

Administration and Enforcement

**Chapter
1141**

City of Hilliard zoning code



Section 1141-1 zoning inspector or Duly Appointed Authority

- A. *zoning inspector.* It shall be the duty of the zoning inspector or designee to enforce this Chapter 1141. It shall also be the duty of all officials and employees of the City to assist the zoning inspector by reporting new construction, reconstruction, land uses or seeming violations.
- B. Appeal from the decision of the zoning inspector may be made to the Board of Zoning Appeals as provided in Chapter 1106.

Section 1141-2 Injunction

In case any building is located or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is used or is proposed to be used in violation of this code or any amendment or supplement thereto, the zoning inspector, the City Law Director, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action, actions, proceeding or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance or use.

Section 1141-3 Zoning Certificates

- A. *Certificate Required.* It shall be unlawful for an owner to use or to permit the use of any structure, building, land or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning certificate has been issued by the zoning inspector. It shall be the duty of the zoning inspector to issue a certificate, provided he/she is satisfied that the structure, building or premises, and the proposed use thereof conform to all the requirements of this zoning code. No permit for excavation, construction or reconstruction shall be issued by the zoning inspector unless the plans, specifications and intended use conform to the provisions of this zoning code.
- B. *Time Limits.*
 - 1. For purposes of obtaining a building permit, a zoning certificate shall be valid for 12 months from the date of issuance. If a building permit is not obtained within that period, the zoning certificate shall lapse and a new zoning certificate request and approval shall be required before a building permit may be issued.
 - 2. All zoning certificates shall expire two years after their issuance, unless construction has reached 25 percent of completion. The zoning inspector may grant extensions of up to one year if the applicant can show that delays in completion of the project are due to circumstances not under control of the applicant (e.g., weather, delays in receiving materials, etc.).
- C. *Existing Use Certified.* Upon written request from the owner or tenant, the zoning inspector shall issue a zoning verification letter for any building or premises certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this zoning code. No charge shall be made for issuing a zoning certificate in accordance with this section.
- D. *Requirement.* No building permit or other permit required to allow construction and no certificate of occupancy shall be issued for any of the above, unless a zoning certificate has

been issued by the zoning inspector. A zoning certificate shall be required for any of the following, except as otherwise provided:

1. Prior to the construction, occupancy or use of any proposed structure or addition to an existing structure, or prerequisite to the continued occupancy of a newly altered, reconstructed, enlarged or relocated structure.
2. Prior to any change of use of any building or land, even if the changed use is of the same general type as its predecessor;
3. Prior to occupancy and use of vacant land;
4. Prior to the reoccupation or reuse of any nonresidential lot or structure, unless the zoning inspector finds that all of the following apply:
 - a. The reoccupation or reuse results in a land use that is authorized by right in the zoning district;
 - b. The reoccupation or reuse is of the same or less intensity of use than the predecessor use;
 - c. The reoccupation or reuse does not require any exterior changes to the approved site, other than signs or aesthetic changes (e.g., exterior painting, etc.); and
 - d. The reoccupation or reuse does not require a greater number of off-street parking spaces, according to Chapter 1127, than are provided on the site.

E. *Exemptions.* A zoning certificate shall not be required for the following:

1. An accessory structure on a lot zoned or used for residential purposes that is less than 144 square feet in ground floor area and no higher than 10 feet;
2. A swing set or similar child's play structure;
3. Cosmetic (non-structural) changes to any structure, including the replacement of windows in existing openings, re-roofing, installation of siding material and repainting;
4. Resurfacing of existing parking lots without increasing the number of spaces;
5. Residential TV towers, satellite dishes and similar structures; and
6. Modifications to comply with accessibility requirements, unless proposed to encroach in a public right-of-way.

F. *Application.* Written application shall be made for a zoning certificate for the construction of a new building or the alteration of an existing building. At the request of the owner or operator, the zoning inspector shall issue a zoning certificate for any building, structure or premises existing on the effective date of this zoning code that certifies the extent and kind of use made of the building, structure or premises and whether the use conforms to the provisions of this code.

1. Every application for a zoning certificate shall be accompanied by a plot plan in duplicate, and such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made. Where construction or physical improvement of the land is involved, the lot and location of the buildings to be erected shall be staked out on the ground before construction is started, and all dimensions shown on filed plans shall be based on an actual survey.
2. Each plan shall show:

- a. The street providing access to the lot and the exact location of the lot in relation to the nearest cross-street;
 - b. The name of the concerned plat, if any, and the lot numbers of the concerned and abutting properties;
 - c. The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location and size of any existing structure thereon;
 - d. The location and size of the proposed structure, and the proposed enlargement of the existing structure; and
 - e. Any other information which in the judgment of the zoning inspector may be necessary to provide for the enforcement of this zoning code;
 - f. All exterior lot lines, with dimensions based upon an actual survey;
 - g. Dimensions of existing and proposed buildings and structures;
 - h. Setback of all existing and proposed structures from property lines;
 - i. Required setback distances, according to the zoning district;
 - j. Height of existing and proposed buildings and structures;
 - k. Location of off-street parking, including dimensions of parking spaces and access aisles, and distance of parking areas from property lines.
3. Each application shall include certification statements:
- a. That no part of the land involved in the application has been previously used to provide required yard space or lot area for another structure; and
 - b. That if any abutting land was formerly owned by the applicant and sold, the approximate date of title transfer is listed.
4. Where complete and accurate information is not readily available from existing records, the zoning inspector may require the applicant to furnish a survey of the lot by a registered engineer or surveyor.
5. Each property owner or authorized agent shall be required to attest to the correctness of the statements and data furnished with the application.
6. A file of such applications and plans shall be kept in the office of the zoning inspector.
- G. *Approval.* The zoning certificate shall state that the plans for the proposed improvement, addition, relocation, change of use or reoccupancy/reuse have been inspected by the zoning inspector, have been approved according to the procedures outlined in this zoning code and are in compliance with the provisions of this code and other applicable regulations.
- H. *Record Keeping.* Every zoning certificate shall state that the building or the proposed use of a building or land complies with all provisions of law. A record of all zoning certificates shall be kept on file in the office of the zoning inspector and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

Section 1141-4**Application Fees**

- A. Filing fees and service charges for all types of applications, permits and lot split reviews shall be paid as set forth in this section.
- B. See Chapter 190 for fees.

- C. All fees and service charges listed are to cover investigation, legal notices, acquiring data, preparing necessary maps and plats, and other expenses incidental to the determination of the matter in question.
- D. Once the correct filing fee or service charge has been paid for a specific application, item or purpose, it shall not be refundable nor creditable towards any other filing fee or service charge.
- E. Fees shall be paid to the Finance Director for deposit in the General Fund of the City.

Section 1141-5 Performance Guarantees

The city may require an applicant to deposit a performance guarantee to ensure compliance with this code, the completion of improvements and to protect natural resources and the health, safety and welfare of city residents and the future users or inhabitants of the project.

- A. A “performance guarantee” shall mean a cash deposit, certified check, letter of credit or other legal surety approved by the city in an amount equal to the estimated cost for any improvements to be made, as determined by the applicant and confirmed and verified by a representative of the city.
- B. The performance guarantee shall be deposited with the Finance Director before any building permits will be issued. The Finance Director shall retain the performance guarantee, in accordance with this section.
- C. When a performance guarantee is required as a condition of approval, the approving body shall also specify when the related improvement must be completed.
- D. As the project is constructed, the city may rebate money to the applicant based on a reasonable proportion of the completed work, provided that at least 10 percent shall be retained for each related element until the entire project has been satisfactorily completed. The city may solicit the opinion of a civil engineer or other licensed professional in the State of Ohio to determine the value of the completed work.
- E. Once a project has been satisfactorily completed, as determined by the zoning inspector, and all the landscaping (if required) has been established, the Finance Director shall return any remaining funds to the applicant. The City may retain up to 10 percent of the performance guarantee to cover any administrative or consultant costs directly associated with reviewing and/or inspecting any improvements.
- F. In the event an applicant does not make the improvements for which the performance guarantee was required within the established time period, or if improvements are not constructed in accordance with this zoning code and/or any required conditions and attempts to attain compliance are unsuccessful, the city may enter the subject property and complete the improvements using the performance guarantee to cover costs.
- G. In the event an applicant does not make or complete the improvements and the performance guarantee is insufficient to allow the city to complete them, the applicant shall be required to pay the city an amount necessary to complete the improvements, plus any administrative or legal fees.

Section 1141-6 Penalty and Enforcement

- A. *Penalty.* It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation or provision of this zoning code or any amendment or supplement thereto adopted by Council.

1. Any person, firm or corporation who violates any such regulation or provision, where no other penalty is provided, shall be guilty of a minor misdemeanor.
 2. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense.
 3. The penalties associated with a violation of this zoning code are in addition to, not in lieu of, any other penalty applicable under Ohio law or any legal remedy available to the City.
- B. *Enforcement Process.* The zoning inspector, along with such other person or persons necessary, shall enforce the provisions of the zoning code. The following process shall be followed in the enforcement of this code:
1. Upon complaint and/or credible information of a possible zoning code violation, based upon personal knowledge or other information, the zoning inspector will investigate the matter and submit a written report (including relevant photos of the violation, map of the property or other attachments) to the Law Director.
 2. If the zoning inspector believes there is probable cause that a violation has or is occurring, then he or she shall take one or more of the following actions to resolve the violation:
 - a. The zoning inspector may speak to the property owner and attempt to resolve the matter through discussion and/or request that the property owner work with the city in regards to the issue. If discussion resolves the matter, the zoning inspector shall inspect the property for compliance as soon as practical. If the zoning inspector does not believe that the discussion is resolving or would resolve the matter, he/she does not have to engage in or continue with mediation.
 - b. In addition to, or in lieu of the mediation procedure, the zoning inspector may also send a certified letter to the property owner(s). Below the return address on the envelope, the words "Address Service Requested" will appear. Alternatively, the letter may be personally served in the same manner as a civil complaint. The letter shall cite the section number of the ordinance and the offense and explain what must be done to bring the property into compliance with the ordinance. The property owner will be given a deadline to bring the property into compliance. The property address and parcel identification number shall be referenced in the letter and any photos of the violation as it existed on the date of investigation shall also be included. The letter will be signed by the zoning inspector or other City official who has direct knowledge of the violations.
 - c. The property will be inspected on or as soon as possible after the specified compliance date.
 - d. If the property owner(s) has not complied, the matter will be referred to the municipal prosecutor.
- C. *Legal Action.* The city may bring legal action to address any violation of this zoning code, any enforcement order of the zoning inspector, or any term or condition of a planned unit development, conditional use, site plan approval, variance or other entitlement issued under this code, or to collect unpaid fines.