

NOTICE

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**CHAPTER 1155
RESIDENTIAL DEVELOPMENT OVERLAY**

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SECTION 1155.01 RESIDENTIAL DEVELOPMENT OVERLAY.

The Residential Development Overlay is a regulation of land use that may be applied to any area in the City of Kettering that meets the criteria set for approval in Section 1155.05 below. The Residential Development Overlay is established in order to promote strong neighborhoods and preserve the residential character of land uses adjoining arterials for the purpose of promoting improvement of the quality of life, removal of blighting influences and the avoidance of blight, maintenance of property values, prevention of piecemeal development, and the discouragement of strip commercial development.

SECTION 1155.02 PERMITTED USES.

The uses in an area covered by a Residential Development Overlay shall be those specified in a Development Guidelines Report adopted by the City Council for each residential development overlay area. The Development Guidelines, when adopted by City Council, shall be considered a part of the Kettering Zoning Code.

SECTION 1155.03 INITIATION OF OVERLAY PROCESS.

Any property owner or group of property owners may make application to the Zoning Administrator for a Residential Development Overlay or the Planning Commission or City Council may instruct the Zoning Administrator to develop a Residential Development Overlay for any area which either body determines meets the criteria for such an overlay.

SECTION 1155.04 CRITERIA FOR APPROVAL OF A RESIDENTIAL DEVELOPMENT OVERLAY.

Areas to which a residential overlay may be applied shall be in all the following categories:

- A. The area adjoins an arterial street as designated on the official Thoroughfare Plan of the City of Kettering; and
- B. The area adjoins or across the street from an existing O (office), B (business), ED (Economic Development Overlay) or I (industrial) zoned property; and
- C. The area can be shown to have one of the following characteristics:
 1. The area is one of high infrastructure cost where past, present or planned investment in drainage facilities, streets and utilities is higher than the average infrastructure costs throughout the City;
 2. Areas that have site constraints imposed by adjacent land use difficulties, traffic impact or lot configurations that make the development of single family detached dwellings difficult in accordance with the underlying zoning;
 3. Areas where blighting influences are identified, blighting influences being any current use of land which if allowed to remain unmodified will foreseeably evolve into blight or will encourage blight to arise in neighboring land areas;

SECTION 1155.05 CONTENTS OF AN APPLICATION FOR RESIDENTIAL DEVELOPMENT OVERLAY.

The application for a Residential Development Overlay or the recommendation from the Zoning Administrator for a Residential Development Overlay shall include the following:

- A. A legal description and a site plan of the property to which the overlay is sought to be applied.

- B. Statement of the ownership of the property.
- C. A statement of the facts and reasons that justify a finding of fact that the area meets the criteria for the implementation of a Residential Development Overlay as set forth in Section 1155.04.
- D. If the application seeks to allow uses in addition to those permitted in the underlying zoning district, a statement of what use or uses should be permitted and the facts to justify the permission of the use or uses shall be included as a part of this report.
- E. Specific development guidelines to be applied in the residential overlay district to all future development.
- F. Maps, drawings, written reports and any other exhibits that are deemed to be necessary to clearly carry out the intent of this ordinance.

SECTION 1155.06 APPROVAL OF A RESIDENTIAL DEVELOPMENT OVERLAY.

An application for a Residential Development Overlay shall be reviewed by the Zoning Administrator. The Zoning Administrator will analyze the application and suggest any improvements and then forward the application to the Planning Commission. The Planning Commission shall conduct a public hearing and review the application and forward its recommendation to the City Council. The City Council shall conduct a public hearing and render a final decision. An approved overlay shall be produced in ordinance form and shall become part of the Kettering Zoning Code. Each property or group of properties approved by City Council as a Residential Development Overlay shall continue to be governed by the underlying zoning district regulations except to the extent that they are modified by the approved Residential Development Overlay text.

SECTION 1155.07 DEVELOPMENT GUIDELINES

The ordinance adopting a Residential Development Overlay shall also adopt specific development guidelines for the overlay area, and the overlay shall be marked on the official zoning map of the City of Kettering, Ohio.

Specific standards shall be included in the development guidelines report on the following factors which shall be evaluated by the Planning Commission and Council in accordance with the purposes set forth in Section 1155.01.

- A. Land Use
- B. Building Architecture
- C. Building Placement, Orientation and Setback
- D. Signage
- E. Landscaping and Screening
- F. Circulation and Parking
- G. Pedestrian Amenities
- H. Lighting and Electrical Service
- I. Sewer and Water Service
- J. Storm Water Drainage

SECTION 1155.08 APPLICATION FOR DEVELOPMENT APPROVAL IN A RESIDENTIAL DEVELOPMENT OVERLAY.

No building or other structure shall be erected, moved, enlarged, structurally altered, nor shall any building be established or changed in use without obtaining approval from the Zoning Administrator. The application for an Approval shall include the following:

- A. A legal description and a site plan of the property to which the overlay is sought to be applied.
- B. Statement of the ownership of the property.
- C. Existing conditions report: a written statement showing the existing conditions in use of the described property; including statistical data, drawings, photographs or maps, if necessary.
- D. Development plans showing the proposed development including where applicable, streets, drives, parking area, walkways, heights of structures, location, elevation and setback of proposed structures; drainage, grading and landscaping plans; proposed uses and square footage of uses; recreational facilities, and any other information in sufficient detail, as determined by the Zoning Administrator, to satisfy the requirements of Section 1155.07.
- E. Residential Development assessment statement:
 - 1. Description of the positive and negative residential impact of the proposed development upon the development goals set forth in the Development Guidelines Report for the development in the overlay area in which the proposed development in intended.
 - 2. Written explanation of the compatibility of the proposed improvement, construction of development with the official Development Guidelines

Report adopted by Council for the particular Residential Development Overlay in which the development is proposed.

3. Such other information as may be reasonably required in order to assist in the Residential Development Overlay review process.

Nothing herein shall be deemed to require any applicant to furnish complete structural plans and specifications prior to obtaining development permission approval.

SECTION 1155.09 DEVELOPMENT REVIEW PROCESS.

When a development plan has been filed for an Approval, the Zoning Administrator shall conduct a review of the application to determine if the development proposal is consistent with the Residential Overlay approved by the City Council and then render a decision without a public hearing. The Zoning Administrator's decision may be appealed to the Board of Zoning Appeals which shall render a decision after conducting a public hearing. The Board of Zoning Appeals' decision may be appealed to the City Council which shall render a final decision after conducting a public hearing.

SECTION 1155.10 ISSUANCE OF PERMITS.

If the application is approved, the applicant must obtain whatever permits are necessary to proceed with the development from the appropriate department of the City of Kettering prior to undertaking the requested improvements. If the applicant fails to obtain a permit within one (1) year from the Approval decision, the applicant's rights under the terms of the Approval shall terminate unless for good cause shown, the applicant obtains an extension not to exceed twelve (12) months. No building, zoning or other land use permit not exempted by Section 1155.11 below shall be issued until the Approval is granted in accordance with the procedures defined in Section 1155.09.

SECTION 1155.11 EXEMPTIONS.

The following are all exempt from provisions of this Chapter.

- A. All permits for the repair and/or replacement of roofs, gutters, chimneys, plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, fire escapes and all other mechanical and electrical equipment.
- B. Any permit necessary for compliance with a lawful order of the Zoning Administrator or Building Official, including deficiencies listed in certificates of inspection.

- C. Any permit necessary for immediate public health or safety.
- D. Any permit for interior alternations and repairs.
- E. Any permit for demolition or wrecking.
- F. Any permit for construction of public utilities in the public right-of-way.
- G. Any other exemptions that may be allowed in any ordinance creating a specific development overlay.
- H. Any permit required for routine maintenance work.

Legislative history: Ord. 3413-89; passed 11/21/89. Ord. 3446-90, passed 5/22/90.