

PLANNING & ZONING GENERAL INFORMATION

Zoning permits are required for all new structures of any size, including sheds, and for any additions. Permits are also required for swimming pools (above ground or below ground), decks and fences. Any accessory building over 1,000 square feet in total area must have the approval of the Planning and Zoning Commission.

All site plans and structure plans must be drawn to scale; no sketches are permitted. Site plans for new house construction or grading or excavating plans must be prepared by a registered engineer or surveyor.

Zoning permits are not needed for repairs, such as re-roofing or siding. New roof framing requires a building permit. Paved driveway aprons require approval and a permit from the City's Service Administrator.

In addition to a zoning permit from the City of Kirtland, a building permit is needed from the Lake County Building Department in Painesville. The building department also performs all inspection on structures. Electrical changes require a permit from the Lake County Building Department; plumbing changes require a permit from the Lake County General Health District.

A permit is required to display a used vehicle for sale on residential property. No more than two vehicles may be displayed for sale within any 12-month period of time.

The City's Exterior Property Maintenance Code requires that all properties conform to certain minimum standards for maintenance of exterior surfaces and exterior functioning units of all structures, buildings and uses within the City, including yard areas.

All contractors working in the city are required to register with the Zoning Office.

All new businesses in the City are required to obtain a business permit. Planning and Zoning Commission approval of the business use may be required.

The City's zoning ordinances are available on the City's website; they are also on file in the Kirtland Public Library.

The Planning and Zoning Commission meets at 7:00 p.m. on the second Monday of each month at the Kirtland Municipal Center.

CHAPTER 1262: ADMINISTRATION, ENFORCEMENT AND PENALTY

Section

- 1262.01 Zoning Inspector.
- 1262.02 Completion of municipal income tax form required prior to issuance of zoning permits and return of deposited monies or bonds.
- 1262.03 Application for zoning permits; fees; conditions.
- 1262.04 Applications requiring Planning and Zoning Commission and Zoning Inspector approval.
- 1262.05 Effect of breach of condition or requirement.
- 1262.06 Inspections.
- 1262.07 Effective life of zoning certificate.
- 1262.08 Cash bonds; inspections.
- 1262.99 Penalty; equitable remedies.

CROSS REFERENCES

- Administrative board; powers and duties - see Ohio R.C. 713.11
- Board of Zoning Appeals - see CHTR. Art. III, § 3; P. & Z. Ch. 1264
- Mandatory zoning referendum - see CHTR. Art. V, § 5
- Municipal Planning and Zoning Commission - see CHTR. Art. III, § 2; P. & Z. Ch. 1220
- Notice and hearing on municipal zoning regulations - see Ohio R.C. 713.12
- Procedures for zoning permit approval in Environmental Quality Overlay Districts - see P. & Z. 1222.09
- Violation of zoning ordinances may be enjoined - see Ohio R.C. 713.13

§ 1262.01 ZONING INSPECTOR.

(a) The position of Zoning Inspector is hereby established. The Zoning Inspector shall be appointed by the Mayor and/or Council for an indefinite period of time and shall continue until the person so appointed resigns or otherwise removes himself or herself from such office or is removed as provided in subsection (c) of this section.

(b) No appointment of the Zoning Inspector by the Mayor and/or Council shall be effective without the concurrence of two-thirds of the members of Council.

(c) The Mayor is hereby authorized to remove the Zoning Inspector for just cause, provided, however, that such removal shall not take effect without the concurrence of two-thirds of the members of Council.

(d) The Zoning Inspector shall perform the following duties:

(1) Provide information pertaining to zoning to anyone desiring such information;

(2) A. Issue all zoning permits after inspection of all necessary plans and layouts; and

B. Make on-site inspection to determine that the structure conforms with the Zoning

Code.

(3) Keep and be responsible for all records pertaining to applications for zoning permits and the action taken thereon;

(4) A. Conduct investigations and inspect premises to ascertain conformity with the Zoning Code and, if a violation is found, pursue the matter until it is resolved in accordance with the Zoning Code, including the taking of legal action and the issuing of citations;

B. Investigate complaints promptly; and

C. Prepare written reports and take pictures of violations for possible legal action;

(5) Enforce all zoning laws of the city;

(6) Attend Council and Planning and Zoning Commission meetings as required; and

(7) Perform all other duties required of him or her by the Mayor.

(e) Compensation for the Zoning Inspector shall be established at the time of appointment and may be adjusted from time to time. The method of establishment shall be by a recommendation from the Mayor with the concurrence of a majority of Council.

(f) In addition to his or her regular compensation authorized herein, the Zoning Inspector may be entitled to additional employee benefits as Council may from time to time establish by ordinance. (Ord. 11-O-1, passed 2-23-2011)

§ 1262.02 COMPLETION OF MUNICIPAL INCOME TAX FORM REQUIRED PRIOR TO ISSUANCE OF ZONING PERMITS AND RETURN OF DEPOSITED MONIES OR BONDS.

(a) The Zoning Inspector shall require applicants for zoning permits to complete the city's municipal income tax form. Upon receipt of such form, the Zoning Inspector shall forward it to the Tax Administrator and/or the Director of Finance for use in the collection of the municipal income tax.

(b) Notwithstanding any other provision of these codified ordinances, an applicant for a zoning permit who has deposited monies or a bond with the city, pursuant to §§ 236.07, 1262.04 or 1442.12 of these codified ordinances, shall not have any portion of such monies or bond returned until, in addition to all other requirements of these codified ordinances, the municipal income tax form has been completed in full and returned to the city. (Ord. 11-O-1, passed 2-23-2011)

§ 1262.03 APPLICATION FOR ZONING PERMITS; FEES; CONDITIONS.

(a) *Zoning permit required.* No person shall construct, alter or change the use of any land, structure or building, including accessory buildings, without first obtaining a permit therefor from the Zoning Inspector. Certain uses as provided in § 1262.04 shall require approval of the Planning and Zoning Commission before the Zoning Inspector may issue a zoning permit.

(b) *Applications requiring only Zoning Inspector approval.* The application for a zoning permit shall contain the following information:

- (1) The name, address and telephone number of the applicant;
- (2) Proof of ownership or authorization to represent the property owner;
- (3) The location of the property, including street address and permanent parcel number;
- (4) The current zoning of the property;
- (5) A description of the project for which approval is sought; and

(6) A plot plan showing the proposed location and dimensions of the proposed construction, alteration or change of use.

(c) *Drainage plan.* With the filing of the application for a zoning permit dealing with construction and grading, a drainage plan shall be filed. Such plan shall show grade elevations and the proposed drainage of the parcel involved. Such plan must meet with the approval of the Zoning Inspector prior to the issuance of any zoning permit.

(d) *Sewers and water supply; location of building.* In addition to the other requirements of this section, no zoning permit shall be issued for any new dwelling unit, commercial building, industrial building, or other building to be inhabited by persons until the following conditions are met:

(1) An applicant for such a zoning permit shall, prior to the issuance of such permit, present satisfactory proof that he or she has obtained the following:

A. For residential property, an on-site sewage disposal system permit from the Lake County Department of Health or proof that the applicant will be connecting into a public or private sewer system; and

B. For all other properties, an on-site sewage disposal system permit from the Lake County Department of Health and/or the Ohio EPA approval for the sewage disposal facility or proof that the applicant will be connected into a public or private sewer system.

(2) An applicant shall further be required to present satisfactory proof that the premises on which the structure is to be constructed are served by the public water supply or, in the alternative, the applicant for the permit shall present to the Zoning Inspector a certification by a registered engineer or a licensed well driller that there is sufficient water from natural sources to supply the water needs of the use for which the structure is intended through the drilling of a well specifically located on the premises for which the building permit is sought, and a certification from the Lake County Department of Health that the water source indicated is suitable for the use for which it is intended.

(3) An applicant shall further be required to present satisfactory proof that the structure will be built upon a duly dedicated and accepted public right-of-way or that the applicant has received the variance provided in § 1450.01(a) of these codified ordinances.

(Am. Ord. 15-O-21, passed 5-18-2015)

(e) *Fees.* Each application for a zoning permit shall be accompanied by the required fee, as established by City Council.

(f) *Approval of permit.*

(1) Except as provided in subsection (f)(2) below, within ten working days after completing his or her review and investigation of the completed application, the Zoning Inspector shall issue a zoning permit, provided that the application is accompanied by the proper fee and the Zoning Inspector has determined that the application complies with all the appropriate requirements of the zoning code.

(2) The Zoning Inspector, after investigating the application, shall refer the application related to any multi-family or non-residential use to the Planning and Zoning Commission, to be processed in accordance with § 1262.04, if the Zoning Inspector determines that the change involves a change in use or, in the event that there is no change in the use, that the proposed change of occupancy will result in any of the following to wit:

A. Any construction, alteration, change or modifications to the exterior of the premises or structures thereon including parking, landscaping, or ingress or egress;

B. The intensification of the use by reason of the new occupancy including but not limited to hours of operation, number of employees, increase in pedestrian or vehicular traffic;

C. Modification or need for modification of the drainage or sewage disposal upon the premises; and

D. Erection of new or modification of existing signs or lighting on the premises.

(g) *Construction and use shall be as approved.* Zoning permits as issued by the County Building Department and Zoning Inspector on the basis of approved plans and applications authorize only the use and arrangement set forth in such approved plans and applications or any amendments thereto. Use, arrangement or construction contrary to that which has been authorized shall be deemed a punishable violation of this code.

(1) *Violations a nuisance.* Buildings erected, altered, moved, razed or converted or any use of land or premises carried on in violation of any provision of this Planning and Zoning Code are declared to be a nuisance per se. Any building or land use activities considered possible violations of the provisions of this Planning and Zoning Code which are observed by any city official shall be reported to the Planning and Zoning Inspector.

(2) *Complaints.* Any citizen may file a written complaint with the Building and Zoning Inspector to report an alleged violation of this Planning and Zoning Code. Such written complaint shall fully state the causes and basis of such complaint.

(Ord. 11-O-1, passed 2-23-2011; Am. Ord. 11-O-38, passed 7-11-2011)

§ 1262.04 APPLICATIONS REQUIRING PLANNING AND ZONING COMMISSION AND ZONING INSPECTOR APPROVAL.

(a) *Uses requiring Commission approval.* Planning and Zoning Commission approval shall be required prior to issuance of a zoning permit for the following uses:

(1) All permitted main and accessory uses in Business and Industrial Districts;

- (2) All permitted multifamily uses;
- (3) Religious buildings and uses, public and private parks, schools, recreation centers and public buildings and uses;
- (4) Privately owned nonprofit golf courses;
- (5) All uses in Environmental Overlay Districts;
- (6) Off-street parking in all zoning districts except R-1, R-2 and R-3 Districts;
- (7) Fences in Business and Industrial Districts;
- (8) All signs;
- (9) All conditional uses;
- (10) Landscaping as required in Business and Industrial Districts;
- (11) Auxiliary buildings of more than 1,000 square feet in Residential Districts; and
- (12) Any main building or auxiliary building or structure exceeding the height limitation of the district in which it is located.
(Am. Ord. 14-O-58, passed 11-17-2014)

(b) *Application submittal.* An application for a zoning permit requiring review and approval of the Planning and Zoning Commission shall be submitted to the Zoning Inspector by the property owner or his or her authorized agent no less than 14 days prior to the regularly scheduled meeting of the Planning and Zoning Commission in order to be placed on the agenda for that meeting. Upon determining that the application is complete and upon receipt of the required fee, the Zoning Inspector shall forward the application to the Planning and Zoning Commission for review and action.

(c) *Contents of application.*

(1) Application for a zoning permit requiring Planning and Zoning Commission approval shall include the following information:

- A. The name, address and telephone number of the applicant;
- B. Proof of ownership or authorization to represent the property owner;
- C. The location of the property, including the street address and permanent parcel number;
- D. The current zoning of the property;
- E. A description of the project for which approval is sought;

F. Names and addresses of each property owner within 500 feet as shown in the current records of the Lake County Auditor, to be typed on gummed labels.

(2) In addition to the information required in § 1262.03, an application for a zoning permit requiring approval of the Planning and Zoning Commission shall include preliminary and final development plans as provided in subsections (d) and (e) of this section. The application fee shall be as provided in § 1262.03(e).

(d) *Preliminary development plans.* A preliminary development plan shall be drawn at a scale of not more than 50 feet to one inch and shall include the following:

(1) *Survey.* A survey of the property by a registered surveyor, as required by the Zoning Inspector, showing topography at two foot intervals; land owned and proposed for development; adjoining lots, location of oil and gas wells; easements; and zoning on subject property and on adjoining properties;

(2) *Buildings.* The location, area, height and use of all existing and proposed main and accessory buildings; distances of building to property lines; nearest buildings on adjoining properties;

(3) *Traffic.* The proposed system of on-site vehicular circulation and locations of access drives;

(4) *Parking areas.* The layout and estimate of the number of spaces; distances from parking areas; areas and drives to property lines;

(5) *Signs.* The location, size and height of all signs to be placed on the property;

(6) *Landscaping.* The location and sizes of areas to be landscaped;

(7) *Stormwater.* The proposed method for managing stormwater;

(8) *Utilities.* The type and location of water supply; the method of treating sanitary sewage; and

(9) *Environmental Overlay Districts.* The location of any of the environmental elements on the property.

(e) *Contents of final development plans.* A final development plan shall incorporate agreed upon revisions of the preliminary development plan and shall include all the information contained in the preliminary plan and, in addition, shall include the following:

(1) *Buildings.* The general design, materials and colors of the existing and/or proposed main and accessory buildings;

(2) *Traffic.* Methods for control of traffic; width and location of access drives; type of pavement and curbing;

(3) *Parking areas.* The number of spaces and the type of pavement;

(4) *Stormwater management.* A plan for the proper control of stormwater as recommended by the City Engineer;

(5) *Utilities.* The location, size and grade for all utility installations; approval of the County Board of Health for treatment of sanitary sewage as provided in § 1262.03(d);

(6) *Signs.* The type of illumination, materials, colors and content of all signs to be placed on the property;

(7) *Site development.* Grading plan; erosion control; landscaping plan showing location, number and size of plant materials and their scientific and common names; exterior lighting plan;

(8) *Agreements.* Preliminary drafts of all agreements, contracts, dedications, deed restrictions, easements, sureties and other instruments as may be required; and

(9) *Floor plans.* Floor plan(s) at a scale of one-quarter inch to the foot, showing existing and/or proposed uses.

(f) *Notification of property owners.* The Zoning Inspector shall notify owners of properties within 500 feet of the perimeter of the property proposed for development not less than ten days prior to the meeting at which the preliminary development plan will be considered by the Planning and Zoning Commission.

(g) *Review by Commission.* The Planning and Zoning Commission shall review the complete application package as transmitted by the Zoning Inspector in terms of the standards established in this Zoning Code. If deemed necessary, the Commission, with the consent of the applicant, may refer an application to qualified consultants for review. The cost of such review shall be at the expense of the applicant. The Planning and Zoning Commission shall be guided by the following standards in reviewing each application for a zoning permit:

(1) Materials shall be appropriate for the use of the building, for weathering and for their relationship to other materials, including those used on adjacent buildings;

(2) Colors and textures shall be appropriate for the size and scale of the building, for weathering, and for their relationship to the site and adjacent buildings;

(3) Architectural details and ornaments shall be meaningful to the overall design and appropriate for the size and scale of the buildings and for weathering;

(4) Mechanical equipment shall be considered as it affects rooftop appearance, sidewall openings, sound levels, smoke and other nuisance aspects and as it relates to overhead wires, gas and electric meter stations and any other visible appurtenances;

(5) Approaches, drives and parking areas shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriate considering factors such as safety, drainage and landscaping;

(6) Landscaping shall be appropriate for the size and use of the area and for its relationship to the building, street, parking area, walks and adjacent buildings;

(7) Lighting shall be considered for the appropriateness of night-time illumination of the grounds, drives, walks, parking areas and building and its effect upon surrounding areas; and

(8) Signs shall be considered for appropriateness of size, scale, shape, color and illumination in relation to the building and site.

(h) *Modifications permitted.* Where application of the provision would result in a development that would not be satisfactory for the zoning district, the Commission may require adjustment in the development plan, such as improvement to the design and arrangement of buildings, yards, on-site circulation, access drives and such other features to further improve the proposed development and to protect the surrounding developments.

The Commission may approve adjustments to certain yard requirements if it finds that openness and other amenities will be attained and that the intent and purpose of the provisions of the Zoning Code are fulfilled because of skillful design in the arrangement of buildings, location of drives, on-site circulation and parking areas, proposed landscaping and other site features with the following limitations:

(1) Front yards of buildings may be reduced by 20 percent of the required distance;

(2) Side or rear yards of a one- or two-story building may be reduced by 50 percent of the required distance only when adjacent to non-residential districts;

(3) Front yards of parking areas may be reduced to 50 percent of the required distance; and

(4) The total yard area of the lot, the percent of the lot occupied by buildings and the percent of the lot to be landscaped shall meet or exceed the regulations for the zoning district.

(i) *Preliminary approval.* If the application and the preliminary development plan, and any modification thereof proposed by the developer, are found by the Planning and Zoning Commission to be in compliance with the requirements of the applicable district and any other applicable parts of this Zoning Code and the Subdivision Regulations of the city, it shall approve or deny such preliminary development plan within 45 days from the date of the meeting when all required plans and data had been received. If the application is not found to be in compliance therewith, the Commission may recommend revisions to be made by the developer or reject the entire application. Approval of the preliminary and final development plans may be given concurrently.

(j) *Review of final development plans.* Upon approval of a preliminary development plan, the developer shall prepare and submit a final development plan(s) to the Commission. Upon receipt of a final development plan, the Zoning Inspector shall transmit a copy of the final specifications to the City Engineer for his or her review, report and recommendation. The City Engineer shall, within 45 days from receiving the final development plan, provide and furnish to the Commission a report upon the development plan's compliance with those regulations within the jurisdiction of the City Engineer.

(k) *Final approval.* If, after evaluation of the City Engineer's report, the Commission finds that a proposed final development plan is in accordance with, and represents a detailed expansion of, the

preliminary plan heretofore approved, that it is in conformance with the provisions of this Zoning Code and the Subdivision Regulations of the city, and that it complies with all of the conditions which may have been imposed in the approval of the preliminary plan or in the review of the final plan by the City Engineer, the Commission shall approve the application for a zoning permit. The decision shall be made within 45 days from the date of the meeting when the City Engineer's report is received. (Ord. 11-O-1, passed 2-23-2011)

§ 1262.05 EFFECT OF BREACH OF CONDITION OR REQUIREMENT.

The breach of any condition or requirement shall automatically invalidate the zoning permit granted and shall constitute a violation of this Zoning Code. Such violation shall be punishable in accordance with § 1262.99. (Ord. 11-O-1, passed 2-23-2011)

§ 1262.06 INSPECTIONS.

The Zoning Inspector shall make one or more inspections to see if the construction, alteration or use for which a zoning permit has been issued is in compliance with such permit. (Ord. 11-O-1, passed 2-23-2011)

§ 1262.07 EFFECTIVE LIFE OF ZONING CERTIFICATE.

A zoning certificate issued pursuant to this chapter shall become void if the proposed construction, alteration or change of use for which the certificate has been issued is not commenced within one year after the certificate is issued. If the proposed construction, alteration or change of use for which the certificate has been issued is commenced within one year after the certificate is issued, the certificate shall continue to be in force and effect, except that if such construction, alteration or change of use is voluntarily discontinued for two years or more, the construction, alteration or change of use shall then be deemed abandoned and the zoning certificate shall become void, and any further or continued construction, alteration or change of use of the property shall require a new zoning certificate in conformity with the then current zoning laws. (Ord. 11-O-1, passed 2-23-2011)

§ 1262.08 CASH BONDS; INSPECTIONS.

(a) In addition to all other fees, expenses and deposits that may be required by these codified ordinances, including, but not limited to, those required by §§ 236.07, 1262.03 and 1442.12 of these codified ordinances, when an applicant makes an application for a zoning permit for the construction of a building or other structure in excess of 1,000 square feet in area, such applicant shall deposit a cash bond with the city in the sum of one thousand two hundred dollars (\$1,200.00).

(b) Such cash bond shall be deposited in a special account with the Director of Finance and shall be retained by the city until the building or structure for which the permit is issued has been completed and the premises and adjoining roadways have been inspected by the appropriate individual appointed by the city to make such inspections to determine that all roads, streets or highways, curbs, sidewalks, culverts, water lines, storm sewers, sanitary sewers, drains, swales and ditches have not been damaged and have been constructed pursuant to the approved plans or have been restored to the same or equivalent condition as existed prior to the issuance of such permit.

(c) Such inspection shall be made by the city upon the request of the permit applicant. If, upon inspection, the city determines that the premises, adjoining roadways or highways, curbs, sidewalks, culverts, water lines, storm sewers, sanitary sewers, drains, swales or ditches have been damaged, have not been constructed pursuant to the approved plans or have not been restored to the same or equivalent condition that existed prior to the issuance of such permit, the applicant shall be notified, in writing, of all conditions that must be corrected by the applicant.

(d) If the conditions to be corrected, as set forth by the city, are not corrected within 30 days from the date of the notification by the city, the city may cause such conditions to be corrected and the cost of such correction shall be paid out of the applicant's bond being held by the city and the balance, if any, shall be refunded to the applicant.
(Ord. 11-O-1, passed 2-23-2011)

§ 1262.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of this Zoning Code is guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars (\$150.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) If a building is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is, or is proposed to be, used, in violation of any of the provisions of this Zoning Code, the Mayor and/or Council, the County Prosecuting Attorney, the Zoning Inspector or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.
(Ord. 11-O-1, passed 2-23-2011)