

ARTICLE I. GENERAL

SECTION

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Sec. 150.101 Purpose.

(A) The problems and complexities which necessitated the original adoption of building and land use regulations have been multiplied by increases in population, technological advances, and expanded community service requirements. Therefore, the decisions and actions of today are even more crucial to the sound development of the community as a whole. This Chapter aligns itself with the reasons for accepting zoning expressed by Justice Sutherland in the leading U.S. Supreme Court decision, Village of Euclid, Ohio v. Amber Realty Company, 272 U.S. 365, 47 Sup. Ct. 114.

(B) The objectives of this Zoning Ordinance are:

(1) To promote and protect the public health, safety, morals, comfort, and general welfare of the people;

(2) To effectuate a planning program consistent with the Master Plan with the understanding, however, that no proposed land use depicted in the Master Plan shall be deemed to supersede the provisions of this Chapter. The decision as to whether and when particular elements of the Master Plan will be implemented in regulatory ordinances is reserved for the City Council to make from time to time taking into account, among other factors, the type of development that is contemplated and the timing of such development;

(3) To protect the character and the stability of the residential, business, public open space, environment, manufacturing and other areas within the City and to promote the orderly and beneficial development of such areas, all in accordance with the Master Plan;

(4) To regulate individual property use by establishing districts, building site requirements, yards, density, parking, and height regulations, and by specifying external impact performance standards for noise, smoke, odor, glare, and vibration;

(5) To decrease land use conflict by prohibiting uses, buildings, or structures incompatible with the character of development of intended uses within specified zoning districts;

(6) To develop a compatible relationship between private property uses and necessary public improvements;

(7) To conserve the value of land and buildings throughout the City and enhance the desirability of living in the community for all residents regardless of race, religion, or economic circumstances;

(8) To regulate the intensity of use of lot areas and to determine the area of open space around buildings in order to provide adequate light, air, privacy, and convenience of access to property and thereby:

(a) Protect against fires, explosion, smoke, noxious fumes, noise, and other objectionable materials or influences in the interest of the public health, safety, comfort, and general welfare; and

(b) Prevent the overcrowding of land and undue concentration of structures, so far as is possible and appropriate in each district, by regulating the use and bulk of buildings in relation to the land surrounding them;

(9) To establish building lines and the location of buildings designed for residential, business, manufacturing or other uses within areas designated for such uses;

(10) To establish reasonable standards to which buildings or structures shall conform;

(11) To prevent additions to, or alteration or remodeling of, existing buildings or structures in such a way as to avoid the restrictions and limitations imposed in this Chapter;

(12) To limit congestion in the public streets and to protect the public health, safety, convenience, and general welfare by providing for off-street parking of motor vehicles and the loading and unloading of commercial vehicles;

(13) To provide for the gradual elimination of non-conforming uses of land, buildings, and structures which are adversely affecting the character and value of desirable development in each district;

(14) To define and limit the powers and duties of the administrative officers and bodies as provided in this Chapter;

(15) To prevent the hazards to persons and damage to property resulting from the accumulation or run-off of storm or flood waters; and

(16) To prescribe the penalties for the violation of the provisions of this Chapter and any amendments.

Sec. 150.102 Scope of Regulations.

Except as provided by this Chapter and except after obtaining written permission from the Zoning Administrator, it shall be unlawful within the corporate limits of the City of Highland Park:

- (A) To establish any use of a building, structure or land, either by itself or in addition to another use.
- (B) To expand, change or re-establish any non-conforming use or structure.
- (C) To erect a new building or structure or part thereof; or to excavate or otherwise alter the existing topography, contour or grade of land by more than twelve (12) inches or cover more than fifty (50) square feet in area.
- (D) To rebuild, structurally alter, add to or relocate any building or structure or part thereof.
- (E) To reduce the open space or lot area below that required for a building or structure located on the lot in question or to include any part of such required open space or lot area as that required for an adjoining building or structure.
- (F) To construct more than one principal building upon a lot, unless such lot is improved as a Planned Unit Development or within the HC District.
- (G) To construct one building or to maintain one principal use on more than one lot, unless such occupancy or use occurs within the HC District.

Sec. 150.103 Interpretation -- Other Restrictions -- Burden of Proof.

- (A) **Minimum Requirements.** The provisions of this Chapter shall be held to be the minimum requirements for the promotion of public health, safety, morals and welfare.
- (B) **Relationship with Other Laws.** Where the conditions imposed by any provision of this Chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Chapter or any other law, ordinance, resolution, rule or regulations of any kind, including private restrictive covenants, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.
- (C) **Effect of Existing Agreements.** This Chapter is not intended to abrogate any easement, covenant or private agreement, provided that where the regulations of this Chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements, the requirements herein shall govern.
- (D) **Burden of Proof; Supporting Evidence.** The applicant shall bear the burden of establishing conclusively that the applicant's proposal will comply with all applicable requirements of the Municipal Code. During any public hearing, the applicant shall submit such documents including necessary governmental licenses or permits or applications applicable thereto as the Plan Commission, or the Zoning Board of Appeals, as the case may

be, deems necessary. Provided it does not conflict with the terms of this Chapter, the procedure for the conduct of any public hearing shall be as set forth by rule of the Plan Commission or the Zoning Board of Appeals, as the case may be.

Sec. 150.104 Lots or Parcels of Land of Record.

(A) Contiguous Ownership in the R1, R2, R3, R4, R5, R6, R7, RM1, RM1A, RM2 and RO zoning districts. When two or more parcels of land (which may contain a lot or lots of record), are adjacent and one or more of such parcels lack adequate area or width to qualify for a permitted use under the requirements of the zoning district in which such parcels are located, all of such parcels shall be maintained and used as one zoning lot for such use if such parcels have been held in contiguous ownership at any time after May 8, 1960, or the date when such parcel ceased to comply with lot area and width requirements. (Ord. 57-02, J. 28, p. 410-473, passed 9/9/02)

(B) Division of Lots. No improved lot or parcel of land shall be divided into two (2) or more lots unless all improved zoning lots resulting from such division conform with all applicable regulations of the zoning district in which the lot or parcel is located.

(C) Location of Open Space. All yards and other open spaces allocated to a building or Planned Unit Development shall be located on the same lot as such building. Furthermore, no legally required yards or other open space or minimum lot area allocated to any building shall by virtue of change of ownership or for any other reason be used to satisfy yard or other open space or minimum lot area requirements for any other building or Planned Unit Development on a contiguous lot or parcel.

(See also Sec. 150.1510)

Sec. 150.105 Established Setbacks -- Single Family Districts.

(A) In any single family residential zoning district, if the Established Building Setback is greater in depth than required for front yards for such zoning district, no new structure or addition to an existing structure shall be erected closer to the street than the Established Building Setback, provided, however, that when a lot has more than one front lot line, the Established Building Setback regulations shall not apply on the side of the lot with the longest front lot line, unless either (1) the lot depth of the lot, measured on that side, is greater than 125 feet, or (2) the lot is a through lot. In no event shall the Established Building Setback be less than the front yard required in the zoning district. (Ord. 71-06, J. 32, p. 340-342, passed 11/13/06)

(B) Vision Clearance - Corner Lots. No building or structure hereafter erected and no planting or other obstruction to the vision of drivers of motor vehicles shall be located:

(1) In any residential district or PA (Public Activity) district exceeding a height of three (3) feet above the street grade within twenty-five (25) feet of the intersecting street lines bordering corner lots; and (Ord. 42-02, J. 28, p. 313-337, passed 7/8/02)

(2) In the HC (Health Care) or any industrial or commercial district within twenty-five (25) feet of the intersecting street lines bordering a corner lot, provided that this regulation shall not apply to that part of a building above the first floor.

(See also Sec. 150.1511)

Sec. 150.106 Driveways for Commercial and Industrial Districts.

No parcel of land which is located in any residential district shall be used for a driveway, walkway, or access to a parcel of land located in a B1, B1A, B2, B2RW, B3, B4, B5, or I District.

Sec. 150.107 Zoning District Boundaries.

(A) The boundaries of all zoning districts within the City of Highland Park are hereby established as shown on the Official Zoning Map contained herein and all notations, references and other information shown thereon are a part of this Chapter and have the same force and effect as if the Official Zoning Map and all the notations, references and other information shown thereon were fully set forth in written text and so described herein.

(1) Any land whose classification is not shown on the Official Zoning Map and any land hereafter annexed to the City is hereby classified as lying within the R-1 Country Estate District, the highest restrictive use district under this Chapter, until such classification may be amended, if at all, by a formal hearing to such other district pursuant to the procedures contained in this Chapter.

(2) Where the district boundaries are not otherwise indicated, and where the property has been or hereafter is divided into blocks and lots, the district boundaries shall be construed to be the lot lines in closest proximity to the district boundaries shown on the Official Zoning Map. Where the districts designated on the Official Zoning Map are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless the boundaries are otherwise indicated on the map.

(3) A copy of the Official Zoning Map as amended from time to time shall be maintained in the office of the City Clerk and in the office of the Zoning Administrator.

(B) Zoning of Rights of Way.

(1) The district boundaries are either streets or alleys unless otherwise shown and where the districts designated on the district map are bounded approximately by street or alley lines, the center line of the street or alley shall be construed to be the boundary of the district. Where the center line of a street, alley, public way, waterway, or railroad right of way serves as a zoning district boundary, the zoning of such areas, unless a particular zoning classification is otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

(2) Whenever any street, alley, or other public right-of-way is vacated by official action of the City Council of the City of Highland Park, the zoning thereof shall be unaffected by such vacation.

(C) Zoning of Annexed Land.

(1) Unless requested otherwise, the land being annexed shall automatically be zoned R-1 Country Estate District upon annexation.

(2) A petition for annexation to the City may include a request from the petitioner that the land being annexed shall, upon annexation, be zoned other than for R-1 Country Estate District. Should such a request be contained in the petition, the City Clerk shall refer the matter to the Plan Commission to conduct a public hearing and make its recommendation. Following the recommendation of the Plan Commission, the City Council shall proceed to vote as it normally does in zoning matters and notify the petitioner of the result. If the City Council denies the request, the petitioner may withdraw his petition for annexation.

Sec. 150.108 Effect of Headings.

Chapter, Article, and Section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any Chapter, Article or Section hereof.

Sec. 150.109 Report by Department of Community Development.

Prior to taking action upon a request for any zoning consideration, the Zoning Board of Appeals and/or the Plan Commission, as the case may be may request that the Department of Community Development review the testimony and evidence taken at the public hearing and report its conclusions and recommendations with respect to the application to the Board or the Plan Commission, as the case may be. A copy of any such report shall be distributed to all interested parties.

Sec. 150.110 Severability.

In the event any section, paragraph, subdivision, clause, sentence, or provision of this Chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Chapter, but the effect of such judgment shall be confined to the section, paragraph, subdivision, clause, sentence, or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Sec. 150.111 Proceedings to Prevent Violation.

(A) If any building or structure, including fixtures, is constructed, excavation, filling, reconstructed, altered, repaired, converted, or maintained; or if any such building or structure, including fixtures or land, is used in violation of this Chapter or any other ordinance of the City, any owner or tenant of real property located within twelve hundred (1200) feet in any direction of the land or building or structure in question who shows that his property or person will be substantially affected by the alleged violation, or the Zoning Administrator of the City, may institute any appropriate action or proceeding:

- (1) To prevent the unlawful construction, excavation, filling, reconstruction, alteration, repair, conversion, maintenance, or use;
- (2) To prevent the occupancy of the building, structure, or land;
- (3) To prevent any illegal act, conduct, business, or use in or about the building, structure and/or land; or
- (4) To restrain, correct, or abate the violation.

(B) At the time such action is instituted by an owner or tenant, notice of such action shall be served upon the City at the time suit is begun by serving a copy of the complaint on the City Clerk in order that the City may join as a party plaintiff, if it so elects. However, no such action shall be maintained until such notice has been given. (See also 150.304)

Sec. 150.112 Penalties.

(A) It shall be unlawful for any Person to violate or fail to comply with any of the provisions of this Chapter. Upon conviction thereof, any person who shall violate or fail to comply with any of the provisions of this Chapter or who shall counsel, aid or abet any such violation, shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than One Thousand Dollars (\$1,000), unless a more specific fine or penalty is provided elsewhere in this Chapter.

(B) For purposes of this Section and this Chapter, each day that a violation is permitted to exist shall constitute a separate offense.