planning Commission: The Planning Commission shall have the following duties:
  - (1) Initiate map or text amendments to the Zoning Code.
  - (2) Conduct public hearings in accordance with Section 1107.03 (Public Hearing Requirements) on, review, and make recommendations to Council on all proposed amendments to the Comprehensive Plan and/or Masterplan of the City;
  - (3) Upon the filing of a petition or application on all proposed amendments to

the text of the Zoning Code or the Zoning District Map, conduct public hearings in accordance with Section 1107.03 (Public Hearing Requirements), review, and make appropriate recommendations to Council;

- (4) Conduct adjudicative hearings in accordance with Section 1105.09 (Adjudicative Hearing Requirements) on, and review all applications for, conditional uses and amendments thereto, and make recommendations thereon to Council as required by Chapter 1134 (Conditional Use Regulations);
- (5) Review and decide all requests for preliminary and final plats within the corporate limits of the City;
- (6) Continually review the effectiveness and appropriateness of this Zoning Code and recommend such changes or amendments as it deems appropriate;
- (7) Shall determine the classification of non-listed uses within the Zoning Code with similarly comprised uses elsewhere in said code provided the new use is appropriate to form based.; and
- (8) Shall allow the Zoning Administrator to determine the boundary of a zoning district within 5 foot margin of error to account for line weight distortion.
- (9) Review Site Plans pursuant to Chapter 1135.

#### **1105.02 BOARD OF ZONING APPEALS ESTABLISHED.**

A Board of Zoning Appeals is hereby established. The word "Board", when used in this section, shall be construed to mean the Board of Zoning Appeals.

- (a) Members. The Board shall consist of five (5) members. These members shall be residents of the City who are appointed by the Mayor and confirmed by Council. In connection with the first appointment of such members the terms shall be:: one for three years, two for four years, two for five years; the successor to each member so appointed shall serve for a term of five years. The Mayor and Council have the power to remove any member of the Board for cause after a public hearing. Vacancies in the Board shall be filled for the unexpired term of the member whose place has become vacant in the manner herein provided for the appointment of such member. No officer or employee of the City shall be a member.
- (b) Procedures of the Board of Zoning Appeals: The Board of Zoning Appeals shall adopt rules necessary to the conduct of its affairs and hold meetings in keeping with the provisions of this Zoning Code. All meetings shall be open to the public. The Board shall keep a record of the proceedings before it showing the action of the Board, and the vote of each member upon each question considered. The Vice-Chairperson shall be responsible for taking minutes and recording proceedings or delegating those duties to another Board member. The presence of three members shall be necessary to constitute a quorum. All applications properly coming before the Board of Zoning Appeals shall be considered during an adjudicative hearing process as defined in Section 1105.09 (Adjudicative Hearing Requirements).
- (c) Jurisdiction of Board of Zoning Appeals.

(1) Appeal to Board of Zoning Appeals.

- (A) An appeal from any action or ruling, except those related to Design Standards, of the Zoning Administrator based upon the provisions of this Zoning Code may be made to the Board of Zoning Appeals within thirty (30) calendar days from such action or the announcement of such ruling.
- (B) Within the period aforesaid, the appellant shall file with the Zoning Administrator and with the Board of Zoning Appeals a written notice of appeal, specifying the grounds thereof, accompanied by any fee which may be directed by Ordinance of Council.
- (C) The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action or ruling appealed from was taken, and an adjudicative hearing shall be held on the matter in accordance with Section 1105.09 (Adjudicative Hearing Requirements).

(2) Variance.

- (A) The Board of Zoning Appeals upon written application therefore by a party in interest may authorize by permit a variation of the application of the regulations herein established as follows:
  - (i) Permit a variation in the minimum lot area, landscaping requirements under Chapter 1145, setback line, minimum floor area, off-street parking, and fencing requirements of any district when there are practical difficulties in implementing the provisions of this Zoning Code. The Board shall have no power to allow a change of use to one not permitted in the district.
  - (ii) The Board may adopt, amend and enforce such rules and regulations as it may deem necessary or desirable to carry on its functions and provide for the enforcement of this Zoning Code in accordance with the purpose and intent hereof.
  - (iii) The Board has the authority to attach to the issuance of a variance such conditions as it determines to be necessary for the general health, safety, and welfare, and the protection of neighboring properties, and failure to comply with such conditions shall render the variance null and void.
  - (iv) The Board may vote to delegate limited authority to the Zoning Administrator to issue variances within defined parameters adopted by the Board. Such delegation of authority shall only be given for frequently recurring cases where Board precedent has clearly prescribed appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with this Zoning Code and as will not be contrary to the public interest.
  - (v) The Board may review applications for home occupations upon referral from the Zoning Administrator.
- (B) In making a determination whether a variance is to be granted, the Board shall determine whether the spirit and intent behind the

zoning requirement is observed by granting the variance. The Board shall consider and weigh each of the following factors to the extent applicable in deciding if landowners have encountered "practical difficulties" in using their property:

- (i) Whether there can be any beneficial use of the property without the variance regardless of financial consideration;
  - (ii) Whether the variance is substantial in relation to the Zoning Code requirement;
  - (iii) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
  - (iv) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);
  - (v) Whether the property owner purchased the property with knowledge of the zoning restriction;
  - (vi) Whether the property owner's predicament can be feasibly remedied through some method other than a variance.
  - (vii) Whether the spirit and intent behind the zoning requirement can be observed by granting the variance.
  - (viii) Whether the need for a variance is self-created.
- (C) Any variance lawfully granted by the Board of Zoning Appeals shall expire after one (1) year from the date of such approval unless, within such period, the applicant has received a Zoning and Building Permit

(3) Sign Variance. The Board of Zoning Appeals upon written application by a party in interest may authorize a variance for a sign which does not comply with the provisions of Chapter 1143 (Signs) if, in addition to the requirements of Section 1105.02(c)(2)(B), it determines that all of the following factors are met:

- (A) The particular sign will be in harmony with the general purpose and intent of Chapter 1143 (Signs);
- (B) The sign will not be injurious to the immediate neighborhood or adjacent land use;
- (C) The sign is sufficiently compatible with the architectural and design character of the immediate neighborhood; and
- (D) The sign will not be hazardous to passing traffic or otherwise detrimental to the public safety and welfare.

In granting such variance, the Board shall specify the size, type, lighting mechanism, and location of the sign and impose such other reasonable terms, restrictions, and conditions as it may deem to be in the public interest.

- (4) Nonconforming Uses. The Board shall administer the provisions of Section 1130.06 (Alterations of Nonconforming Uses) and all other sections of the Zoning Code that apply relative to nonconforming uses.
- (5) Temporary Accessory Structures. Grant a variance for a temporary structure in a residential district which is incidental to the marketing of the residential development for a period of not more than one (1) year.
- (d) Decisions of the Board of Zoning Appeals: For each request which appears before the Board of Zoning Appeals, the Board shall issue a separate written order incorporating the specific relief requested, the decision of the Board, and the basis for the Board's decision. The decision shall be forwarded to the Zoning Administrator who shall, upon receipt of a decision granting the requested relief, issue a Zoning Permit in conformity with the Board's decision, provided that the proposal complies in all other respects with the provisions of this Zoning Code, and applicable State and Federal Law. A permanent registry of the decisions of the Board shall be maintained permanently by address in the office of the Zoning Administrator.

### **1105.03 DESIGN REVIEW BOARD ESTABLISHED.**

The Design Review Board is hereby established, which shall be responsible for hearing any appeal of a negative administrative design review decision on applications in the area bounded by the Anthony Wayne Trail, Ford Street, Key Street and the Maumee River.

- (a) Members. The Design Review Board shall consist of five (5) members. All of such members shall be appointed by the Mayor and confirmed by a majority of the members of Council. In connection with the first appointment of such members, one (1) shall be appointed for a one-year term, two (2) shall be appointed for two-year terms, and two (2) shall be appointed for three-year terms. All subsequent appointments shall be for the unexpired terms, if such be the case, or for a three-year term. Members shall serve without compensation. All members shall have sufficient expertise and/or interest in order to make critical evaluations of proposed plans and to make constructive recommendations for modification of proposed plans. No officer or employee of the City shall be a member.
- (b) Procedures of Design Review Board. The Design Review Board shall adopt rules necessary to the conduct of its affairs and hold meetings in keeping with the provisions of this Zoning Code. All meetings shall be open to the public. The Board shall keep a record of the proceedings before it showing the action of the Board, and the vote of each member upon each question considered. The Vice-Chairperson shall be responsible for taking minutes and recording proceedings or delegating those duties to another Board member. The presence of a majority of the members of the Board who are eligible to vote at such meeting shall be necessary to constitute a quorum. No officer or employee of the City shall be a member.
- (c) Responsibilities and Jurisdiction of Design Review Board. The Design Review Board shall:
  - (1) Report recommendations to the City Council, the designation and/or elimination of new and/or existing design review districts and the development or reduction of standards within said districts
  - (2) Hear any appeal of a negative administrative design review decision regarding the architectural design and features of any new building or any existing building in the process of renovation as to the compatibility of the design or renovation with the architectural and/or historic character of the areas.

- (3) The Design Review Board shall consider the officially adopted Maumee Master Plan and/or City Council uptown road diet and control decisions when deciding appeals.
  - (4) Make alternative suggestions to building owners and/or developers as to building design, building materials, signs and other structure and site elements to make projects more form compatible and harmonious with adjacent land and the area as a whole.
  - (5) Offer technical and professional assistance to building owners and/or developers in implementing recommendations.
- (d) Decisions of Design Review Board. The Design Review Board shall hear appeals of a negative administrative design review decision. The Design Review Board shall grant the appeal, deny the appeal or grant it subject to special modification, but no appeal shall be granted or modified unless a majority of the entire Board votes to grant or modify the appeal.
- (1) If the Design Review Board grants an appeal without modifications, it shall so notify the Zoning Administrator who shall thereupon issue a Zoning Permit.
  - (2) If an appeal is denied, the Design Review Board may make such recommendations in regard to changes of design, arrangement, texture, material and color of the exterior features and interior arrangement of the structure as it deems appropriate.
  - (3) If the applicant accepts the modifications of the Design Review Board, the application shall be revised in accordance with such modifications and filed with the Zoning Administrator, whereupon a Zoning Permit shall be issued.

#### **1105.04 ZONING ADMINISTRATOR.**

- (a) It shall be the duty of the Zoning Administrator to enforce this Zoning Code. It shall also be the duty of all officers and employees of the City and especially of all members of the Division of Police to assist the Zoning Administrator by reporting to him or her new construction, reconstruction or land uses, and apparent violations of this Zoning Code.
- (b) The Zoning Administrator shall issue Zoning Permits, or Certificates of Zoning Compliance or Occupancy according to this Zoning Code. Such certificates or permits shall be in such form as may be prescribed by the City Administrator, consistent with the requirements of this Zoning Code.
- (c) The Zoning Administrator shall not require any change in the plans, construction, size or designated use of a structure, or part thereof, which meets the requirements of Section 1130.02 (Preexisting Zoning Permits).
- (d) Appeal from an action or decision of the Zoning Administrator may be made to the Board of Zoning Appeals as provided in Section 1105.02.

#### **1105.05 ZONING PERMITS REQUIRED.**

Before proceeding with the use, erection, relocation or alteration of any structure or part of any structure in the City, or the issuance of any Building Permit, a Zoning Permit for such erection, relocation or alteration shall be first obtained from the Zoning Administrator, which Zoning Permit shall, in substance, certify that such proposed use, erection, relocation or alteration complies in all respects with this Zoning Code. No person or persons shall proceed with the erection, relocation, or alteration of any structure unless such Zoning Permit has first been obtained from the Zoning Administrator.

- (a) Contents of Zoning Permit Application. At a minimum, the following information, maps and/or drawings shall be submitted in duplicate to indicate the following information as applicable:
- (1) Name, address and telephone number of the applicant and record owner or owners of the property;
  - (2) If the applicant is not the owner, proof of contract or agency with the owner;
  - (3) Planned uses for the premises;
  - (4) Required yards;
  - (5) Setback areas;
  - (6) The elevations of all structures on the subject property; and
  - (7) Off-street parking and/or loading facilities.
  - (8) Additional requirements as may be requested by the Zoning Administrator or by other Chapters of this code.
  - (9) Any applicable fees as may be directed by ordinance of Council.
- (b) Issuance of Zoning Permit: The Zoning Permit shall be issued if the proposed construction or proposed use of a structure or land, complies with all the provisions of this Zoning Code. If the use is lawfully nonconforming, the Zoning Permit shall so state. The Zoning Permit shall incorporate all the terms and conditions of approval. A record of all Zoning Permits shall be kept on file in the office of the Zoning Administrator, and shall be public records open and available to the general public. A copy of the Zoning Permit shall be posted in a prominent location visible from the exterior of the structure until the Zoning Certificate of Compliance has been issued or the Zoning Permit expires.
- (c) Revocation of Permit. Should the Zoning Administrator determine that the work under such Zoning Permit, or the use of such premises is not proceeding according to the approved plans upon which the permit was issued, or is proceeding in violation of the provisions of this Zoning Code or any specific conditions contained in the Zoning Permit, it shall be the duty of the Zoning Administrator to notify the owner or owners in writing that the work is being constructed in violation of the Zoning Permit and this Zoning Code and, that the same must immediately be rectified to conform with such permit and this Zoning Code. If corrections are not made to comply with such notice, the Zoning Administrator shall revoke such permit and issue an order to immediately stop all work on such premises. Notice thereof shall be immediately served upon the owner or owners and posted on the premises referred to in such permit. Such notice shall be in writing, and signed by the Zoning Administrator.
- (d) Expiration of Zoning Permit. The Zoning Permit shall expire within one hundred eighty (180) days after the date of issuance unless construction and improvements as specified in the Zoning Permit has commenced. The Zoning Permit shall expire within twelve (12) months of the date of issuance.

## **1105.06 ZONING CERTIFICATE OF COMPLIANCE OR OCCUPANCY.**

No vacant land shall be occupied or used, and no structure or addition thereto or parking area hereafter constructed, built, moved, remodeled, or reconstructed shall be occupied or used, and no use of any land or structure shall be changed to any other use, until a Zoning Certificate of Compliance or Occupancy has been issued by the Zoning Administrator certifying that the proposed use or occupancy is in conformity with all requirements of this Zoning Code and all fees have been paid in accordance with the schedule of fees established by Council. A Zoning Certificate of Compliance or Occupancy is required for a new or changed use of land or structures where no Zoning Permit is required and must be approved by the Zoning Administrator before any such land or structures shall be occupied or used.

- (a) Issuance. No Zoning Certificate of Compliance or Occupancy shall be issued until the premises have been inspected and certified by the Chief Building Official and Zoning Administrator to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located, as well as any plans and specifications upon which a Zoning Permit for the property was issued. However, the Zoning Administrator may issue a Zoning Certificate of Compliance or Occupancy to an applicant who has not, or whose predecessor/s in interest have not obtained a Zoning Certificate of Compliance or Occupancy for a change in use of any land or structure as required by law at the time such change in use occurred, provided the Zoning Administrator determines that such applicant, or his predecessor/ss in interest, then required by law would have been entitled to the issuance of a Certificate of Compliance or Occupancy.

A Zoning Certificate of Compliance or Occupancy shall be issued, or written notice shall be provided to the applicant stating the reasons why a certificate cannot be issued, within a reasonable time frame after the receipt of an application and all required fees therefore, or after the Zoning Administrator is notified in writing that the structures or premises are ready for inspection for a Zoning Certificate of Compliance or Occupancy.

- (b) Temporary Certificate of Compliance or Occupancy. Pending the issuance of a Zoning Certificate of Compliance or Occupancy, a temporary Certificate of Compliance or Occupancy may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or during partial occupancy of the premises. The fees for a Temporary Certificate of Compliance or Occupancy shall be set by Council and be in addition to any fees required for an application for a Zoning Certificate of Compliance or Occupancy.
- (c) Contents of Certificate; Records. The Zoning Certificate of Compliance or Occupancy shall state that the structure, or use of a structure or land, complies with the Zoning Code and all other applicable laws and ordinances. If the use is lawfully nonconforming, the certificate shall so state. A record of all certificates shall be kept on file in the office of the Zoning Administrator.

## **1105.07 FEES.**

The Zoning Administrator is hereby authorized and directed to charge actual, cost allocated, hourly fees for any Zoning Permits, certificates, plan reviews and inspections required by this Zoning Code and for any filing or appeals filed with a board or commission charged with the application of the provisions of this zoning code.



## 1105.08 PUBLIC HEARING REQUIREMENTS.

The purpose of a public hearing is to obtain comments and input from the general public and affected property owners with regard to proposed changes to the Zoning Code and/or District Map.

- (a) Filing with Municipal Clerk. After the adoption of a motion by Council or Planning Commission, or after the filing of a complete petition or application with the Municipal Clerk, the Municipal Clerk shall place such motion, petition, or application on the agenda of the Planning Commission and shall schedule the matter for public hearing before the Planning Commission.
- (b) Notice.
  - (1) Newspaper Public Notice. Notice of the time and place of a public hearing shall be published in a newspaper of general circulation in the City at least seven (7) calendar days prior to the date of the hearing. During the seven-day period, the text of the motion, application, or petition, together with all maps, plans, and reports submitted with reference thereto, shall be on file for public examination in the office of the Municipal Clerk.
  - (2) Notice by Sign on Subject Property. In the case of a rezoning of property, a sign shall be placed on the subject property indicating the proposed rezoning action under consideration. Such a sign shall be of such size, format, and content as specified by the Zoning Administrator and shall be visible on the subject property beginning no later than seven (7) days prior to the scheduled hearing and shall remain on such property until such time as a recommendation is made by the Plan Commission to City Council.
  - (3) Notice by First Class Mail. If the proposal to rezone, or redistrict, or for issuance of a special permit hereunder, includes ten (10) or fewer parcels of land as listed on the tax duplicate, written notice of the public hearing shall also be mailed by the Municipal Clerk by first class mail at least fifteen (15) calendar days before the date of the public hearing to the Applicant and to owners of real estate adjacent to and directly across the street from such parcel or parcels to the addresses of such applicants and owners appearing on the current tax list of the Auditor of Lucas County or the mailing list of the Treasurer of Lucas County.
  - (4) The failure of delivery of any notice, failure to place a sign or the removal of any sign after initial placement on the premises shall not invalidate any ordinance, measure or regulation.
- (c) Public Hearing. After all evidence, testimony and information has been assembled and heard, the Chairman shall then accept a motion to close the public hearing and upon receiving a majority of affirmative votes, shall proceed to the deliberation of the amendment. The Chairman may also accept a motion to adjourn the hearing to a date specific if it is determined that additional information or testimony is necessary.
- (d) Action by Planning Commission. The Planning Commission shall report its recommendation to Council within forty-five (45) calendar days after the close of the public hearing, unless the applicant agrees to an extension of time. Following the above referenced 45 day period the City Council may consider the matter.
- (e) Council Action.
  - (1) Council is not required to hold a public hearing on the proposed zoning amendment. However, Council may, at its discretion, schedule a public

hearing or hearings upon any such matter with such notice, advertisement, at such date, and upon such terms as Council may determine appropriate before acting on any such amendment.

- (2) Any recommendation of the Planning Commission may be overruled by a vote of two-thirds (2/3) of all members of the City Council not required to abstain.

#### **1105.09 ADJUDICATIVE HEARING REQUIREMENTS.**

Adjudicative hearings are proceedings conducted by the Planning Commission and Board of Zoning Appeals. The purpose of an adjudicative hearing is the determination of the rights of the applicant, according to the standards contained in the Zoning Code, and of whether such application should be granted based upon evidence presented at the hearing.

- (a) Notice of Adjudicative Hearing.
  - (1) The applicant shall be notified in writing of the time and place of a hearing on the application.
  - (2) Public Notice by Sign. A sign shall be placed on the subject property indicating the proposed action under consideration. Such a sign shall be of such size, format, and content as specified by the Zoning Administrator and shall be visible on the subject property beginning on a date immediately following the determination by the Zoning Administrator that the application is complete, and shall remain on such property until such time as a final decision is rendered.
- (b) Adjudicative Hearing Process. Adjudicative hearings shall be open to the public, but are not public hearings for the general public to present their opinions.
- (c) Action by the Review Body.
  - (1) Regardless of any continuances of the hearing, the Planning Commission or Board of Zoning Appeals shall make a decision on the matter before it within forty-five (45) calendar days from the date that the public hearing was closed, unless an extension of time is agreed to by the applicant.
  - (2) The Planning Commission or Board of Zoning Appeals shall issue its decision in the form of a written Final Order in which it expressly sets forth the findings and conclusions of fact used as the basis or rationale for the decision.