

City of Toledo Land Development Code



May 2021

TABLE OF CONTENTS

CHAPTER I - GENERAL PROVISIONS.....	6
SECTION 1: GENERAL PROVISIONS.....	6
1.01 TITLE.....	6
1.02 PURPOSE	6
1.03 ENACTMENT.....	6
1.04 GENERAL INTERPRETATION AND APPLICATION	6
1.05 ADMINISTRATIVE INTERPRETATION.....	6
1.06 DEVELOPMENT AGREEMENT.....	7
1.07 ANNEXATION.....	7
1.08 USE OR SALE OF LAND OR BUILDINGS	7
1.09 NONCONFORMING USES	7
1.10 FEES	8
1.11 LIABILITY.....	8
1.12 SEVERABILITY.....	8
CHAPTER II - ZONING DISTRICTS	9
SECTION 2: GENERAL REQUIREMENTS FOR ZONING DISTRICTS	9
2.01 PURPOSE.	9
2.02 ESTABLISHMENT OF LAND USE ZONES	9
2.03 COVERAGE	9
2.04 OFFICIAL ZONING MAP	9
2.05 ZONING DISTRICT BOUNDARIES: INTERPRETATION	10
2.06 ZONING DISTRICT BOUNDARY: CHANGE	10
2.07 UNZONED PROPERTY.....	10
2.08 ANNEXED PROPERTY	10
SECTION 3: RESIDENTIAL ZONE (R ZONE)	11
3.01 PURPOSE.....	11
3.02 PERMITTED USES	11
3.03 CONDITIONAL USES.	12
3.04 LOT AREA.....	14
3.05 LOT FRONTAGE	14
3.06 BUILDING SET BACKS	14
3.07 HEIGHT.....	14
3.08 LOT COVERAGE	15
3.09 EXCEPTION.	15
3.10 MEDICAL MARIJUANA COLLECTIVE GARDENS.	15
SECTION 4: COMMERCIAL ZONE (C ZONE)	15
4.01 PURPOSE.....	15
4.02 PERMITTED USES	15
4.03 CONDITIONAL USES	16
4.04 LOT SIZE.....	17
4.05 HEIGHT.....	17
4.06 LOT COVERAGE	17
SECTION 4A: MARIJUANA (CANNABIS RELATED LAND USES)	17
4A-1-1: PURPOSE AND INTENT.....	17

4A-1-2: AUTHORITY.....	18
4A-1-3: DEFINITIONS	18
A-1-4: NO CITY LIABILITY-INDEMNIFICATION	25
4A-1-5: LIMITATIONS	26
MARIJUANA-RELATED LAND USES.....	26
Article 4A. Licensed Recreational Marijuana-Related Land Uses.....	26
4A-1A-1: INTENT	26
4A-1A-2: PREREQUISITES:	26
4A-1A-3: LOCATION.....	27
4A-1A-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF OPERATION.....	29
4A-1A-5: VIOLATIONS.....	30
MARIJUANA-RELATED LAND USES Article B.	31
4A-1B-1: INTENT	31
4A-1B-2: PREREQUISITES	31
4A-1B-3: LOCATION.....	32
4A-1B-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF OPERATION.....	32
4A-1B-5: VIOLATIONS:.....	35
SECTION 5: PUBLIC HEALTH, SAFETY AND WELFARE STANDARDS.....	35
5.01 AIR QUALITY STANDARDS.....	35
5.02 NOISE LEVEL STANDARDS.....	36
5.03 LIGHT AND GLARE STANDARDS.....	36
5.04 USE AND STORAGE OF HAZARDOUS SUBSTANCES	36
5.05 CITY PUBLIC UTILITY CONNECTION	36
5.06 STORM WATER.....	36
5.07 EROSION AND SEDIMENTATION CONTROL	36
SECTION 6: TRAFFIC, PARKING, AND LOADING.....	37
6.01 CLEAR VISION AREA	37
6.02 ACCESS TO LOT.....	37
6.03 INGRESS AND EGRESS	37
6.04 REQUIRED PARKING	37
6.05 DESIGN OF SPACES AND AREAS.	38
6.06 PARKING SPACE ACCESS TO PUBLIC STREET	38
6.07 GRADING AND SURFACING STANDARDS	38
6.08 COMMERCIAL AND LIGHT INDUSTRY SCREENING STANDARDS	39
6.09 LOADING AND SERVICING REQUIREMENTS.....	39
6.10 COMMERCIAL AND LIGHT INDUSTRIAL USES GENERATING GREATER THAN 25 VEHICLE TRIPS PER DAY.....	39
6.11 COOPERATIVE PARKING FACILITY	39
6.12 PARKING RESTRICTIONS FOR RECREATIONAL VEHICLES AND BOATS.....	39
SECTION 7: AESTHETIC STANDARDS	40
7.01 BUFFERS AND SCREENS	40
7.02 OUTDOOR STORAGE.....	40
7.03 PROHIBITED SIGNS	40
7.04 POLITICAL CAMPAIGN SIGNS	40
SECTION 8: VARIANCE	41
8.01 VARIANCE	41
8.02 CRITERIA FOR GRANTING A VARIANCE.....	41

8.03	CONDITIONS.....	41
8.04	VARIANCE PERMIT REQUIRED.....	41
CHAPTER III - LAND SUBDIVISION		42
SECTION 9: GENERAL PROVISIONS FOR LAND SUBDIVISION		42
9.01	PURPOSE.....	42
9.02	APPLICATION.....	42
9.03	EXEMPTIONS.....	42
9.04	REGULATIONS MANDATORY.....	43
9.05	APPROVAL.....	43
9.06	COMPLIANCE WITH LAND DEVELOPMENT CODE.....	43
9.07	DEDICATIONS AND ENDORSEMENTS.....	43
9.08	SUBDIVISION NEXT TO HIGHWAY 505.....	44
9.09	ALTERATION OF A SUBDIVISION.....	44
9.10	VACATION OF A SUBDIVISION	44
SECTION 10: DESIGN STANDARDS		44
10.01	GENERAL DESIGN STANDARDS FOR STREETS AND SIDEWALKS.....	44
10.02	MINIMUM RIGHT-OF-WAY OF STREETS AND SIDEWALK WIDTHS	44
10.03	STREET AND SIDEWALKS ALIGNMENT	45
10.04	STREET AND SIDEWALKS GRADES AND CURVES.....	45
10.05	FUTURE EXTENSION OF STREETS.....	46
10.06	BICYCLE LANES.....	46
10.07	STREETS: BLOCK	46
10.08	LOTS: SIZE, SHAPE, WIDTH	46
10.09	UTILITY EASEMENTS.....	46
10.10	STORM WATER EASEMENTS	46
10.11	MINI-PARK STANDARDS.....	47
10.12	RESIDENTIAL CLUSTER SUBDIVISIONS	47
SECTION 11: SUBDIVISIONS: REQUIRED IMPROVEMENTS		48
11.01	IMPROVEMENTS, GENERAL REQUIREMENTS.....	48
11.02	STREETS	48
11.03	SIDEWALKS	49
11.04	SURFACE DRAINAGE.....	49
11.05	SANITARY SEWER.....	49
11.06	WATER SYSTEM.....	50
11.07	UTILITIES.....	50
11.08	DELAYED BENEFIT CHARGES: LATECOMER AGREEMENTS.....	50
11.09	MINI-PARKS.....	51
CHAPTER IV - CRITICAL AREAS PROTECTION		52
SECTION 12: GENERAL PROVISIONS		52
12.01	PURPOSE.....	52
12.02	COMPLIANCE WITH CRITICAL AREAS PROTECTION	52
SECTION 13: TECHNICAL ASSESSMENTS.....		52
13.01	TECHNICAL ASSESSMENTS REQUIRED.....	52
13.02	WETLAND DELINEATION AND PROTECTION.....	53
13.03	GEOLOGICALLY HAZARDOUS AREAS DELINEATION AND PROTECTION	54
13.04	AQUIFER RECHARGE AREAS DELINEATION AND PROTECTION	55

13.05 FISH AND WILDLIFE HABITAT CONSERVATION AREAS DELINEATION AND PROTECTION.....	55
SECTION 14: REQUIRED IMPROVEMENTS.....	56
14.01 SURETY FOR MITIGATION IMPROVEMENTS.....	56
14.02 RESPONSIBILITY FOR IMPROVEMENTS	56
CHAPTER V - ADMINISTRATION AND ENFORCEMENT.....	57
SECTION 15: GENERAL PROVISIONS FOR CODE ADMINISTRATION	57
15.01 PURPOSE.....	57
15.02 PUBLIC NOTICE	57
15.03 NOTICE OF DECISION	57
15.04 DETERMINATION OF CONSISTENCY AND CONCURRENCY	58
15.05 IDENTIFICATION OF DEFICIENCIES.....	58
15.06 OPTIONAL CONSOLIDATED PROJECT REVIEW	59
15.07 APPEAL	60
SECTION 16: APPLICATION PROCEDURES.....	60
16.01 APPLICATION FORMS.....	60
16.02 APPLICANT, DESIGNATED REPRESENTATIVE	60
16.03 COMPLETED APPLICATION	60
16.04 PERMIT APPLICATION	60
16.05 DETERMINATION OF COMPLETENESS	61
16.06 NOTICE OF APPLICATION.....	61
16.07 APPLICATION TRANSMITTAL	62
SECTION 17: ADMINISTRATIVE APPROVALS.....	62
17.01 BUILDING PERMIT	62
17.02 SHORT SUBDIVISIONS.....	63
17.03 BOUNDARY LINE ADJUSTMENTS	64
SECTION 18: VARIANCE PERMITS	64
18.01 PURPOSE.....	64
18.02 CRITERIA FOR GRANTING A VARIANCE	65
18.03 CONDITIONS	65
18.04 VARIANCE PERMIT REQUIRED	65
18.05 CITY COUNCIL REVIEW	65
18.06 APPEAL	66
18.07 EXTENSION	66
SECTION 19: CONDITIONAL USE PERMITS.....	66
19.01 PURPOSE.....	66
19.02 CONDITIONS	66
19.03 VARIATIONS.....	67
19.04 CONDITIONAL USE PERMIT REVIEW	67
19.05 APPEAL OF PLANNING COMMISSION DECISION.....	67
19.06 TIME LIMIT	67
SECTION 20: SUBDIVISION	68
20.01 PURPOSE.....	68
20.02 TIME LIMITATIONS ON THE APPROVAL OR DISAPPROVAL OF PRELIMINARY PLATS	68
20.03 CRITERIA FOR PRELIMINARY PLAT APPROVAL.....	68
20.04 PLANNING COMMISSION REVIEW	68
20.05 CITY COUNCIL REVIEW	69

20.06	APPEAL	69
20.07	TIME LIMIT	69
20.08	FINAL PLAT APPROVAL.....	69
SECTION 21: AMENDMENT		70
21.01	AUTHORITY FOR AMENDMENT.	70
21.02	INITIATION OF AMENDMENT.....	71
21.03	APPLICATION TRANSMITTAL TO THE PLANNING COMMISSION	71
21.04	PLANNING COMMISSION REVIEW	71
21.05	CITY COUNCIL REVIEW	71
21.06	APPEAL	72
SECTION 22: ENFORCEMENT.....		72
22.01	FILING COMPLAINTS.....	72
22.02	VIOLATIONS.....	72
22.03	PENALTY CLAUSE.....	72
22.04	COSTS.....	72
CHAPTER VI - DEFINITIONS		73
SECTION 23: DEFINITIONS		73
23.01	DEFINITIONS, GENERALLY	73
23.02	DEFINITION OF BASIC TERMS	73

CHAPTER I - GENERAL PROVISIONS

SECTION 1: GENERAL PROVISIONS

1.01 TITLE

This Code shall be known and shall be cited as the "City of Toledo Land Development Code."

1.02 PURPOSE

The purpose of this Code is to promote and protect the public health, safety and welfare and implement the comprehensive plan; provide adequate light, air and access; enhance safety from fire and other dangers; facilitate adequate provision for transportation, water, sewerage, schools, parks and other public services; avoid excessive concentration of population; organize the application, review and approval steps for land development in a clear and efficient manner; and generally to strike an appropriate balance between maximum flexibility in the use of land and the need for high quality development for overall community good.

1.03 ENACTMENT.

The City Council of the City of Toledo does ordain as follows: This Code, establishing land use and development regulations for the City of Toledo, in accordance with the provisions of Chapters 35A. 63, 36.70A, and 36.70B of the Revised Code of Washington, is pursuant to the recommendation of the Toledo Planning Commission. As such the regulations set forth in The City of Toledo Land Development Code shall apply to all land within the existing and future corporate boundaries of the city of Toledo.

1.04 GENERAL INTERPRETATION AND APPLICATION

In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of any lawfully adopted rules, regulations, ordinances, deed restrictions, and covenants conflict, the most restrictive or that imposing the higher standards shall prevail.

1.05 ADMINISTRATIVE INTERPRETATION

The City Clerk-Treasurer or designated representative shall interpret the meaning or application of the provisions of this Code upon request or as determined necessary. Any requests for a written administrative interpretation shall be provided by the City Clerk-Treasurer within thirty days. All requests for written administrative interpretations shall be in writing and concisely identify the issue and requested information.

1.06 DEVELOPMENT AGREEMENT

Nothing in the provisions of this Code prohibit The City of Toledo from entering into a development agreement with a person having ownership or control of real property subject to RCW 36.70B.170, .180, .190, .200 and RCW 82.02.020.

1.07 ANNEXATION

Any uses contained within the boundaries of an annexation must comply with The City of Toledo Land Development Code. In order to not cause undue economic hardship on uses that existed prior to an annexation, they may continue under the provisions in Section 1.09.

1.08 USE OR SALE OF LAND OR BUILDINGS

No person may use, occupy, or sell any land or buildings, or authorize or permit the use, occupancy or sale land or building under their control, unless in accordance with all of the applicable provisions of the Code; except, as provided in Section 1.09.

1.09 NONCONFORMING USES

- a) Uses, structures and lots existing prior to the adoption of this Code may not conform to all of the requirements of the Code. There may be a use of a structure or land which does not conform to the regulations of the zone in which it is located, but which was lawfully in existence prior to the effective date of this Code.
- b) In order not to cause undue economic hardship to owners of property, nonconforming uses and structures are allowed to continue under these conditions:
 - 1) An existing nonconforming structure or use shall not be enlarged or expanded.
 - 2) The repair of an existing nonconforming structure and its equipment or fixtures is permitted; provided a building permit is obtained.
 - 3) When a nonconforming use, structure, or a structure containing a nonconforming use, suffers damage or is destroyed by any cause by more than fifty (50) percent of its assessed value, a permit must be applied for within six (6) months or a waiver obtained for unusual circumstances.
- c) If a nonconforming use is discontinued for a period of one (1) year or more, then that nonconforming use is no longer legal and subsequent uses and structures shall conform to this Code.
- d) Any nonconforming use which has been discontinued shall be replaced only by a use which conforms to the regulations of the zone in which it is located.

- e) A single family dwelling unit with customary accessory buildings may be erected on a single nonconforming lot of record which is a lot that is smaller in area or narrower in width than one permitted by this Code.
- f) If two (2) or more lots, combinations of lots, or portions of lots, with continuous frontage and single ownership are of record at the time of passage of the Code, and if all or part of the lots do not meet the requirements of this Code, the lot or combination of lots shall be considered an undivided parcel. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by the Code, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in the Code.

1.10 FEES

- a) Reasonable fees sufficient to cover the costs of administration, inspection, and publication of notice may be charged to applicants for building permits, conditional-use permits, zoning variances, subdivision permits, short plats, shoreline permits, SEPA determinations, administrative appeals, and amendment requests to The City of Toledo Land Development Code.
- b) Fees established in accordance with 1.10(a) shall be as determined by the City Council, and as provided for in the budget ordinance adopting the budget for the City for the ensuing year. Said fee schedule shall on file at the office of the Clerk-Treasurer.
- c) Fees shall be paid upon submission of a signed application or notice of appeal.

1.11 LIABILITY

The granting or approval of any structure or use shall not constitute a representation, guaranty, or warranty of any kind by the City on the practicality or safety of any structure or use and shall create no liability upon or cause any action against such public body, official or employee for any damage that may result there from.

1.12 SEVERABILITY

Should any section , provisions, clause or portion of the Code be declared by the courts to be invalid, the same shall not affect the validity of the Code as a whole, or any part thereof, other than the part so declared to be invalid.

CHAPTER II - ZONING DISTRICTS

SECTION 2: GENERAL REQUIREMENTS FOR ZONING DISTRICTS

2.01 PURPOSE.

The purpose of this Chapter is to classify land within the City into various zones, each with appropriate zone designations, and within each zone, limit the use of land and the height, size, use and locations of structures; identify public health and safety standards; and provide for nonconforming uses to protect property owners from undue economic hardship.

2.02 ESTABLISHMENT OF LAND USE ZONES

- a) In order to classify, segregate and regulate the use of land, buildings and structures according to the provisions of this Code, the City of Toledo is hereby divided into the following regular use land use zoning districts:

SYMBOL	ESSENTIAL USE
R	General residential land use zone allowing the following housing types and densities: Single family homes and duplex units on individual lots at 11 per acre, Multi-family units at 25 units per acre, and Mobile Home Parks at up to 10 units per acre.
C	General retail commercial and professional service land uses and light industrial uses which can be designed to operate compatibly in close proximity to adjoining commercial uses with a minimum lot size of 2,500 square feet.

2.03 COVERAGE

Each parcel of land in the City shall be covered by one of the preceding zones.

2.04 OFFICIAL ZONING MAP

There is created as part of this Code an official zoning map, referred to herein as the "Official Zoning Map of the City of Toledo". The map shall show as graphically as possible the regular zones into which the City has been divided. Such map shall be approved by the City Council of Toledo and shall contain the signatures of the Mayor and Clerk-Treasurer as verification of the approval of the City Council. The map shall be on file in the office of the City Clerk-Treasurer and there shall be only one copy. This Code and all its terms is to be read and interpreted in light of the contents of same map. In cases where there may be conflicts of interpretation between the map and the text of the Code, the text of the Code shall prevail.

2.05 ZONING DISTRICT BOUNDARIES: INTERPRETATION

Where there exists an uncertainty as to the boundaries of zones as shown on the map, the following rules shall apply:

- a) Boundaries indicated as approximately following the center lines of streets, highways or alleys, shall be construed to follow such center lines.
- b) Boundaries indicated, as approximately following platted lot lines shall be construed as following such lot lines.
- c) Boundaries indicated as following shorelines shall be construed to follow such shorelines. In the event of change in a shoreline, the boundary shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerlines of rivers and streams or other bodies of water shall be construed to follow such centerlines.
- d) When a boundary line divides an unsubdivided property, unless the location of the boundary is indicated by dimension, the boundary line shall be determined by measurement on the map utilizing the scale appearing on the map.

2.06 ZONING DISTRICT BOUNDARY: CHANGE

Changes in the boundaries of the established in zones shall be made by Code of the City Council adopting an amended zoning map. At the time of amendment, these adopted changes shall become a part of this Code. In adopting zone boundary changes, the procedures in Chapter V shall be followed.

2.07 UNZONED PROPERTY

Any property other than the right-of-way of a street or alley that is not designated as being zoned shall be deemed to be zoned R.

2.08 ANNEXED PROPERTY

The City Council shall determine the zoning of all property annexed into the City of Toledo in accordance with RCW 35A.14.120. Any subsequent rezoning of the property shall follow the procedures for amendments to this Code as described in Chapter V, Section 18.

SECTION 3: RESIDENTIAL ZONE (R ZONE)

3.01 PURPOSE

The purpose of the residential land use zone is to serve as a general residential district allowing a variety of housing types and densities.

3.02 PERMITTED USES

- a) A single family dwelling.
- b) A single-family dwelling with an accessory dwelling unit provided that a single family dwelling with an added dwelling unit which has been added on to or created within the single-family dwelling unit shall:
 - 1) Have a floor area of no larger than thirty (30) percent of the main dwelling unit;
 - 2) Make no changes in the basic single-family appearance of the structure; and,
 - 3) Provide one (1) off street parking space for the accessory dwelling unit.
- c) Duplex.
- d) Multifamily building(s) or apartments provided that they meet the following minimum standards:
 - 1) Provide a minimum of 100 square feet of recreation space for each dwelling unit in each apartment building or complex of buildings. No more than fifty (50) percent of this area may be indoors or covered. Where the total required recreation area is three thousand (3,000) square feet or less, the outdoor space shall be a continuous piece of land. No part of the area may be used for driveway, parking, or other automobile use;
 - 2) Adequate buffers and screening to separate the recreation space from public streets, parking area, and driveway;
 - 3) All parking areas shall be buffered from surrounding residential uses; and
 - 4) All lights provided to illuminate parking areas shall be so arranged as to direct light away from adjoining land uses.
- e) Mobile Homes/Manufactured Homes on individual lots if they meet the following minimum standards:
 - 1) Conform to all requirements for any single-family dwelling units as defined by this Code;
 - 2) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;
 - 3) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built uniform building code single-family residences;

- 4) Be set upon a permanent foundation, as specified by the manufacturer, and that the space from the bottom of the home to the ground be enclosed by concrete or an approved concrete product which can be either load bearing or decorative;
 - 5) Is thermally equivalent to the state energy code; and
 - 6) Be manufactured within the previous five years from date of siting.
 - 7) Tiny homes must be compliant with State tiny home requirements.
- f) Adult Family Homes.
- g) Day Care Centers that meet the following minimum standards:
- 1) Comply with all building, fire, safety, health, and business licensing requirements; and,
 - 2) Provide a safe passenger loading area as certified by the responsible Dept. of Social and Health Services facility licenser.
- h) Accessory buildings and uses:
- 1) Private garages and carports;
 - 2) Swimming pools provided they are protected by a locked fence a minimum height of forty two (42) inches;
 - 3) Other recreational facilities for the sole use of the occupants of the premise and their guests; and,
 - 4) Storage sheds.
- I) Medical Marijuana Collective Gardens

3.03 CONDITIONAL USES.

The following uses require a conditional use permit from the Planning Commission as provided in Chapter V, Section 16:

- a) Residential Care Facilities.
- b) Bed and Breakfast Inns, provided that:
 - 1) The owner or renter of the inn lives on premise;
 - 2) Each available room must have a corresponding vehicle off street parking spot; and,
 - 3) Meals served are limited to guests renting rooms.
- c) Cemeteries.
- d) Churches and meeting and assembly halls; provided, however, that when churches and meeting or assembly halls are located next to a residence(s), the hours of operation of these uses shall be controlled so as not to disrupt residential uses.

- e) Home Occupations provided that:
 - 1) The occupation is incidental and accessory to the principal residential use of the residential structure;
 - 2) Occupies no more than twenty five (25) percent or more than five hundred (500) square feet of gross floor area of the residential structure plus other buildings housing the home occupation;
 - 3) The occupation does not create traffic to and from the residential dwelling unit that is disruptive to the residential area where it is located;
 - 4) There shall be one additional off-street parking space;
 - 5) There shall be no more than one non-resident employee;
 - 6) One sign advertising may be located directly on the dwelling unit, or the building housing the home occupation with a surface area of no more than 1,200 square inches; and, sign must be done in a professional manner, location to be taken into consideration or requests of a larger sign and
 - 7) Free standing signs advertising the home occupation, no more than 1,200 square inches shall be allowed. Location to be taken into consideration or requests of a larger sign.

- f) Kennel with five (5) or more dogs or cats that are six months or older.

- g) Recreational Vehicle Parks meeting the minimum development standards:
 - 1) Ingress and egress that is served by a public street or highway;
 - 2) The park is buffered and screened to reduce the impact of noise, light and visual obtrusiveness to adjoining properties;
 - 3) Individual lots for each vehicle shall be no smaller than 800 square feet; and
 - 4) The park shall be no less than two (2) contiguous acres in area.

- h) Public Libraries.

- i) Public parks.

- j) Public utility facilities under 35 feet in height provided they:
 - 1) Serve the intended area with a minimal effect on surrounding property.
 - 2) Do not degrade scenic views from a street or private property.
 - 3) Are buffered, screened, fenced, or kept within a structure.

- k) Schools.

- l) Livestock provided that:
 - 1) There shall be a minimum 1/2 acre lot size with the exception of chickens (see below);

- 2) The following shall be considered as the maximum number of animal units permissible on any single ownership:
 - a) Horses, llamas, and cattle: no more than one head for the first 1/2 acre and one (1) head for each additional 1/2 acre not including unweaned colts and calves;
 - b) Sheep: no more than five (5) head of feeder sheep or three head of breeding sheep for the first 1/2 acre and 10 head of sheep for each additional acre not including unweaned lambs; and,
 - c) Poultry: It is allowable to have up to 12 full size chickens without a Conditional Use Permit. More than 12 and up to 25 laying hens and 50 growing chickens for the first 1/2 acre require a Conditional Use Permit, additional chickens to be determined by the Planning Commission;
- 3) Livestock shall be kept in such a manner as not to constitute a nuisance with respect to neighboring property; and municipal codes; and
- 4) Barns, shelters and feeding places shall not be located within fifty (50) feet of a lot line or within 100 feet of any residence.

3.04 LOT AREA.

- a) The minimum lot area for a single family dwelling unit or a duplex in the R zone shall be four thousand (4,000) square feet.
- b) The minimum lot area for a multi-family building or apartment in the R zone shall be twenty two thousand (22,000) square feet.

3.05 LOT FRONTAGE

Every lot shall have a minimum of thirty-five (35) feet frontage on a public street or public road; unless there is a flag lot, which requires a driveway that is a minimum of 12 feet.

3.06 BUILDING SET BACKS

- a) Every lot shall have a front yard with a minimum depth of fifteen (15) feet.
- b) Every lot shall have a side yard on each side of the lot with a minimum depth of five (5) feet; except on a corner lot, where the side yard on the street shall be a minimum of ten (10) feet.
- c) Every lot shall have a rear yard with a minimum depth of ten (10) feet; provided that Accessory Buildings may be located anywhere in the rear yard, except that Accessory Buildings must be a minimum of ten (10) feet from any public collector or arterial road.

3.07 HEIGHT

No structure on a lot in the R zone shall exceed forty five (45) feet in height, except a private antenna designed to transmit or receive electronic signals for the exclusive use

of a dwelling unit(s) on the lot. A conditional use may be applied for a structure in excess of forty-five (45) feet. Said structure may not block solar access or territorial views.

3.08 LOT COVERAGE

All buildings, including accessory buildings and structures, but not including parking spaces or private swimming pools, shall not cover more than fifty (50) percent of the lot area.

3.09 EXCEPTION.

Residential cluster subdivisions, as provided in Chapter III, Section 10.12, may vary from Section 3.04 (a), 3.05, 3.06 and 3.08.

3.10 MEDICAL MARIJUANA COLLECTIVE GARDENS.

SECTION 4: COMMERCIAL ZONE (C ZONE)

4.01 PURPOSE

The purpose of the commercial land use zone is to provide everyday shopping and professional services to residents of the city, surrounding area, and tourists and land for light industrial uses which can be designed to operate compatibly in close proximity to adjoining commercial uses.

4.02 PERMITTED USES

- a) Automobile service stations, provided that the leading edge of any pump island is no closer than fifteen (15) feet from the property line.
- b) Churches.
- c) Commercial parking lots and structures.
- d) Hotels.
- e) Indoor entertainment and recreation facilities.
- f) Medical Clinics.
- g) Motels.
- h) Motor vehicle repair and maintenance, painting and body work provided that all operations are conducted entirely within a fully enclosed building.
- i) Nursery schools and day care centers.
- j) Public and private parks.
- k) Public and community buildings.
- l) Professional and business offices.
- m) Retail activities dispensing commodities or services.
- n) Restaurants, cafes, and taverns.
- o) Residential Care Facilities.
- p) Schools.

- q) Small equipment sales and repair.

4.03 CONDITIONAL USES

The following uses require a conditional use permit from the Planning Commission as provided in Chapter V, Section 16:

- a) Drive-in banks and restaurants provided that at a minimum such uses:
 - 1) Be located on an arterial street.
 - 2) Be so designed as to insure that all automobiles waiting to be serviced are contained within the property boundaries.

- b) Light industrial uses listed in 4.03 (4) provided:
 - 1) All light industrial uses shall be located on an arterial street or state highway,
 - 2) Adequate water and sewer facilities shall be available to serve the light industry use prior to construction, or assurance shall be given the city in the form of a performance bond that public facilities will be installed concurrently at the developer's expense,
 - 3) All industrial uses shall be required to be buffered from adjacent land uses.
 - 4) The following light industrial uses are permitted and require a conditional use permit:
 - a) Assembly of goods, merchandise and small equipment provided that all operations are conducted entirely within a fully enclosed building.
 - b) Contractor's Office, shops, and storage provided that where equipment and supplies are stored in the open such equipment and supplies shall be screened from adjacent lots by buffers or screens which reduce the visual and auditory impact of the equipment and supplies on adjacent properties.
 - c) Wholesale sales and storage
 - d) Accessory buildings and uses:
 - 1) A dwelling unit of an owner, operator, or caretaker of a principle use when located on the same premises, and
 - 2) Temporary buildings necessary for construction work on premises, such buildings to be removed upon completion or abandonment of construction work.

- c) Public utility facilities under thirty (35) feet in height provided they:
 - 1) Serve the intended area with a minimal effect on surrounding property,
 - 2) Do not degrade scenic views from a street or private property, and
 - 3) Are buffered, screened, fenced or kept within a structure.

- d) Public Utilities over thirty-five (35) feet in height provided they go through a Conditional Use Permit.

- e) Recreational Vehicle Parks provided that at a minimum:
 - 1) Have ingress and egress to a public street or highway,
 - 2) Provide connections for such trailers to water and sanitary facilities or provide for disposal of sanitary wastes,
 - 3) Be buffered and screened to reduce the impact of noise, light and visual obtrusiveness to adjoining property, and
 - 4) Provide individual lots for each vehicle no smaller than 800 square feet.
 - 5) Provide a small recreational area for all ages.
 - 6) Allow tent camping.

- f) Retail outdoor storage space or sales space, provided that such uses:
 - 1) Be adequately landscaped, screened and buffered to eliminate, as reasonably as possible, the visual impacts of stored materials on adjacent properties and
 - 2) Direct all outdoor lighting on such storage areas such that no direct light is projected onto adjoining properties.

- g) Veterinary Clinics, Kennels and Animal Hospital, provided that all noises, odor, and other obtrusive impacts are buffered or screened from adjoining or neighboring property.

4.04 LOT SIZE

The minimum lot area in the C zone shall be two thousand five hundred (2,500) square feet.

4.05 HEIGHT

No structure on a lot in the C zone shall exceed forty-five (45) feet in height. A Conditional Use Permit may be permitted for structures exceeding forty-five feet.

4.06 LOT COVERAGE

Up to one hundred (100) percent of a lot may be covered, including buffers and off-street parking requirements.

SECTION 4A: MARIJUANA (CANNABIS RELATED LAND USES)

4A-1-1: PURPOSE AND INTENT

The purpose and intent of this chapter is to protect and maintain the public health, safety, and welfare of the city's citizens, and to mitigate potential adverse impacts by regulating the siting and operation of any structure, activity, or land use related to the production, processing, or retailing of marijuana. The city intends this chapter to establish an effective regulatory framework including robust controls and procedures on paper and in practice.

4A-1-2: AUTHORITY

Pursuant to Washington State Constitution Article XI, Section 11, the City of Toledo asserts its constitutional authority to make and impose land use regulations, and to enforce within its limits such police, sanitary, and other regulations as are not unreasonable or in conflict with general laws. In addition, since the State of Washington has neither explicitly nor implicitly preempted the city from regulating marijuana-related land uses, the city exerts its authority to do so. Moreover, these land uses have only recently been made legal in the state, and remain illegal in most other states and under federal law, and their former and continuing illegal status may make them operate in a manner substantially different than other land uses whose status has long been legal. For these reasons, the city is both authorized and compelled to regulate marijuana-related land uses.

4A-1-3: DEFINITIONS

For purposes of this chapter, the following definitions apply:

CANNABIS: All parts of the plant cannabis, whether growing or not, except as noted below; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term "cannabis" includes cannabis products and useable cannabis. In this code, interchangeable with "marijuana".

CANNABIS, EXCLUSIONS: Herein "cannabis" does not include the mature stalks of the plant or fiber produced from the stalks, and any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks - except the resin extracted therefrom - fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

CANNABIS GARDEN: The place where cannabis/marijuana is grown, whether by an individual, an entity, or by a collective.

CANNABIS PRODUCTS: Products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths ($3/10^{\text{ths}}$) of one percent (1%), and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include "useable cannabis" as defined herein. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this zoning ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

CANNABIS, USEABLE: Dried (containing less than fifteen percent (15%) moisture content by weight) flowers of the cannabis plant having a THC concentration greater than three-tenths ($3/10^{\text{ths}}$) of one percent (1%). Useable cannabis excludes stems, stalks, leaves, seeds, and roots. The term useable cannabis does not include

"cannabis products" as defined herein.

COLLECTIVE MEDICAL MARIJUANA GARDEN: Those gardens authorized under RCW 69.51A.085, which allows qualifying patients to produce, process, transport, and deliver cannabis for medical use subject to all of the following specific conditions:

1. No more than ten qualifying patients may participate in a single collective garden at any time;
2. A collective garden may contain no more than fifteen plants per patient up to a maximum of forty-five total plants;
3. A collective garden may contain no more than twenty-four ounces of usable cannabis per qualifying patient up to a maximum of seventy-two total ounces of usable cannabis;
4. A copy of each qualifying patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the patient's proof of identity, must be available at all times of the premises of the collective garden; and
5. No usable cannabis from the collective garden may be delivered to anyone other than one of the qualifying patients participating in the collective garden.

CONTROLLED SUBSTANCES ACT (CSA): Federal law 21 United States Code (U.S.C.) making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner specifically authorized by the CSA. Marijuana is classified in the CSA as a Schedule I drug.

CULTIVATION: Planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof. For medical marijuana only, combines the terms "production" and "processing" as they are used by the WSLCB to describe recreational marijuana practices.

DAYCARE, CHILD: Provision of supplemental parental care and supervision

1. For a non-related child or children,
2. on a regular basis,
3. for less than 24 hours a day, and
4. Under license by the Washington State Department of Social and Health Services.

The term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocated child care by a group of parents in their respective homes.

DESIGNATED PROVIDER: A person who:

1. Is eighteen years of age or older;
2. Has been designated in a document signed and dated by a qualifying patient to serve as a designated provider under this ordinance and RCW 69.15A;
3. Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as a designated provider;
4. Is in compliance with the terms and conditions set forth in RCW 69.15A.040.

A qualifying patient may be the designated provider for one other qualifying patient (and only one other) at a time and be in possession of both patients' cannabis at the same time.

INDOORS: Located within, a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City of Toledo, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached.

LAND USES, SENSITIVE: A land use to be protected by distance and/or other means from the potential and actual impacts of a marijuana-related land use. For purposes of this chapter, the following definitions are considered sensitive land uses:

CATEGORY A:

Playground: A public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, or federal government.

School: An institution of learning for minors, whether public or private, offering regular course of instruction required by the Washington Education Code, or any child or day care facility. This definition includes, but is not limited to, elementary school, middle or junior high school, senior high school, or any special institution of education; it does not include a vocational or professional institution of higher learning, including a community or junior college, college or university.

School, Elementary: A school for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

School, Secondary: a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington state superintendent of public instruction.

CATEGORY B:

Arcade, Game: An entertainment venue featuring primarily video games, simulators, and/or other amusement devices from where persons under twenty-one years of age are not restricted. Subset of Amusement.

Amusement: An entertainment venue catering to families and/or to children. Examples include and are not limited to game arcades not restricted to those over 21 years of age, movie theaters, miniature golf courses, horse ride rentals, go-cart tracks, and skateboard parks.

Child Care Center: An entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning.

Church: A property, structure, leased portion of a structure, or facility used primarily for religious worship and related religious activities.

Day Care Facility, Child: A building or structure in which an agency, person, or persons regularly provide care for a group of children for periods of less than 24 hours a day. Child day care facilities include family day care homes, out-of-home child mini-day care centers, and child day care centers regulated by the Washington State Department of Social and Health Services, as presently defined and hereafter amended (RCW 74.15, WAC 388-73-422).

Group Home, Juvenile: A facility providing sheltered care for those with special needs and who are under twenty one (21) years of age.

Library: An organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

Park, Public: An area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Does not include trails.

Recreation Center or Facility: a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, or federal government.

Residential Treatment Facility: A facility providing for treatment of drug

and alcohol dependency. Also called a rehabilitation or "rehab" center.

Transit Center, Public: A facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

Youth-Oriented Facility: Elementary school, middle school, high school, Public Park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. Does not include a daycare or preschool facility.

LEGAL PARCEL: A parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

MARIJUANA: See "cannabis".

MARIJUANA FACILITY: A place where an entity licensed by the WSLCB may participate in the recreational marijuana industry. Following are the main three types of recreational marijuana facilities licensed by the WSLCB.

Marijuana Production Facility: A place where an entity licensed by the WSLCB can plant, grow, and harvest marijuana for sale at wholesale to a licensed marijuana processor.

Marijuana Processing Facility: A place where an entity licensed by the WSLCB may process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to a licensed marijuana retailer.

Marijuana Retail Facility: A place where an entity licensed by the WSLCB may sell only usable marijuana, marijuana-infused products, and marijuana paraphernalia at retail to persons twenty-one years of age and older.

MARIJUANA, MEDICAL (OR MEDICINAL) USE: Production, processing, possession, or administration of marijuana for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness subject to the requirements and limitations of those of RCW 69.51A, Medical Cannabis.

MARIJUANA, RECREATIONAL USE: Production, processing, possession, or

retailing of marijuana for non-medical purposes subject to the requirements and limitations of those of WAC 314-55, Marijuana Licenses, Application Process, Requirements, and Reporting.

OUTDOORS: Any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

PERSON: An individual or an entity,

PERSONALLY IDENTIFIABLE INFORMATION: Information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

PLANT: An organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

PROCESS: To handle or prepare cannabis for use by a consumer.

PRODUCE: To plant, grow, or harvest cannabis.

PUBLIC PLACE: Includes streets, alleys, trails and sidewalks; buildings and grounds used for school purposes; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; buses and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

QUALIFYING PATIENT: A person who:

1. Is a patient of a health care professional;
2. Has been diagnosed by his or her health care professional as having a terminal or debilitating medical conditions;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by his or her health care professional about the risks and

- benefits of the medical use of cannabis; and
5. Has been advised by his or her health care professional that he or she may benefit from the medical use of cannabis; and
 6. Is otherwise in compliance with the terms and conditions established in chapter 69.51A RCW.

The term "qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this ordinance and RCW 69.51A are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

RESIDENCE: A person's address where he or she physically resides and maintains his or her abode.

TERMINAL OR DEBILITATING MEDICAL CONDITION:

1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
2. Intractable pain, limited for the purpose of this code to mean pain unrelieved by standard medical treatments and medications; or
3. Glaucoma, either acute or chronic, limited for purposes of this code chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or
4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasm, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
7. Any other medical condition identified as terminal or debilitating by the Washington State Medical Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery.

THC CONCENTRATION: Percent of tetrahydrocannabinol content per weight of useable cannabis or cannabis product.

UNIFORM CONTROLLED SUBSTANCES ACT (USCA): Washington state law Revised Code of Washington (RCW) 69.50 making it unlawful to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance. Marijuana is classified in the USCA as a Schedule I drug.

VALID DOCUMENTATION:

1. A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis; and
2. Proof of identity such as Washington State driver's license or identification card, as defined in RCW 46.20.035.
3. In the case of a designated provider, the signed and dated document valid for a maximum of one year from the date of signature executed by the qualifying patient who has designated the provider.

WASHINGTON STATE LIQUOR CANNABIS BOARDS (WSLCB): The state agency that promulgates, enacts, and enforces administrative rules regulating the production, processing, and retailing of recreational marijuana at WAS 314-55. This agency grants licenses for recreational marijuana land uses after consultation with the local jurisdiction, and also ensures that licensees operate within the limits of their permits.

A-1-4: NO CITY LIABILITY-INDEMNIFICATION

Any person or entity operating a marijuana-related land use in the City of Toledo agrees to the following:

- A. By accepting a permit issued pursuant to this chapter, the license waives and releases the City, its officers, elected officials, employees, volunteers, and agents from any liability of any kind that results from any arrest or prosecution of business owners, operators, employees, clients or customers for a violations of federal, state or local laws and regulations.
- B. By accepting a permit issued pursuant to this chapter, the licensees agrees to indemnify, defend and hold harmless the City, its officers, elected officials, employees, volunteers, and agents, insurers and self-insurance pool against all liability, claims and demands on account of any injury, loss or damage, including without limitation, claims arising from bodily injury, loss or damage, disease, death, property loss or damage, or any other loss of any kind whatsoever arising out of or in a manner that is subject of the license.
- C. Insurance requirements set forth in WAC 314-55-085 shall be met. The licensee must have a separate policy that covers the City to the same extent as the policy that covers the State of Washington. This liability insurance shall be primary to any insurance that the City may possess and this liability insurance policy shall state this requirement.
- D. Licenses shall be reviewed annually. If an insurance or license deficiency exists, the City may suspend or rescind City-issued permits.

4A-1-5: LIMITATIONS

The following limitations apply:

- A. Nothing in this title is intended to be, nor should be considered to be, an allowance for more activity pertaining to the production, processing, and selling of marijuana than is permitted by State law and by rules and regulations of the WSLCB.
- B. Nothing in this title is intended to be, nor should be considered to be, a limitation on the City from protesting the granting of a permit or renewal of a permit by the WSLCB.
- C. Nothing in this title shall be construed to supersede Washington State Law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by Chapter 69.51A RCW or Chapter 69.50 RCW. Nothing in this title shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance.

MARIJUANA-RELATED LAND USES

Article 4A. Licensed Recreational Marijuana-Related Land Uses

4A-1A-1: INTENT

The intent of this article is to provide a system of strong and effective robust land use controls applicable to any site, structure, activity, or use related to the production, processing, or retailing of marijuana to be used recreationally and licensed in accordance with WAC 314-55 and not otherwise prohibited under RCW 69.50. This framework is intended to address local issues and preferences while ensuring the public's health, safety, and welfare and also while complying with WAC 314-55, which establishes a statewide regulatory scheme for the production, processing, and retailing of recreational marijuana.

4A-1A-2: PREREQUISITES:

- A. State License a Pre-requisite to Local Consideration. No recreational marijuana land use shall be considered by the City to be established in the City of Toledo without first being legally licensed by the WSLCB.
- B. Applications and Licenses a Pre-requisite to Establishing a Recreational Marijuana Related Land Use. Prior to establishing a recreational marijuana land use, the state licensee must do the following:
 - 1. Apply online to and receive a business license. The application must clearly state it is for a recreational marijuana business.
 - 2. On forms made available by the city, make application for and receive a

Marijuana Operation License.

- a) The applicant must pay an application fee of \$400.00
 - b) The city will evaluate the proposed land use for land use, zoning, and code compliance.
- C. City Inspections a Pre-requisite to Establishing a Recreational Marijuana-Related Land Use. Prior to the city issuing a Marijuana Operation License, the following must occur:
1. The applicant must make the property available for inspections by city personnel.
 2. An inspection by the City of Toledo or his/her designee. The inspections must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result. The fee for the initial inspection shall be \$250.00. The fee for each subsequent inspection required to address negative findings shall be \$250.00.
 3. An inspection by the Fire Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result. The fee for the initial inspection shall be \$250.00. The fee for each subsequent inspection required to address negative findings shall be \$250.00.
 4. An inspection by the Police Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result. The fee for the initial inspection shall be \$250.00. The fee for each subsequent inspection required to address negative findings shall be \$250.00.

4A-1A-3: LOCATION

A legally licensed and inspection-approved recreational marijuana land use may be sited in Long Beach subject to the following.

- A. **Sensitive Land Uses, Category A.** No marijuana-related land use shall be established on a property located within one thousand (1,000) feet of the nearest property line of any one or more sensitive land use. The distance shall be measured in the most direct route over or across public walks, streets, or other public passageways between the property lines of the proposed business location and the sensitive land use that are nearest one another. The City shall rely upon its Sensitive Land Uses map, adopted by reference herein and as might be amended, to determine whether a proposed recreational marijuana-related land use is located within one thousand (1,000) feet of a sensitive land use.
1. Playground
 2. School, elementary school, secondary school.

B. Sensitive Land Uses, Category B. No marijuana-related land use shall be established on a property located within one hundred (100) feet of the nearest property line of any one or more sensitive land use. The distance shall be measured in the most direct route over or across public walks, streets, or other public passageways between the property lines of the proposed business location and the sensitive land use that are nearest one another. The City shall rely upon its Sensitive Land Uses map, adopted by reference herein and as might be amended, to determine whether a proposed recreational marijuana-related land use is located within one hundred (100) feet of a sensitive land use.

1. Recreation center or facility
2. Child care center
3. Public park
4. Public transit center
5. Library
6. Game arcade
7. Amusement
8. Church
9. Child day care facility
10. Residential treatment facilities
11. Youth-oriented facilities
12. Juvenile group home

C. Existing Licensed Marijuana Retail Business. No marijuana-related land use shall be established on a property located within one thousand (1,000) feet of the nearest property line of any existing licensed marijuana retail outlet. The distance shall be measured as described in section 12-17A-3(A).

D. Marijuana Production Facility. The planting, growing, and harvesting of marijuana by a state-licensed marijuana producer for sale to a state-licensed marijuana processor shall be allowed as a conditional use in the commercial zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed production facility would be located shall be a minimum of two hundred (200) feet from the nearest property on which a residential land use is located.

E. Marijuana Processing Facility. The handling or preparing of marijuana for sale by a state licensed marijuana processor to a state-licensed marijuana retailer shall be allowed as a conditional use in the commercial zoning districts. In addition to the locational requirements of sections 12-17A-3(A) and (B), the property on which the proposed processing facility would be located shall be a minimum of two hundred (200) feet from the nearest

property on which a residential land use is located.

- F. **Marijuana Retail Facility.** The retailing of marijuana by a state-licensed marijuana retailer for use by a consumer 21 years of age or older shall be allowed as a conditional use in the commercial zoning districts. In addition to the locational requirements of sections 1217A-3(A) and (B).

4A-1A-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF OPERATION

Following are restrictions on, requirements for, and standards of operation for recreational marijuana-related land uses, including producers, processors, and retailers, located in the City of Toledo.

- A. **State License Required.** No person, business, or entity may establish or operate a recreational marijuana production, processing, or retail venture in the City of Toledo without first obtaining a license from the WSLCB. The application for each license must have first been reviewed by the City of Toledo before being granted by the WSLCB.
- B. **No Delivery Services.** No person, business, or entity may operate a recreational marijuana delivery service in the City of Toledo.
- C. **No Nonconforming Status.** Notwithstanding the provisions of Chapter 16 (Nonconforming Uses and Structures) of this code, an existing recreational marijuana land use in operation as of the effective date of this chapter shall immediately cease operations and seek legal status via the WSLCB licensing process.
- D. **City Recreational Marijuana Operations License Required.** Each state- and city-licensed recreational marijuana land use shall pay an annual marijuana operations licensing fee of \$300.00 at the beginning of each operating year.
 - 1. A recreational marijuana land use shall not operate without a city recreational marijuana operations license.
 - 2. The city will not prorate or refund recreational marijuana operations license fees.
 - 3. Failure to acquire an annual recreational marijuana operations license shall result in the recreational marijuana land use being terminated.
- E. **Annual Inspections Required:** Every year, the site shall be inspected by city personnel for structural suitability, fire safety, and security. The cost of these inspections shall be paid for via the annual recreational marijuana operations licensing fee.

- F. **Operating Standards:** The following restrictions apply to the operation of licensed recreational marijuana land uses.
1. *Odor.* The operation shall not subject occupants of neighboring parcels who are of normal sensitivity to objectionable odors.
 2. *Lighting.* All lights used shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
 3. *Noise.* Operational noise shall not exceed the noise disturbance standards as set forth in Title 10 (Health, Safety and Environment) Chapter 5 (Noise Control) of the City code. Any noise/vibration disturbance shall be abated, whether caused by loud noise or by low-frequency disturbance.
 4. *Visibility.* Marijuana or paraphernalia shall not be on display in any location visible from the public right of way, publicly traveled private roads, a public place, or neighbor's property.
 5. *Signage.* Advertising signage must comply with requirements found at WAC 314-55155, as may be amended, and may not exceed 11.11 square feet in area. Mandatory cautionary signage must comply with requirements found at WAC 314-55-086, as may be amended.
 6. *Compliance with Codes.* The licensed recreational marijuana operation shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.
 7. *Nuisance.* The licensed recreational marijuana operation shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.
 8. *Security.* Security measures at a licensed recreational marijuana land use shall include, at a minimum, the following:
 - a. A burglary alarm system that is professionally monitored and maintained in good working condition;
 - b. Exterior lighting that illuminates all entry points, but does not scatter light off-site; and
 - c. Deadbolt locks on all exterior doors.

4A-1A-5: VIOLATIONS

- A. **Failure to Comply.** Failure to comply with any restriction, requirement, or standard described herein shall result in revocation of the city recreational

marijuana operations license and termination of the recreational marijuana land use.

- B. **Nuisance.** Nothing in this chapter shall be constructed as a limitation on the city's authority to abate any violation which may exist from the otherwise legal production, processing, or retailing of recreational marijuana from any location, including from within a fully enclosed and secure building.
- C. Any violation(s) of this chapter maybe enforced as set forth in Title 14 (Enforcement Procedures) or, as applicable, the Uniform Controlled Substances Act, RCW 69.58. In addition, violations of subsections (A) and (B) of this section are deemed to be a public nuisance and may be abated by the city under procedures set forth in Title 5 (Health, Safety and Environment), Chapter 2 (Public Nuisances) of this code or state law for the abatement of public nuisances.

MARIJUANA-RELATED LAND USES Article B.

Medical Marijuana-Related Land Uses

4A-1B-1: INTENT

The intent of this article is to provide robust and effective land use controls on any site, structure, activity, or use related to the limited production, processing, or distribution of marijuana to be used medicinally and not otherwise prohibited under RCW 69.51A (Medical marijuana). This framework is intended to address local issues and preferences while ensuring the public's health, safety, and welfare and also while complying with RCW 69.50 (Uniform controlled substances act) and 69.51A, which establish regulatory schemes for the limited production, processing, and distribution of medical marijuana.

4A-1B-2: PREREQUISITES

- A. **Licenses and Inspections a Pre-requisite:** No medical marijuana land use shall be established in the City of Toledo without first obtaining the following:
 1. A medical marijuana operations license.
 2. An inspection by the City or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.
 3. An inspection by the Fire Chief or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.
 4. An inspection by the Chief of Police or his/her designee. The inspection must have no negative findings, or any negative findings must be addressed and the site re-inspected until no negative findings result.

4A-1B-3: LOCATION

Medical marijuana gardens may be sited in subject to the following:

- A. **Allowed Zones.** Medical marijuana gardens are allowed as a conditional use in the residential and commercial zones.
- B. **Outdoor Medical Marijuana Gardens Prohibited.** All medical marijuana gardens must be located indoors, in a permanent building or a greenhouse permanently affixed to the ground.
- C. **Separation:** Medical marijuana gardens shall not be located:
 - 1. On property located within five hundred (500) feet of property on which is located a school or playground or one hundred (100) feet from a youth-oriented facility, park, church, juvenile group home, or residential treatment facility, measured from nearest property line to nearest property line;
 - 2. Within twenty (20) feet of any occupied legal residential structure located on a separate legal parcel or residential accessory structure used primarily by children (a "playhouse"), measured from nearest exterior wall of the medical marijuana garden structure to nearest exterior wall of the residential or residential accessory structure;
 - 3. in a mobile home park, within twenty (20) feet of an occupied mobile home, measured from nearest exterior wall to nearest exterior wall;
 - 4. In any location where marijuana plants are clearly visible from the public right of way, publicly traveled private roads, a public place, or neighbor's property.

4A-1B-4: RESTRICTIONS ON, REQUIREMENTS AND STANDARDS OF OPERATION

Following are the restrictions on, requirements, and standards for medical marijuana gardens located in the City of Toledo, whether operated by an individual or a collective.

- A. **No Nonconforming Status.** Notwithstanding the provisions of Chapter 16 (Nonconforming Uses and Structures) of this code, an existing cannabis garden in operation as of the effective date of this chapter shall be brought into full compliance with the provisions of this chapter within one (1) year of the chapter's effective date.
- B. **City Application Required.** Prior to establishing a medical marijuana garden, the individual or collective operating the garden must make application to the City of Toledo on forms provided by the city.
 - 1. The applicant must pay an application fee of \$400.
 - 2. The proposed land use will be evaluated for land use, zoning, and code compliance.
 - 3. The applicant must make the property available for inspections by city personnel.

4. The structure proposed to house the land use will be inspected for structural suitability, fire safety, and security. The cost of these three inspections shall be \$250.00 each, or \$750.00. If negative findings result from an inspection and re-inspection is required, the cost of re-inspection shall be \$250.00 per inspection.
- C. **City Medical Marijuana Garden Operations License Required.** Each medical marijuana garden shall pay an annual licensing fee of \$300.00 at the beginning of each licensing year.
1. A medical marijuana garden shall not operate without a license.
 2. The city will not prorate or refund medical marijuana garden operations license fees.
 3. Failure to acquire an annual license shall result in the medical marijuana garden operation being terminated.
- D. **Annual Inspections Required.** Every year, the site shall be inspected by city personnel for structural suitability, fire safety, and security. The cost of these inspections shall be paid for via the annual medical marijuana garden operation licensing fee.
- E. **Operating Standards.** The following restrictions apply to the operation of medical marijuana gardens, whether operated by an individual or a collective.
1. *Odor.* The cultivation of marijuana shall not subject occupants of neighboring parcels who are of normal sensitivity to objectionable odors.
 2. *Lighting.* All lights used for the cultivation of marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
 3. *Noise.* The cultivation of medical marijuana shall not exceed the noise disturbance standards as set forth in Title 10 (Health, Safety and Environment) Chapter 5 (Noise Control) of the Long Beach City code. Any noise/vibration disturbance shall be abated, whether caused by loud noise or by low-frequency disturbance.
 4. *Visibility.* Medical marijuana shall not be grown or on display in any location where marijuana plants are visible from the public right of way, publicly traveled private roads, a public place, or neighbor's property.
 5. *Signage.* There shall be no exterior signage or symbology relating to the medical marijuana garden.

6. *Gas Prohibited.* The use of gas products (CO2, butane, etc.) for medical marijuana cultivation is prohibited. If propane is the main source of heat when a medical marijuana garden is established, it may continue to be used for that purpose.
 7. *Compliance with Codes.* Every medical marijuana garden shall be in compliance with the applicable provisions of the currently adopted edition of the Washington State Building Code.
 8. *Nuisance.* A medical marijuana garden shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other adverse impacts, or be hazardous due to use or storage of materials, processes, products or waste.
 9. *Security.* Security measures at the medical marijuana garden shall include, at a minimum, the following:
 - a. a burglary alarm system that is professionally monitored and maintained in good working condition;
 - b. exterior lighting that illuminates all entry points, but does not scatter light off-site; and
 - c. Deadbolt locks on all exterior doors.
- F. **Delivery Only Among Collective Members.** No usable cannabis from a collective medical marijuana garden may be delivered to anyone other than one of the qualifying patients participating in the collective. Collective garden employees/volunteers or collective garden members may not sell any marijuana plants or usable marijuana, nor may they exchange them for items of equivalent value, other than other medical marijuana. Delivery may not occur outside Lewis County. Failure to adhere to this requirement may be prosecuted under the Uniform Controlled Substances Act, chapter 69.58 RCW.
- G. **No On-site Sale of Paraphernalia.** There shall be no on-site display or sale of paraphernalia used for the use or consumption of medical marijuana at a medical marijuana garden.
- H. **Restrictions on Allowable Quantities of Medical Marijuana.** The quantity of any medical marijuana at any single location shall conform to the following:
 1. RCW 69.5 IA.040 allows an individual qualifying patient or designated provider to cultivate medical marijuana for personal medical use within his/her private residence, as long as the qualifying patient or designated provider:
 - a. possesses no more than fifteen (15) marijuana plants;

- b. possesses no more than twenty-four (24) ounces of usable marijuana;
 - c. possesses no more marijuana product than what could reasonably be produced with no more than twenty-four (24) ounces of usable marijuana; or
 - d. Possesses a combination of usable marijuana and marijuana product that does not exceed a combination total representing possession and processing of no more than twenty-four (24) ounces of usable marijuana.
2. If a person is both a qualifying patient and a designated provider for another qualifying patient, at any one time they may possess no more than twice the amounts described in described in subsection (A) of this section, above.

4A-1B-5: VIOLATIONS:

- A. It is a violation of this chapter for any person owning, leasing, occupying or having charge or possession of any parcel of land within any incorporated area of the City of Toledo to cause or allow such parcel of land to be used for the indoor cultivation of marijuana or cannabis plants for medicinal purposes in excess of the limitations or in non-compliance with the requirements and standards set forth herein.
- B. The cultivation of more than the number of marijuana plants set forth in this chapter on one legal parcel, either indoors or outdoors, within the City, regardless of whether the persons growing the cannabis is/are a "qualified patient," or members of a "collective garden" as defined herein, is hereby prohibited.
- C. Nuisance. Nothing in this chapter shall be construed as a limitation on the city's authority to abate any violation which may exist from the cultivation of cannabis plants from any location, including from within a fully enclosed and secure building.
- D. Any violation(s) of this chapter may be enforced as set forth in Title 14 (Enforcement Procedures) or, as applicable, the Uniform Controlled Substances Act, RCW 69.58. In addition, violations of subsections (A) and (B) of this section are deemed to be a public nuisance and may be abated by the city under procedures set forth in Title 5 (Health, Safety and Environment), Chapter 2 (Public Nuisances) of this code or state law for the abatement of public nuisances.

SECTION 5: PUBLIC HEALTH, SAFETY AND WELFARE STANDARDS

5.01 AIR QUALITY STANDARDS

The emission of any air pollutants by any use shall be subject to Chapter 70.94, RCW and Chapters 173.400-401 and 173.460, WAC.

5.02 NOISE LEVEL STANDARDS.

The intensity of sounds emitted by any use to adjacent properties shall not exceed the levels stated in 173.60 and 173.62, WAC.. Quiet time will be observed from 10:00 p.m. to 6:00 a.m. weekdays and 12:00 am to 6:00 am weekends, without prior consent of City Council.

5.03 LIGHT AND GLARE STANDARDS.

Any intensive glare or light associated with a land use shall be screened to obscure the view of this glare or light from any point beyond the property line.

5.04 USE AND STORAGE OF HAZARDOUS SUBSTANCES

The use and/or storage of hazardous substances, as defined in Chapter 70.105.010(14), RCW, shall be permitted only in the C Zone. All hazardous substances shall be stored and/or transported in approved containers that prevent any leakage to the air, earth, and/or surface or ground water.

5.05 CITY PUBLIC UTILITY CONNECTION

All new development shall connect to the City of Toledo public water and sewer systems. Existing on-site waste water disposal systems shall be in conformance with Chapter 246-272, WAC.

5.06 STORM WATER

All new development shall provide for the control and management of storm water run-off in accordance with the following requirements:

- a) Prior to the granting of any building permit, the Building Official may require engineering analysis on a site to determine if the filling of property will cause flooding to adjacent properties.
- b) The Building Official may require new development to install adequate culverts or other drainage facilities as a condition of construction.
- c) Any new development with more than 10,000 square feet of impervious coverage shall minimize run-off volume and velocity by retaining storm water on site so that it can be evaporated, absorbed, and/or released at a rate that does not exceed the capacity of downstream drainage ways to accommodate the flow.

5.07 EROSION AND SEDIMENTATION CONTROL

All new development shall minimize erosion and sedimentation caused by storm water run-off through the following measures as deemed acceptable by the Building Official:

- a) Only the minimum removal of vegetative cover, particularly trees, necessary for building placement or access, shall be permitted.
- b) Temporary measures for controlling erosion and sedimentation during construction, such as berms or holding ponds, especially on slopes ten (10) percent or greater, shall be required until permanent vegetative cover is established.
- c) All exposed areas shall be planted in permanent cover as soon as possible after construction.

SECTION 6: TRAFFIC, PARKING, AND LOADING

6.01 CLEAR VISION AREA

A clear vision area shall be maintained of at least fifteen (15) feet parallel with all streets from the corners of all property at the intersection to two streets. A clear vision area shall contain no sight-obscuring structures or planting exceeding forty eight (48) inches in height, except for trees with branches and foliage removed to a height of eight (8) feet above the ground.

6.02 ACCESS TO LOT

- a) All future lots shall be adjacent to a public street.
- b) All buildings shall be located on the lot in such a way as to provide safe and convenient access for servicing, fire protection and required off-street parking.
- c) Each lot created through the subdivision of land, shall have access to a public street.

6.03 INGRESS AND EGRESS

All ingress or egress to off street parking or a parking lot must be arranged such that no vehicle shall back onto a public street or otherwise cause or create unsafe or hazardous conditions for traffic on adjacent streets or roads.

6.04 REQUIRED PARKING

All land uses, building, or structures established after the enactment of this Code Off-street parking in conjunction with shall be provided according to the following table. No on-street parking shall be considered in fulfilling the requirement for any use.

TABLE 1. OFF-STREET PARKING REQUIREMENTS

LAND USE	NO. OF REQUIRED SPACES
Single Family Home, Duplexes, and Manufactured Homes.	2 for each dwelling unit.
Apartments	2 for each dwelling and 2 visitor spaces for every 5 dwelling units.
Food stores, markets, and shopping centers having more than 2,000 square feet of gross floor area of the building.	1 for each 200 square feet of gross floor area of the building with public access.
Motels and Bed and Breakfast establishments.	1 for each rentable room.
Residential care facilities.	1 for each 5 regular beds, plus 1 for each employee.
Public assembly facilities.	1 for each three seats
Business offices and medical clinics.	1 for each 250 square feet of gross floor area.
All other general commercial	1 for each 100 square feet of interior gross floor space with public access.
Manufacturing	1 for each employee.

6.05 DESIGN OF SPACES AND AREAS.

- a) All parking areas, except those serving single family, manufactured homes, or duplex units, shall provide for the turning, maneuvering and parking of vehicles on the lot.
- b) All parking spaces shall be designed to accommodate automobiles at least eight (8) feet in width and nineteen (19) feet in length; provided, however, that up to thirty (30) percent of all required parking spaces may be designed for compact cars no less than seven and one-half (7½) feet in width and fifteen (15) feet in length.

6.06 PARKING SPACE ACCESS TO PUBLIC STREET

Each required parking space shall be of usable shape and accessible from a public street. Where access drives are necessary, they shall be no less than fifteen (15) feet in width for nonresidential and multi-family residential developments and no less than nine (9) feet for single family and duplex dwelling units.

6.07 GRADING AND SURFACING STANDARDS

All required off-street parking areas serving fewer than ten (10) vehicles shall be at least graded and graveled to the City's approval. Off-street parking areas serving ten (10) or more vehicles shall be surfaced with either asphalt or other suitable all weather material and shall be clearly striped to facilitate orderly movement and parking.

6.08 COMMERCIAL AND LIGHT INDUSTRY SCREENING STANDARDS

- a) Commercial or light industrial parking areas shall be screened from adjacent residential land uses by means of sight obscuring landscape, screens, walls or fences, which shall meet the following standards:
- b) Sight obscuring screening shall be not less than five (5) feet in height.

6.09 LOADING AND SERVICING REQUIREMENTS

Any business requiring service vehicles for shipments or deliveries shall have an off-street loading space with access to a public street. The size of the space shall be large enough to accommodate all servicing vehicles. No servicing vehicle shall extend into a public street when using the loading space.

6.10 COMMERCIAL AND LIGHT INDUSTRIAL USES GENERATING GREATER THAN 25 VEHICLE TRIPS PER DAY.

Commercial and light-manufacturing uses requiring larger land areas or capable of generating height traffic volumes of greater than twenty five (25) auto trips per day, including auto service stations, car lots, vehicle equipment sales lots, large retail outlets or similar type uses are often incompatible with primary commercial and/or residential uses and shall be located on a designated arterial street to lessen the impact on local and collector city public streets. Access shall be designed to provide ingress and egress on arterial streets.

6.11 COOPERATIVE PARKING FACILITY

Two (2) or more uses may join to develop a cooperative parking facility.

6.12 PARKING RESTRICTIONS FOR RECREATIONAL VEHICLES AND BOATS.

- a) No recreational vehicle, boat, boat trailer or similar equipment shall be parked within the public right-of-way of any lot in the R zone for a period of longer than thirty six (36) consecutive hours; provided that, one recreational vehicle, boat trailer or similar equipment belonging to visitors to a residence may be parked within its required front yard setback for a period of up to fourteen (14) days, and provided further that one such visit shall not be followed by another at the same residence for a period of at least thirty (30)days.
- b) Except as provided in the preceding provision, a recreational vehicle shall not be used for living, sleeping or housekeeping purposes when parked on a public street or any portion of a residential lot.

SECTION 7: AESTHETIC STANDARDS

7.01 BUFFERS AND SCREENS

Buffers and screens may be required by the City's appropriate permit granting authority to reduce impacts created by light, glare, smell, and noise on adjacent and area properties.

- a) The width of buffers or screens may be adjusted to account for natural features, volumes, proposed setback in design or other factors. The general rule is that the more intensive the proposed use and its potential for adverse impacts on adjacent or nearby properties, the larger the buffer or screen that will be required.
- b) The height and width of all screens shall be sufficient to ensure that the impacts of the proposed use are mitigated.

7.02 OUTDOOR STORAGE

Outdoor storage is permitted on all residential lots, provided that:

- a) Unlicensed boats and vehicles shall be restricted to the rear yard area and screened from public view in accordance with Section 7.01(b).
- b) Building materials and equipment not being used for current building activities allowed by building permit shall be restricted to the rear yard area and screened from public view in accordance with Section 7.01(b).
- c) No item stored shall create a fire, health, or safety hazard.

7.03 PROHIBITED SIGNS

- a) Signs that interfere with the view of traffic signs, signals, or devices, approaching or merging traffic, and/or pedestrian and vehicular traffic.
- b) Signs that cast intense light or glare to adjacent and area properties and public right-of-ways.
- c) Signs determined by the Building Official to be structurally unsafe.
- d) Signs for businesses or activities that are discontinued for more than 30 days.

7.04 POLITICAL CAMPAIGN SIGNS

Political campaign signs may be displayed thirty (30) days prior to an election and must be removed no later than seven (7) days after the election. A sign(s) of a successful candidate in a primary election may remain until the final election. The candidate for which a sign is displayed is responsible for its removal.

SECTION 8: VARIANCE

8.01 VARIANCE

- a) A variance is used to provide a property owner relief when a strict application of the provisions in Chapter II would impose unusual practical difficulties or unnecessary physical hardship on the development of a permitted use. Practical difficulties and unnecessary hardship include:
 - 1) The size shape, and dimension of a site;
 - 2) The location of any existing structures on a site or on adjacent property; and,
 - 3) any geographic or topographic condition on the site or in the immediate vicinity of the site.

- b) A variance cannot be used to allow a non-permitted use to locate within the Residential or the Commercial Zones.

8.02 CRITERIA FOR GRANTING A VARIANCE

No application for a variance shall be granted unless the City Council finds:

- a) The variance does not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and district in which the property is located;

- b) The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the property, to provide it with rights and privileges permitted to other properties in the vicinity and district in which the subject property is located; and,

- c) The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and district which the property is located.

8.03 CONDITIONS

In granting any Variance Permit, the City Council may attach any conditions to the permit deemed necessary to mitigate any possible adverse impacts created by the proposed use.

8.04 VARIANCE PERMIT REQUIRED

No use shall be allowed to vary from the Provisions of this Code until a Variance Permit has been received by the applicant as specified in Chapter V, Section 15.

CHAPTER III - LAND SUBDIVISION

SECTION 9: GENERAL PROVISIONS FOR LAND SUBDIVISION

9.01 PURPOSE

The purpose of this Chapter is to establish uniform procedures for dividing land into lots, tracts, parcels, sites or divisions, with public dedications, for the purpose of sale, lease, or transfer of ownership to supplement the requirements of Chapter 58.17, RCW.

9.02 APPLICATION.

- a) The regulations contained herein shall apply to the subdivision of any lot, parcel or tract of land or tracts, or other division of land, whether immediate or future and including the resubdivision or replatting of land or lots, except as provided in Section 9.03.
- b) The regulations shall apply in every situation where there is a dedication of streets, alleys, easements or land for public use.

9.03 EXEMPTIONS.

- a) Cemeteries and other burial plots used for that purpose.
- b) Divisions of land into lots or tract each of which is one-one hundred twenty eight of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land.
- c) Divisions made by testamentary provision or the laws of decent.
- d) A division made for the purpose of alteration by adjusting a boundary line between platted or unplatted lots or both, which results in no more lots than those existing prior to the adjustment.
- e) A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including, but not necessarily limited to, antenna arrays, transmission cables, equipment shelters, and support structures; and

- f) A division of land into lots or tracts of less than three acres that is recorded in accordance with chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities. For purposes of this subsection, "electric utility facilities" means unstaffed facilities, except for the presence of security personnel, that are used for or in connection with or to facilitate the transmission, distribution, sale, or furnishing of electricity including, but not limited to, electric power substations. This subsection does not exempt a division of land from the zoning and permitting laws and regulations of the city. Furthermore, this subsection only applies to electric utility facilities that will be placed into service to meet the electrical needs of a utility's existing and new customers. New customers are defined as electric service locations not already in existence as of the date that electric utility facilities subject to the provisions of this subsection are planned and constructed.

9.04 REGULATIONS MANDATORY

Any map, plat, replat or plan hereafter made of any subdivision or any part thereof lying within the territorial limits of the City of Toledo shall be presented for approval and recorded as prescribed by this Code. No such map, plat, replat or plan shall be recorded or have any validity unless and until it shall have the approval of the City Council and such other approval as required by these regulations.

9.05 APPROVAL

No subdivision of land shall be allowed in the City of Toledo unless it has been approved by the City Council as provided in Chapter V Part 17.

9.06 COMPLIANCE WITH LAND DEVELOPMENT CODE

Every subdivision of land shall comply with this Land Development Code, all city ordinances, and Chapter 58.17, RCW.

9.07 DEDICATIONS AND ENDORSEMENTS

- a) If the plat is subject to dedication, a certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, individual or individuals, religious society or societies, or to any public or private corporation, shall be shown on the plat, including a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of said road. Said certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.

- b) Any dedication, donation or grant as shown on the face of the plat shall be considered to all intents and purposes as a quit claim deed to the said donee or donees, grantee or grantees for his, her or their use for the purpose intended by the donors or grantors .
- c) A dedication of an area of less than two acres for use as a public park may include a designation of a name for the park, in honor of a deceased individual of good character.

9.08 SUBDIVISION NEXT TO HIGHWAY 505

Upon receiving a Subdivision Application for land that is located next to Highway 505, the Public Works Director shall observe and make available criteria for road access as determined by the Washington State Department of Ecology regulations which have been adopted by the City.

9.09 ALTERATION OF A SUBDIVISION

Resubdivision of any subdivision or short subdivision or any portion thereof, except as provided in Chapter 9.03 of this Code, shall follow the requirements of Chapters 58.17.215 and 64.04.175, RCW.

9.10 VACATION OF A SUBDIVISION

The vacation of any subdivision or short subdivision or any portion thereof shall follow the requirements of Chapter 58.17.212, RCW.

SECTION 10: DESIGN STANDARDS

10.01 GENERAL DESIGN STANDARDS FOR STREETS AND SIDEWALKS.

- a) The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.
- b) The location of sidewalks shall be placed in the street right-of-way on one side of the street parallel to the street; provided, however, the alignment may vary in order to preserve topographic and natural features.

10.02 MINIMUM RIGHT-OF-WAY OF STREETS AND SIDEWALK WIDTHS

- a) The widths of streets and sidewalks shall not be less than the minimums shown in Table 2.

TABLE 2. MINIMUM WIDTHS.

Street Type	Purpose	ROW Width	Pavement Width	Sidewalk Width
Arterial	Main feeder streets. Signals where needed, stop signs on side streets. Provides two 12' traffic lanes and two on-street parking lanes.	64 feet	44 feet	5 feet
Collector	Main interior streets. Stop signs on side streets. Provides two traffic lanes and parking on both sides of street.	50 feet	36 feet	5 feet
Local	Local service side streets; non-conducive to through traffic. Provides one freely moving lane where parking occurs on both sides.	30 feet	20 feet	5 feet
Cul-de-sac (8 to 20 dwellings)	Street open only at one end with provision for turnaround at other end. Provides parking on one side with alternating vehicular traffic flow.	30 feet	20 feet	5 feet
Cul-de-sac (5 to 7 dwellings)	Street open only at one end with provision for turnaround at other end. Provides access for the largest truck if cars are parked properly on one side.	28 feet	18 feet	
Alley	Optional local access only to property.	20 feet		

b) A cul-de-sac shall not be more than five hundred feet (500') long.

10.03 STREET AND SIDEWALKS ALIGNMENT

- a) All streets other than cul-de-sac's shall, as far as practical, be in alignment with existing streets by continuations of the center lines thereof.
- b) Streets shall intersect on another at an angle as near to a right angle as practical and no intersection of streets at angles less than sixty (60) degrees will be approved unless necessitated by topographic conditions and approved by the City Engineer. When intersections of other than ninety (90) degrees are unavoidable, the right-of way lines along the acute angle shall have a minimum radius of twenty five (25) feet.

10.04 STREET AND SIDEWALKS GRADES AND CURVES

- a) Grades shall not exceed five percent (5%) on arterial streets, ten percent (10%) on collector streets or fifteen (15%) on any other street. In flat areas, allowance shall be made for finished street grades having a minimum slope of three-tenths of one percent (0.3%). Grades in excess of fifteen percent (15%) may be allowed if the street is to be paved.

- b) Center line radii of curves shall be not less than five hundred feet (500') on arterial streets, two hundred fifty feet (250') on collector streets or one hundred fifty feet (150') on other streets.
- c) Driveway grades shall be 12%.

10.05 FUTURE EXTENSION OF STREETS

Where a subdivision adjoins unplatted acreage, streets which in the opinion of the City should be continued in the event of future subdivision of the unplatted acreage will be required to be provided through to the boundary lines of the tract. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

10.06 BICYCLE LANES.

- a) Bicycle lanes shall be four feet (4') wide to allow safe passage of bicycles and motorists.
- b) Bicycle-safe drainage grates shall be used in the construction of all residential streets.

10.07 STREETS: BLOCK

A block shall not exceed one thousand three hundred twenty feet (1,320') in length, except those blocks adjacent to arterial streets or unless the previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is one thousand eight hundred feet (1,800').

10.08 LOTS: SIZE, SHAPE, WIDTH

- a) Lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- b) Lot size shall conform with all requirements of Chapter II of this Code.
- c) The side lines of lots shall run at right angles to the street upon which the lots face, as far as practicable, or on curved streets they shall be radial to the curve.

10.09 UTILITY EASEMENTS

Utility easements for electric lines or other public utilities may be required.

10.10 STORM WATER EASEMENTS

Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming

substantially with the lines of such water course, and such further width as will be adequate for the purpose. Streets parallel to major water courses may be required.

10.11 MINI-PARK STANDARDS.

- a) Mini-parks shall be not less than 2,000 square feet or more than 30,000 square feet.
- b) Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by the persons in the surrounding neighborhood it is designed to serve.
- c) At least fifteen (15) percent of the mini-park must be equipped with imaginative play apparatus oriented to younger children and seating accommodation for parents.
- d) Mini parks shall be landscaped and provided with sufficient natural or man-made screening to minimize any negative impacts upon adjacent residences.
- e) Provisions for maintenance of the mini park shall be required.

10.12 RESIDENTIAL CLUSTER SUBDIVISIONS

- a) A residential cluster subdivision shall provide flexibility for a subdivider to decrease lot size with the remaining land area devoted to open space, recreation, preservation of environmentally sensitive areas, and/or agriculture without increasing overall density.
- b) Minimum land area required for a cluster subdivision is one acre.
- c) Each lot in a cluster subdivisions shall be of sufficient size and dimensions that it can support the structure proposed to be located on the lot and be consistent with applicable requirements for public health and safety.
- d) Cluster subdivisions shall meet the following standards for open space:
 - 1) Every cluster subdivision shall be developed so that at least five (5%) percent of the total land area remains permanently in open space;
 - 2) The land saved by creating lots smaller than the minimum lot area must be set aside as natural area or for recreation and not dedicated to the public;
 - 3) Saved land may not be devoted to use as roadway, parking area, or sidewalks;
- e) All lands dedicated for open space purposes shall remain under ownership of the developer and/or a homeowners association and contain covenants and deed restriction approved by the city attorney to assure that:

- 1) The open space will not be subdivided in the future;
 - 2) The use of the open space will continue in perpetuity for the purpose specific; and,
 - 3) Provisions are made for the maintenance of the open space.
- f) The subdivider shall file a declaration of covenants and restrictions that will govern the homeowners' association as part of the preliminary plat application to include the following at a minimum:
- 1) The home owners' association must be established before the homes are sold;
 - 2) Membership must be mandatory for each home buyer and any successive buyer;
 - 3) The open space restrictions must be permanent, not just for a period of years;
 - 4) The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
 - 5) Homeowners must pay their pro-rata share of the cost; the assessment levied by the association can become a lien on the property if allowed in the master deed establishing the home owners association; and,
 - 6) The association must be able to adjust the assessment to meet changed needs.

SECTION 11: SUBDIVISIONS: REQUIRED IMPROVEMENTS

11.01 IMPROVEMENTS, GENERAL REQUIREMENTS.

- a) All required improvements shall be installed at the expense of the subdivider in accordance with City requirements.
- b) Any other public improvements installed at the option of the subdivider shall conform to City requirements.
- c) Where existing City utilities are not of sufficient capacity to supply the demands of the subdivision, the developer shall install any and all additional mains, trunk lines or connections of sufficient capacity and standard to serve the subdivision. The developer is free to make any arrangements with intervening property owners in order to share the additional expense. All such additional installations are subject to inspection by the proper authorities.

11.02 STREETS

- a) All streets within the subdivision and streets adjacent but partially within the subdivision shall be improved.

- b) All streets shall be constructed to City standards for permanent streets. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways as approved the City Engineer.
- c) Street name signs shall be installed at all intersection according to city standards.
- d) Street lights shall be installed according to City standards.
- f) Bicycle lanes shall be required on arterial streets.
- f) Curb cuts and driveway installations shall be according to City standards.

11.03 **SIDEWALKS**

- a) Sidewalks shall be installed in all conventional subdivisions.
- b) All sidewalks constructed within the subdivision shall be to City standards and at grades established by the City Engineer.
- c) Pedestrian paths may be substituted for sidewalks in cluster subdivisions if they meet all requirements for public health and safety.

11.04 **SURFACE DRAINAGE.**

- a) Drainage facilities shall be provided within the subdivision, which shall be connected to drainage ways or storm sewers outside the subdivision as required by the City Engineer.
- b) Capacity, grade and material shall be as provided by the City Engineer's design. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the systems to serve such areas.

11.05 **SANITARY SEWER**

- a) Sanitary sewers shall be installed to serve the subdivision which shall be connected to existing mains.
- b) The size, slope and type of sewer pipe material shall be in accordance with plans and specifications of the City. The subdivider shall pay for the necessary inspection by the City. Design shall take into account the size of the pipe and grade elevation to allow for desirable extension beyond the subdivision.

- c) All sewers shall be designated and installed in accordance with the City's Water-Sewer Utility Code.

11.06 WATER SYSTEM

- a) Water lines and fire hydrants serving the subdivision and connecting the subdivision to City main shall be installed.
- b) Materials, size and location of water main shall be in accordance with the plans and specifications of the City. The subdivider shall pay for the necessary inspection by the City. Design shall take into account provision for extension beyond the subdivision and to adequately grid the City water system. The City will not require the subdivider to pay for the extra cost of mains over eight inches (8") in diameter.
- c) All water system shall be designated and installed in accordance with the City's Water-Sewer Utility Code.

11.07 UTILITIES

- a) All electric, telephone, gas distribution and cable television, both main and service lines, shall be placed underground within easements or dedicated public right-of-way and installed in accordance with prevailing standards and practices of the utility or other companies providing the service.
- b) Lots which abut existing easements or public right-of-way where overhead electric or telephone distribution supply lines and service connections have been installed may be supplied with electric and telephone service from those overhead lines; provided, however, the service connection from the utilities' overhead lines shall be installed underground.
- c) In the case of existing overhead utilities, should a road widening or an extension of service, or other such condition occur as a result of the subdivision and necessitate the replacement or relocation of such utilities, such replacement or relocation shall be underground.

11.08 DELAYED BENEFIT CHARGES: LATECOMER AGREEMENTS.

Whenever required improvements are extended through an undeveloped area to provide service to a newly developed area, the developer shall pay the costs of the extension and each owner of property abutting such extension shall be subject to a delayed benefit charge when he applies for a connection to the extension. Such delayed benefit charges shall be the pro rata share by front footage of the property, based on the actual costs of construction, including engineering and legal costs plus twenty-five percent (25%) for accounting and overhead. Payment of such delayed benefit charges shall exempt the property for which payment is made from any subsequent local

improvement district assessments for required improvements for the service previously provided. Delayed benefit charges and connection charges shall be paid at the time of application. Unpaid balances shall be a lien upon the property to which connection is made, superior to all other liens and encumbrances except those for general taxes and special assessments. The liens may be foreclosed in the same manner provided by law for the foreclosure of delinquent local improvement district assessment liens. A notice of delayed benefit charges, including the lands affected thereby, shall be recorded in the office of the Lewis County Auditor at the expense of the property owner. When the entire amount subject to assessment is paid, a certificate of payment and a release shall be executed by the City and recorded in the office of the Lewis County Auditor. The City may enter into contracts with developers of real estate for the extension of required improvements, which contracts may provide for partial reimbursement of such developers through the assessment of delayed benefit charges for a period not to exceed fifteen (15) years. Such contracts shall be approved by the City Council and recorded with the Lewis County Auditor and shall provide in part as follows:

- a) Plans and specifications for proposed extensions shall be first approved in writing by the City Engineer. The specifications shall include bonding and insurance for the builder to hold the City harmless and provide a guarantee on workmanship and materials for period of one year from the date of acceptance by the City;
- b) The developer shall secure all necessary easements of rights-of-way at no cost to the City. Such instruments shall be to the benefit of the City and shall include continuing rights for operation, maintenance, and replacement. Title to the completed improvement shall be in the name of the City;
- c) The amount of any reimbursement shall be based upon the allocation to the benefited property as determined by the City Clerk-Treasurer and shall include all engineering and legal costs which shall be included in the cost of construction; and,
- d) The City shall charge a fee in the amount established by resolution for an application for a delayed benefit charge (latecomer agreement) and for an application for a developer extension agreement.

11.09 MINI-PARKS

Mini parks shall be required in residential subdivisions of twenty (20) or more lots.

CHAPTER IV - CRITICAL AREAS PROTECTION

SECTION 12: GENERAL PROVISIONS

12.01 PURPOSE

It is not the intent of this article to deny a reasonable use of public or private property, but to assure that land development occurs in a manner that will protect critical areas: wetlands, aquifer recharge areas, geologically hazardous areas, and fish and wildlife habitat conservation areas.

12.02 COMPLIANCE WITH CRITICAL AREAS PROTECTION

All public and private land uses in the City of Toledo shall comply with the requirements of this article as a condition to any project permit application granted under the Land Development Code.

SEE TOLEDO SHORELINE MASTER PROGRAM

SECTION 13: TECHNICAL ASSESSMENTS

13.01 TECHNICAL ASSESSMENTS REQUIRED.

- a) Applications for any project permit approval or threshold decision shall indicate whether any critical area is located on or within 200 feet of the site. The Administrator or designated representative shall visit the site, and in conjunction with a review of the Comprehensive Land Use Plan, information provided by the applicant, and any other suitable information, make a determination as to whether or not sufficient information is available to evaluate the proposal. If it is determined that the information presented is not sufficient, the Administrator shall notify the applicant to provide additional assessments before the issuance of a Determination of Completeness as provided under Section 13.05 of the Land Development Code or a Threshold Decision as provided under Title 4 of the Toledo City Code.
- b) It shall be the responsibility of the applicant to provide the City with appropriate technical assessments and reports prepared by a qualified expert, if necessary, to fulfill the requirements of an application for a project permit review under Land Development Code or threshold decision under Title 4.2 of the Toledo City Code, or any other city, state or federal laws. The applicant shall pay all expenses associated with the preparation of any technical assessment required by the city. Technical assessments shall use the best science available in accordance with RCW 36.70A.172 and this Chapter IV of the Land Development Code.

13.02 WETLAND DELINEATION AND PROTECTION

- a) The City shall regulate development activities to protect wetlands. Development activities shall not diminish the capacity of wetlands to:
 - 1) Provide flood and storm water control;
 - 2) Recharge the aquifer;
 - 3) Improve surface and ground water quality by trapping sediments, removing nutrients, and providing chemical detoxification;
 - 4) Stabilize the streambeds; and
 - 5) Protect federally listed endangered and threatened species.

- b) The City adopts by reference the following maps and best available science resources for wetlands in the City of Toledo and the Urban Growth Area:
 - 1) National Wetlands Inventory Map, US Fish and Wildlife Service
 - 2) Soil Survey of Lewis County Area, Washington, USDA, 1980;
 - 3) Washington State Wetlands Identification and Delineation Manual, Washington Department of Ecology, 1997, Publication #96-94;
 - 4) Washington State Wetland Rating System for Western Washington, Washington Department of Ecology, 1993, Publication #93-74; and,
 - 5) Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals, Washington Department of Ecology, 1994, Publication #94-29.
 - 6) If the location, designation, or classification of a wetland shown on any map adopted by reference under the Toledo City Code is in conflict with the determination of any field investigation, the latter shall prevail.

- c) The City prohibits development activities in wetlands unless:
 - 1) No practical alternative exists for locating the project elsewhere; or
 - 2) The prohibition precludes any reasonable use of the property.

- d) A wetland buffer that separates a wetland boundary from a regulated use is mandatory to mitigate adverse impacts of development activities. The following standards shall apply when determining buffer widths:
 - 1) Buffer widths are measured perpendicularly from the wetland boundary;
 - 2) Buffer widths are determined according to a wetland's rating:
 - i. Category I wetlands require a buffer width of 200 feet;
 - ii. Category II wetlands require a buffer width of 100 feet;
 - iii. Category III wetlands require a buffer width of 50 feet; and,
 - iv. Category IV wetlands require a buffer width of 25 feet.
 - 3) A technical assessment prepared by a qualified expert may reduce the required buffer width if it will not adversely affect the function of the wetland or that the use of other mitigation measures achieves the same result.

- e) If an application for development activities makes it necessary to alter or eliminate a wetland, the applicant shall enhance or replace the wetland based

upon a technical assessment and mitigation plan prepared by a qualified expert. Altered wetlands shall require mitigation to ensure the same level of wetland function that existed at the time of the permit application. The replacement of eliminated wetlands shall be at a ratio of 1:1 and have an equal or greater wetland rating.

- f) A qualified expert shall prepare any wetland technical assessments required by the City. The report shall include:
 - 1) The exact location of the wetland boundary;
 - 2) An evaluation of wetland functions and values;
 - 3) An analysis of how the proposed use would or would not diminish the wetland protection standards under 13.02 a) of this ordinance; and
 - 4) Recommendations for mitigating adverse environmental impacts on wetland values and functions during construction and post-construction.

13.03 GEOLOGICALLY HAZARDOUS AREAS DELINEATION AND PROTECTION

- a) The City shall regulate development activities in geologically hazardous area to protect the public's health, safety, and welfare. Development activities in geologically hazardous areas shall:
 - 1) Minimize erosion and movement of sediment;
 - 2) Preserve or replace vegetation in erosion hazard areas;
 - 3) Prevent increased surface water discharge to adjacent properties;
 - 4) Prevent decreased slope stability on adjacent properties; and,
 - 5) Design or mitigate projects in geologically hazardous areas to eliminate unsafe conditions to on- and off-site property owners.

- b) The City adopts by reference the following maps and best available science resources for geologically hazardous areas in the City of Toledo and the Urban Growth Area:
 - 1) Soil Survey of Lewis County Area, Washington, USDA, 1980;
 - 2) Geologic Map of the Mount St. Helens Quadrangle, Washington, Washington Division of Geology and Earth Resources, 1987 DGER OFR 87-4; and,
 - 3) If the location, designation, or classification of a geologically hazardous area shown on any map adopted by reference under the Toledo City Code is in conflict with the determination of any field investigation, the latter shall prevail.

- c) A qualified expert shall prepare any technical assessment required by the City for a geologically hazardous area. The report shall:

- 1) Determine the exact boundaries of all geologically hazardous areas affecting the site and the impact of the proposed development on the standards set forth under 13.03 a) of this ordinance; and,
- 2) Recommend mitigation measures to ensure compliance with the standards set forth under 13.03 a) of this ordinance or, if mitigation is not possible, recommendations for adequate buffers from the hazard or hazards to protect public health, safety, and welfare.

13.04 AQUIFER RECHARGE AREAS DELINEATION AND PROTECTION

- a) The City shall regulate development activities in aquifer recharge areas to protect groundwater quality and quantity for use as a potable water source.
- b) The City adopts by reference the following best available science resources for aquifer recharge areas in the City of Toledo and the Urban Growth Area:
 - 1) Geology and Ground-Water Resources of West-Central Lewis County, Washington, by J.M. Weigle and B.L. Foxworth, Olympia, WA Department of Conservation Division of Water Resources, 1962;
 - 2) City of Toledo Wellhead Protection Planning, November 1998;
 - 3) Wellhead Protection Program Guidance Document, Washington Department of Health, April 1995, Publication #331-018; and,
 - 4) If the location, designation, or classification of an aquifer recharge area shown on any map adopted by reference under the Toledo City Code is in conflict with the determination of any field investigation, the latter shall prevail.
- c) A qualified expert who is a licensed geologist shall prepare any technical assessment required by the City for an aquifer recharge area. The report shall include:
 - 1) A characterization of the site and its relationship to the aquifer;
 - 2) A discussion of the effects of the proposed development activities and its ability to meet the establish standards of 13.04 a) of this ordinance; and,
 - 3) Recommended mitigation measures to ensure compliance with the standards set forth under 13.04 a).

13.05 FISH AND WILDLIFE HABITAT CONSERVATION AREAS DELINEATION AND PROTECTION.

- a) The City shall regulate development activities in fish and wildlife habitat conservation areas to maintain species in suitable habitats within their natural geographic distribution and to prevent isolated subpopulations.
- b) The City adopts by reference the following maps and best available science resources for fish and wildlife habitat conservation areas in the City of Toledo:

- 1) Priority Habitat Maps, Washington Department of Fish and Wildlife
 - 2) Lower Columbia Salmon Recovery and Fish and Wildlife Subbasin Plan, Volume II – Subbasin Plan, Chapter E – Cowlitz, Coweeman, and Toutle (WRIAs 25-26), Lower Columbia Fish Recovery Board, December 15, 2004.
- c) A qualified expert shall prepare any technical assessment required by the City for development activities on parcels located within 200 feet of a fish and wildlife habitat conservation area. The technical assessment shall include:
- 1) An analysis and discussion of species or habitats known or suspected to be located within two hundred feet (200') of the site;
 - 2) Evaluation of the effects of the proposed development activities and its ability to meet the establish standards of 13.05 a) of this ordinance; and,
 - 3) Recommended mitigation measures to ensure compliance with the standards set forth under 13.05 a). In cases where a fish and wildlife habitat conservation area is on or adjacent to a development site, a minimum separation of up to fifty feet (50') or greater may be required for regulated uses if the technical assessment indicates the need for a buffer.

SECTION 14: REQUIRED IMPROVEMENTS

14.01 SURETY FOR MITIGATION IMPROVEMENTS.

- a) The City may require the applicant to submit a surety for the construction and/or maintenance of any mitigation measures required under this Chapter for a period not to exceed five (5) years from the date of substantial completion of work. The city may release the surety earlier than assigned if a technical assessment prepared by a qualified expert affirms that the mitigation measure is functioning in accordance with its design.
- b) The value of a construction surety shall be not less than one-hundred and twenty-five (125) percent of the contract cost for the mitigation improvement as estimated by the City Engineer. The value of a maintenance surety shall be not less than fifteen (15) percent of the total value of the mitigation improvement as estimated by the City Engineer. The surety shall meet the approval of the City Attorney.

14.02 RESPONSIBILITY FOR IMPROVEMENTS

The property owner, or his or her successors, shall be responsible for the maintenance of any mitigation measure required under this Article.

CHAPTER V - ADMINISTRATION AND ENFORCEMENT

SECTION 15: GENERAL PROVISIONS FOR CODE ADMINISTRATION

15.01 PURPOSE

The purpose of this Chapter is to insure that all responsible officials have accurate and sufficient information to review applications for building permits, variance permits, conditional use permits, subdivisions, short subdivisions and amendments to this Code; identify the scope and procedures for land development review; and provide for Code amendment and enforcement.

15.02 PUBLIC NOTICE

- a) The City shall require public notice for all land development permit applications, except as provided in Section 16.06 (c), as follows:
 - 1) A waterproof sign board posted on the site in a conspicuous place and visible to the public which states, in a minimum of two (2) inch high letters, the type of permit and the date time and place of the public hearing;
 - 2) A copy of the Notice of Application mailed to owners of property within a radius of three hundred (300) feet of the property proposed for development, as determined by the records of the Lewis County Assessor; agencies of jurisdiction; and other people who the City Clerk-Treasurer believes may be affected by the proposed permits or who request such notice in writing; and
 - 3) Publication of the Notice of Application in a newspaper of general circulation in the areas where the proposal is located.
- b) The applicant shall be responsible for the cost of public notice requirements for all applications.
- c) Public notice of regarding amendment to this Code shall be in accordance with RCW 35A.63.070.

15.03 NOTICE OF DECISION

In making an order, requirement, recommendation, determination or decision in the administration of this Code, the City shall provide to the applicant and to any person who, prior to the rendering of the decision or submitted substantive comments on the application, a written Notice of Decision that includes the following:

- a) Findings and conclusions demonstrating a decision is supported by the record; and,

- b) Procedures for appeal, if any.

15.04 DETERMINATION OF CONSISTENCY AND CONCURRENCY

During application review, the reviewing body or official shall determine the following items:

- a) That the development regulations applicable to the application or, in the absence, of pertinent regulations the adopted comprehensive plan, are consistent by:
 - 1) Type of land use;
 - 2) Level of development, such as units per acre or other measures of density;
 - 3) Availability and adequacy of public facilities needed to serve the development; and,
 - 4) The character of development, such as development standards.
- b) That concurrency exists at the time when the impacts of development will occur. Compliance with this requirement shall be sufficient to satisfy the concurrency requirements of RCW 58.17.110, 58.17.060, and WAC 365-195-835. The city reserves the right to deny approval to any application for development if concurrency is not met.
- c) A statement as to the determination of consistency and concurrency shall be included in the Notice of Decision for the approval, approval with conditions, or disapproval of the application.

15.05 IDENTIFICATION OF DEFICIENCIES.

- a) If, during permit review, the reviewing body or official identifies deficiencies in the comprehensive plan, this Code or any other development regulations of the City of Toledo the deficiencies shall:
 - 1) Not be used as a comprehensive planning process to stop application review, and,
 - 2) Shall be recorded for possible future amendment to the comprehensive plan and/or land development regulations.
- b) The City Clerk-Treasurer shall keep a list of all deficiencies identified by the reviewing body or official for consideration on, at least, an annual basis.
- c) Applicants, citizens and staff of other agencies may recommend plan and Code amendments based on identified deficiencies, as specified in the City of Toledo Comprehensive Plan, Part III, "Review and Amendment of the Comprehensive Plan", and Chapter V, Section 18 of this Code.

15.06 OPTIONAL CONSOLIDATED PROJECT REVIEW

- a) An applicant may request a consolidated review and decision on two or more required permits which shall be conducted as a single application review and approval process.
- b) Actions which may be combined into a consolidated project review include building permits, short subdivisions, conditional use permits, variances, subdivisions and environmental review as required by this Code.
- c) Consolidated project review is subject to all the requirements of this Code and other applicable regulations.
- d) Consolidated project review requiring only administrative approvals shall be conducted jointly by the City Clerk-Treasurer and Building Official as follows:
 - 1) Individual permits will be reviewed incorporating all the requirements in Section 17 of this Code and other applicable regulations;
 - 2) The applicant will be issued a written decision to approve, approve with conditions or deny the permit action not more than thirty (30) days after the applicant has been provided with a Determination of Completeness; and
 - 3) An appeal of the decision may be made to the City Council as provided in Section 12.07 not later than 10 days after the decision is issued.
- e) Consolidated project review combining any of the following; building permit, short subdivision, conditional use permit, variance, and/or subdivision, except as specified in 12.06 (d), shall be conducted as follows:
 - 1) The Planning Commission shall hold a public meeting within thirty (30) days after the issuance of the Determination of Completeness to obtain comments from City administrators, the public and/or other agencies on the proposed permits and make a recommendation to the City Council within fourteen (14) days of the public meeting;
 - 2) The City Council shall conduct an open record predecision public hearing to consider the Planning Commission recommendation and evaluate the proposed permits(s) as required in Sections 14, 15, 16, and 17 of this Code;
 - 3) The City Council shall issue a final decision to approve, approve with conditions, or deny the consolidated application not later than thirty days (30) from the date of the public hearing; and
 - 4) Decisions may be appealed to Superior Court within ten (10) days of the issuance of the decision.

15.07 APPEAL

- a) Any person aggrieved by orders, recommendations, permits, decisions or determinations made by a City official in the administration or enforcement of this Code may appeal such decision to the City Council in writing; include the date and nature of the decision and the grounds for appeal, within ten (10) days of such decision.
- b) The City Council shall conduct a predecision open record public hearing not less than fifteen (15) nor more than thirty (30) days after receiving the appeal and issue a decision not later than seven days (7) after the close of the public hearing.

SECTION 16: APPLICATION PROCEDURES

16.01 APPLICATION FORMS

- a) Application forms for a building permit, variance permit, conditional use permit, subdivision, short subdivision and amendments to this Code are available in City Hall from the City Clerk-Treasurer.
- b) Applicants shall use application forms provided by the City.
- c) Application forms shall be submitted to the City Clerk-Treasurer for review.

16.02 APPLICANT, DESIGNATED REPRESENTATIVE

The applicant shall designate a single person or entity to receive all determinations and notices required by this Code.

16.03 COMPLETED APPLICATION

An application for a building permit, variance permit, conditional use permit, subdivision, short subdivision and/or amendments to this Code shall be considered complete when it meets the City's procedural requirements and is sufficient for processing.

16.04 PERMIT APPLICATION

- a) The City Clerk-Treasurer or designated representative shall schedule an application conference with the applicant not later than fourteen (14) days after an application has been submitted to:
 - 1) Review each application for completeness and compliance with provisions of this Code and any other applicable codes or ordinances;
 - 2) Provide an exchange of information regarding the proposed permit, development plan, and/or amendment and applicable elements of the comprehensive plan, and other development policies, regulations, and requirements; and,

- 3) Identify any additional information required to make the application complete.
- b) The City Clerk-Treasurer may invite the City Engineer or other City representatives, as deemed appropriate, to the application conference.
- c) If the applicant fails to attend the permit application conference, the City Clerk-Treasurer shall notify the applicant in accordance with Section 13.05 that the application is incomplete. The application will be considered withdrawn if the applicant fails to reschedule an application conference with the City Clerk-Treasurer within fourteen (14) days of the issuance of the Determination of Completeness.

16.05 DETERMINATION OF COMPLETENESS

- a) The City Clerk-Treasurer shall mail or provide a written determination to the applicant stating either that the permit application is complete or incomplete, and if incomplete, what is necessary to make the application complete.
- b) Within twenty-eight (28) days after receiving a project permit application, the Administrator shall mail or provide in person a written determination to the applicant stating either that the project permit application is complete or incomplete, and if incomplete, what is necessary to make the application complete.
- c) If the applicant fails to provide the additional information as requested within sixty (60) days, the application will be considered as withdrawn by the applicant.
- d) Within fourteen (14) days after the applicant has submitted additional information identified by the city as being necessary for a complete application, the city shall notify the applicant whether the application is complete or what additional information is necessary.
- e) An application shall be deemed complete if the local government issues a Determination of Completeness or does not provide a written Determination of Completeness to the applicant within twenty eight (28) days.

16.06 NOTICE OF APPLICATION

- a) Upon receipt of a completed application, the City Clerk-Treasurer will provide a Notice of Application to the public and departments and agencies with jurisdiction at least fourteen (14) days prior to the open record public hearing.

- b) Notice of Application will include:
 - 1) Date of application, date of Determination of Completeness for the application, and date of Notice of Application;
 - 2) Description of proposed permits including location, SEPA checklist if applicable, existing environmental documents that evaluate the proposed permits, and where the application and any additional studies can be reviewed;
 - 3) The identification of other permits not in the application to the extent known;
 - 4) A statement of the public comment period, which shall be not less than fourteen (14) or more than thirty (30) days; and
 - 5) The date, time, and place of the public hearing on the application.

- c) Notice of Application is not required for actions that are categorically exempt from environmental review as provided under Title 4, Chapter 2, Section 9 of the Toledo City Code.

16.07 APPLICATION TRANSMITTAL

Within three (3) working days after an application is deemed complete, the City Clerk-Treasurer shall transmit completed application forms with all appended information and the Notice of Application, if applicable, as provided below:

- a) Building permit applications shall be forwarded to the Building Official;
- b) Variance permit applications and written appeals to administrative decision shall be forwarded to the Mayor; and,
- c) Applications for conditional use permit, subdivisions and amendments to this Code shall be forwarded to the Chair of the City Planning Commission.

SECTION 17: ADMINISTRATIVE APPROVALS

17.01 BUILDING PERMIT

- a) The City Building Official shall review all building permit applications.
- b) The Building Official shall issue a building permit for any proposed structure(s) when all provisions of this Code and other laws have been satisfied.
- c) Upon receipt of a building permit, substantial construction of the structure must start within one year of the issuance of the permit. If substantial construction has not been started within one year, the applicant must submit a request for extension of the permit. No permit may receive more than one extension.

17.02 SHORT SUBDIVISIONS.

- a) Section 17.02 provides an administrative procedure for the approval of a subdivision of land into four or less lots, tracts, parcels, sites, or divisions.
- b) In accordance with RCW 58.17.060, the City Clerk-Treasurer, or designated representative, is the City's administrator who shall approve short plats, short subdivisions, alterations, or the vacation of existing short subdivisions.
- c) The City Clerk-Treasurer or designated representative shall review the application for a short subdivision, circulate copies of the proposed short plat to the City Engineer, Planning Commission and other agencies, as necessary, for their approval or disapproval as to appropriate provisions for public health, safety and general welfare.
- d) The City shall provide written notice of any application for a short subdivision that is located adjacent to the right of way of Highway 505 including legal description and a location map to the Washington State Department of Transportation. The Department shall furnish the City Clerk-Treasurer within fourteen (14) days after receiving notice of the short subdivision application a statement with any information that the department deems relevant about the effect of the proposed short subdivision upon the legal access to the state highway, the traffic carrying capacity of the state highway and the safety of the users of the state highway.
- e) The City Clerk-Treasurer shall review the completed application, comments from the City Engineer, citizens and other interested agencies, and approve or disapprove the short plat within twenty-eight (28) days of the date of a completed application provided:
 - 1) Short subdivisions with dedications are subject to all design criteria standards and requirements for improvements in Chapter III Sections 10 and 11;
 - 2) Approval of a short subdivision shall include a determination that appropriate provisions are made for public health, safety and the general welfare, the public interest will be served by the short subdivision and the short subdivision is in conformance with this Code and other applicable ordinances;
 - 3) The City Engineer shall specify any easements necessary prior to approval of the short subdivision and such easements will be agreed upon and filed prior to approval; and,
 - 4) A short subdivision granted approval pursuant to local regulations shall not be deemed approved until filed with the County Auditor by the applicant.

- f) Lots within a short subdivision shall not be resubdivided within a period of five (5) years unless the person wishing to resubdivide any such lot applies in the same manner as for a regular subdivision. Such application shall include all of the lots in the original subdivision.

17.03 BOUNDARY LINE ADJUSTMENTS

- a) The boundary lines separating two to four parcels of record may be adjusted under the provisions of this chapter; provided, that such adjustment:
 - 1) Will not result in the creation of any additional lot, tract, or parcel; and
 - 2) Will not create any lot, tract, or parcel, which contains insufficient area and dimensions to meet the requirements of the zoning code; and
 - 3) Will not adversely affect access, easements, environmentally sensitive areas, or drain fields; and
 - 4) Will be consistent with any applicable health, building, or similar regulations; and
 - 5) Will not increase the nonconforming aspects of an existing nonconforming lot.
- b) The owner of the subject property or the authorized agent(s) of the owner may apply for a lot line adjustment by submitting to the City Clerk-Treasurer a completed application for a boundary line adjustment.
- c) The City Clerk-Treasurer or designated representative shall review the application for a boundary line adjustment, circulate copies of the proposed short plat to the City Engineer, Planning Commission and other agencies, as necessary, for their approval or disapproval as to appropriate provisions for public health, safety and general welfare for; but not limited to, drainage, potable water, sanitary sewer, streets and to assure safe walking conditions for students who only walk to and from school.
- d) The City Clerk-Treasurer shall review the completed application, comments from the City Engineer, citizens and other interested agencies, and approve or disapprove the boundary line adjustment within twenty-eight (28) days of the Determination of Completeness.
- e) A boundary line adjustment granted approval pursuant to local regulations shall not be deemed approved until with the County Auditor by the applicant.

SECTION 18: VARIANCE PERMITS

18.01 PURPOSE

A variance is used to provide a property owner relief when a strict application of the zoning requirements would impose unusual practical difficulties or unnecessary physical

hardship on the applicant because special conditions or practical difficulties exist. Practical difficulties and unnecessary hardship may result from:

- a) The size, shape, or dimensions of a site or the location of existing structures thereon; or
- b) From geographic, topographic, or other considerations on the site or in the immediate vicinity.

18.02 CRITERIA FOR GRANTING A VARIANCE

No application for a variance shall be granted unless the City Council finds that the following conditions are met:

- a) The variance does not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and district in which the property is located.
- b) The variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the property to provide it with rights and privileges permitted to other properties in the vicinity and zoning district in which the subject property is located.
- c) The granting of the variance will not be materially detrimental to the public health, safety, and welfare nor injurious to property or improvements in the vicinity and zoning district which the property is located.

18.03 CONDITIONS

In granting any Variance Permit, the City Council may attach any conditions to the permit deemed necessary to mitigate any possible adverse impacts created by the proposed use. Guarantees and evidence may be required that such conditions will be and are being complied with.

18.04 VARIANCE PERMIT REQUIRED

No use shall be allowed to vary from the provisions in Chapters III, IV, and VI of this Code until a Variance Permit has been received by the applicant.

18.05 CITY COUNCIL REVIEW

- a) The City Council shall review the variance application, conduct an open record public hearing, at least fifteen (15) but not more than thirty (30) days after the Notice of Application is published, review written testimony to assure conformance with the requirements of this Code and any other city ordinances.

- b) The City Council shall issue a decision to approve, approve with conditions or deny the application for a variance permit not later than seven days (7) after the close of the public hearing. If no appeal is filed within fifteen (15) days, the City Council decision is final.

18.06 APPEAL

The decision of the City Council shall be final and conclusive within ten (10) days unless appealed to Superior Court.

18.07 EXTENSION

Substantial construction must start within six (6) months of the issuance of a variance permit. If substantial constructions has not been started within six (6) months the variance permit shall become void.

SECTION 19: CONDITIONAL USE PERMITS

19.01 PURPOSE

The purpose of the section is to establish the procedures for granting conditional use permits for uses described in Chapter II, Sections 3.03 and 4.03. Conditional use permits shall not be granted for uses not specifically listed in these sections. Proposals for additional conditional uses shall be submitted as amendments to this Code.

19.02 CONDITIONS

It is recognized that certain uses possess unique and special characteristics with respect to their location, design, size, method of operation, circulation and/or public facilities. Therefore, reasonable conditions may be imposed in connection with a conditional use permit to protect the public health, safety and welfare and the best interests of the surrounding property owners or neighborhood and to otherwise secure the purpose and requirements of this Code. Guarantees and evidence may be required to insure that such conditions will be and are complied with. In determining any conditions to be applied to the granting of a conditional use permit, the following impacts may require mitigation:

- a) Environmental hazards and pollution;
- b) Traffic hazards and congestion;
- c) Street and road capacities in the area;
- d) Location and amount of off-street parking;
- e) Visual and auditory impacts;

- f) Obtrusive visual blight; and/or
- g) Any other unusual impact associated with the proposed conditional use.

19.03 VARIATIONS

Issuance of a conditional use permit shall not imply a variation from any of the specific or general provisions of this Code

19.04 CONDITIONAL USE PERMIT REVIEW

- a) The Planning Commission shall review all applications for conditional use permits, conduct an open record predecision public hearing, review written testimony prior to making a decision to approve, approve with conditions or deny the permit application.
- b) The Planning Commission will issue a decision to approve, approve with conditions or deny the application for a conditional use permit not later than seven (7) days after the close of the open record predecision public hearing. If no appeal is filed within fifteen (15) days, the Planning Commission decision is final.

19.05 APPEAL OF PLANNING COMMISSION DECISION.

- a) Decisions for approval, denial, or approval with conditions of a conditional use permit may be appealed to the City Council by filing a written appeal of the Planning Commission decision with the City Clerk-Treasurer within ten (10) days of the Planning Commission decision.
- b) The City Council, at its next public meeting, shall set a date for a closed record appeal review of the Planning Commission decision.
- c) The City Council shall issue a final decision within thirty (30) days of the date of the closed record appeal review to approve or deny the Planning Commission decision.
- d) The decision of the City Council shall be final and conclusive within ten (10) days unless appealed to Superior Court.

19.06 TIME LIMIT

Upon receipt of a conditional use permit, substantial construction must start within six (6) months of the issuance of the permit. If substantial constructions has not been started within six (6) months the conditional use permit shall become void.

SECTION 20: SUBDIVISION

20.01 PURPOSE

The purpose of this section is to establish the procedures for approving land subdivisions into more than 4 lots, tracts, parcels, sites or divisions, with public dedications, for the purpose of sale, lease, or transfer of ownership, except as provided in Section 14.02.

20.02 TIME LIMITATIONS ON THE APPROVAL OR DISAPPROVAL OF PRELIMINARY PLATS

The city shall approve or disapprove an application for a preliminary plat within ninety days of the determination of completeness unless the applicant consents to an extension of time. However, if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety-day period shall not include the time spent preparing and circulating the environmental impact statement by the agency with jurisdiction.

20.03 CRITERIA FOR PRELIMINARY PLAT APPROVAL

The approval or disapproval of a preliminary plat shall be determined by consideration of the following factors:

- a) If appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops potable water supplies, sanitary waste, parts and recreation, playgrounds, schools and school grounds and all other relevant factors including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;
- b) Whether the public interest will be served by the subdivision; and,
- c) The subdivision meets requirements of the City of Toledo Zoning Ordinance all other existing laws.
- d) The subdivision meets a minimum of 6,000 square feet per lot.

20.04 PLANNING COMMISSION REVIEW

- a) The Planning Commission shall conduct an open record public hearing on the preliminary plat application, at least fifteen (15) but not more than thirty (30) days after the Notice of Application, and take written and public testimony on the application to assure conformance of the proposed preliminary plat to the general purposes of the comprehensive plan and to planning standards and specifications adopted by the city.

- b) The Commission shall forward a recommendation for approval, approval with conditions, or denial of the preliminary plat application to the City Council within fourteen (14) days following action by the Planning Commission.

20.05 CITY COUNCIL REVIEW.

- a) Upon receipt of the Planning Commission recommendation, the City Council, at their next public meeting, shall set a date for a public meeting to consider the recommendation of the Planning Commission on the preliminary plat.
- b) The City Council may adopt or reject the recommendation of the Planning Commission based on the record established at the predecision open record public hearing.
- c) If, after considering the matter at a public meeting, the city council deems a change in the Planning Commission's recommendation is necessary, they shall adopt their own recommendations to approve or disapprove the preliminary plat.

20.06 APPEAL

The decision of the City Council to approve or disapprove the preliminary plat shall be final and conclusive unless, the original applicant or an adverse party makes an appeal to Superior Court within fourteen (14) days after the City Council issues their decision.

20.07 TIME LIMIT

- a) Approval of the preliminary plat shall be effective for one year from the date of approval by the City Council during which time a final plat may be submitted. The City Council may extend the approval period on the written request of the applicant, provided such request is made prior to the expiration of the preliminary approval.
- b) No preliminary plat shall receive more than three (3) one year extensions of time.

20.08 FINAL PLAT APPROVAL

- a) The subdivider shall, prior to requesting final approval, carry out the improvements required in accordance with the preliminary plat as approved and all requirements of this Code; provided, however, that in lieu of the completion of the actual construction of any required improvements prior to the approval of a final plat, the City of Toledo may accept a bond in the amount and with surety and conditions satisfactory to it or other secure method, providing for and securing to the City the actual construction and installation of such improvements within a period specified by the City and expressed in the bonds.

- b) The City Clerk-Treasurer shall submit the final plat with the signature of the City Engineer on the original plat sheet to the Mayor and City Council at the next regular Council meeting after the signed final plat has been submitted.
- c) At its next regular meeting following receipt of a final plat, the City Council shall consider said plat, improvement bonding, and any other provisions regarding the public health, safety and welfare. The Council shall then vote on acceptance of the final plat and notify the subdivider of the decision in writing within ten (10) days. If approval is withheld, the final plat and all copies will be returned to the subdivider together with written findings indicating the reasons for disapproval and stipulating changes or modifications that would cause the City Council to reconsider its action.
- d) If the plat is subject to dedication, a certificate or a separate written instrument shall contain the dedication of all streets and other areas to the public, and individual or individuals, religious society or societies or to any corporation, public or private as shown of the plat and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the establish construction, drainage and maintenance of said road. Said certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat, provided:
 - 1) Any dedication, donation or grant as shown on the face of the plat shall be considered to all intents and purposes, as a quit claim deed to the said donee or donees, grantee or grantees for his, her or their use for the purpose intended by the donors or grantors; and
 - 2) A dedication of an area of less than two acres for use as a public park may include a designation of a name for the park, in honor of a deceased individual of good character.
- e) Final approval of a plat shall expire ninety-five (95) days from the date of signing of the plat by the Mayor for the City Council unless the final plat has been duly recorded with the County.

SECTION 21: AMENDMENT

21.01 AUTHORITY FOR AMENDMENT.

- a) The text to this Code may be amended whenever public necessity, convenience and general welfare requires such action.
- b) The Official Zoning Map may be amended no more frequently than once every year concurrently with the procedural requirements for amendment of

the City of Toledo Comprehensive Plan Map so that cumulative effects of proposed revisions are considered.

21.02 INITIATION OF AMENDMENT.

Amendments to the Code may be initiated by: application of one or more owners of property within the corporate boundaries of the City of Toledo; a motion of the City Council requesting the Planning Commission to set the matter for hearing; or a motion of the Planning Commission.

21.03 APPLICATION TRANSMITTAL TO THE PLANNING COMMISSION

The Chair of the Planning Commission shall distribute a copy of the completed application for an amendment to the text of the Code submitted by one or more property owners as provided in Section 17 and any other necessary information to each member of the Commission within five (5) days after the application is deemed complete. If the amendment is initiated by motion of the City Council or Planning Commission, the City Clerk-Treasurer or designated official representative shall be responsible for completing the application and providing all necessary information.

21.04 PLANNING COMMISSION REVIEW

- a) After receiving a completed application; the Planning Commission, at their next regular public meeting, shall set the time, place and date for an open record predecision public hearing to review an application to amend the text of this Code. The date for the hearing shall be within thirty (30) days of this public meeting. The public hearing will be advertised according to the statutory requirements for public notification.
- b) The Planning Commission will review the application for amendment to the text of the Code, take public testimony, and review written testimony and forward a recommendation for approval or denial of the application to the City Council within in thirty (30) days from the date of the Planning Commission public hearing.

21.05 CITY COUNCIL REVIEW

- a) The City Council at their next public meeting shall set a date for a public meeting to consider the Planning Commission recommendation and shall prepare written findings of fact and conclusions to approve, disapprove, or refer the application back to the Planning Commission.
- b) Prior to the final passage of any ordinance adopting an amendment to the Land Development Code, the Mayor shall first transmit a copy of the proposed amendment to the Washington State Department of Community, Trade, and Economic Development to allow for review and comment by state

agencies in accordance with Chapter 36.70A106(3), RCW. No action shall be taken by the City Council on the final adoption of the amendment for sixty (60) days.

21.06 APPEAL

The decision of the City Council to approve or disapprove shall be final and conclusive unless, the original applicant or an adverse party makes an appeal to Superior Court within fourteen (14) days after the City Council issues their written findings and decision.

SECTION 22: ENFORCEMENT

22.01 FILING COMPLAINTS

Whenever a violation of the Code occurs, any person may file a complaint in writing to the City Clerk-Treasurer who shall forward the complaint to the city attorney for investigation.

22.02 VIOLATIONS

The city attorney shall review the complaint and, upon finding a violation, forward it to the City of Toledo Chief of Police who shall issue a misdemeanor citation to the property owner for the violation. A copy of the citation shall be provided to the City Clerk-Treasurer.

22.03 PENALTY CLAUSE

The conviction of any property owner violating the provisions of this Code shall be a misdemeanor, and the fine for that conviction shall be not more than \$50 for each offense. Each day a violation continues shall be considered a separate offense.

22.04 COSTS

Any property owner found in violation of this Code shall pay all attorney and court costs involved in any legal action(s) related to the offense.

CHAPTER VI - DEFINITIONS

SECTION 23: DEFINITIONS

23.01 DEFINITIONS, GENERALLY

For the purpose of this Code present tense also includes the future; words or phrases used in the singular also include the plural; words in the plural also include the singular; and the word "shall" is mandatory and not permissive. The words "used or occupied" shall include within their meanings "intended", "arranged", or "designed to be used or occupied". The word "person" includes a corporation, partnership or other entity.

23.02 DEFINITION OF BASIC TERMS

Unless specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Code. An asterisk (*) indicates that a defined word is also illustrated graphically in the appendix to the Code which is on file in the office of the City Clerk-Treasurer.

Accessory: A use, building, or structure, part of a building or other structure which is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage.

Accessory dwelling unit: A dwelling unit that has been added onto, or created within, a single family home.

Adequate public facilities: "Adequate public facilities" means facilities which have the capacity to serve development without decreasing levels of service below locally established minimums.

Adult family home: The regular family abode of a person or persons who are providing care, room and board to more than one, but not more than four, adults who are not related by blood or marriage to the person or persons providing that service; except that a maximum of six (6) adults may be permitted if the Washington State Department of Social and Health Services determines that the home and provider are capable of meeting standards and qualification provided for by Chapter 70.128.010 RCW.

Alley: A public or private right of way which provides a secondary means of access to a property.

Alterations: A change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another. In buildings for business, commercial or similar uses, the

installation or realignment of partitions affecting more than one-third of a single floor area shall be considered an alteration.

Amendment: A change in the wording, context or substance of the text of this Ordinance and/or a change in the zone boundaries upon the zoning map and/or the designated open space inventory adopted hereunder.

Antenna, private: Equipment designed to transmit or receive electronic signals.

Apartment: A room or a suite of two (2) or more rooms in a multi-family dwelling comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units.

Apartment house: A structure containing three or more dwelling units.

Application forms: Forms approved as to form by the City Council used for all land development applications

Aquifer recharge area: An area with a critical recharging effect on an aquifer that is vulnerable to contamination and is used as a sole source of potable water supply. Aquifer recharge areas are those areas designated pursuant to: a) The Federal Safe Drinking Water Act, b) Chapter 90.44, 90.48 and 90,54 RCW; and c) WAC 173-100 and 173-200.

Arterial: Any street designed to carry large volumes of traffic as designated in the Transportation Element of the City of Toledo Comprehensive Plan.

Area, site: The total horizontal area within the property lines excluding external streets.

Available public facilities: "Available public facilities" means that facilities or services are in place or that a financial commitment is in place to provide the facilities or services within a specified time. In the case of transportation, the specified time is six years from the time of development.

Automobile, boat, trailer, and recreational vehicle sales area: An open area, other than a street, used for the display, sale or rental of new or used automobiles, boats, trailers or recreational vehicles and where no repair work is done except minor incidental repair of automobiles, boats, trailers or recreational vehicles.

Bed and Breakfast: A residence that has guest rooms where lodging with or without meals is provided.

Bicycle Lane: A lane at the edge of a roadway reserved and marked for the exclusive use of bicycles.

Block: A group of lots, tracts or parcels within well defined and fixed boundaries.

Boundary line adjustment: A division made for the purpose of alteration by adjusting boundary lines between platted or unplatted lots or both, which does not create any additional lot, tract, or parcel, nor create any lot, tract, or parcel, which contains insufficient area and dimension for meeting the minimum requirements as required by Title 11 of the Toledo City Code.

Buffer: A horizontal distance, measured perpendicularly from a property line, of open spaces, landscaped areas, fences, wall berms, or any combination thereof used to physically separate or screen one use of property from another so as to visually shield or block noise, lights or other nuisances.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods or material of any kind.

Building Coverage: That percentage of the total area of a lot which is covered by the principal building and any accessory buildings.

Building Height: The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip and gambrel roofs. The height of a stepped or terraced building is the maximum height of any segment of the building.

Building, principal: A building in which is conducted the principal use of the lot on which it is located.

Building Official: The individual duly appointed to enforce the provisions of the building code.

Business or commerce: The purchase, sale, offering for sale or other transaction involving the handling, disposition of any Chapter, service, substance or commodity for livelihood or profit.

Cemetery: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes.

Church: A building designed or used for public worship by a religious body.

Clerk-Treasurer: Clerk/Treasure of the City of Toledo.

Closed record appeal: An administrative appeal on the record to the city's hearing body following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

Commission, Planning: The City of Toledo Planning Commission.

Community Park: A park that is open to the public with the following amenities; restrooms, kitchen area, playground, overnight camping , and other recreation opportunities

Comprehensive Plan: The official City of Toledo Comprehensive Plan as adopted by the City Council.

Concurrency: "Concurrency" means that adequate public facilities are available when the impacts of development occur. This definition includes the two concepts of "adequate public facilities" and of "available public facilities" as defined above.

Conditional Use: A use specified as a conditional use in a zone and subject to conditions recommended by the Planning Commission during its review and requiring a conditional use permit.

Council: The city council of the City of Toledo.

Critical areas: includes the following areas and ecosystems as defined in RCW 36.70A.030 and WAC 365-195-200:

- a. Wetlands;
- b. Areas with a critical recharging effect on aquifers used for potable water;
- c. Fish and wildlife habitat conservation areas;
- d. Frequently flooded areas; and,
- e. Geologically hazardous areas.

Day care center: An establishment providing for the care, supervision and protection of children during part of the twenty-four-hour day.

Dedications: The deliberate appropriation of land by an owner for any general and public uses, reserving to him/herself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat showing the dedication thereon; and, the acceptance of the public shall be evidenced by the approval of such plat for filing by the City.

Density: The permitted number of dwelling units per gross acre of land to be developed.

Design Standards: Standards that set forth specific improvement requirements.

Dwelling: A building designed exclusively for residential purposes.

Dwelling, single-family: A detached building designed exclusively for occupancy by one family and containing one (1) dwelling unit.

Dwelling, duplex: A building designed exclusively for occupancy by two families living independently of each other and containing two (2) dwelling units.

Dwelling, multi-family: A building designed exclusively for occupancy by three (3) or more families and containing three or more dwelling units.

Dwelling unit: One or more rooms occupied by one family and containing kitchen facilities for use solely by one family. A room comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit.

Easement: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation or another person or entity.

Family: An individual, or two (2) or more persons related by blood or marriage, or a group of not more than six (6) persons who are not related by blood or marriage.

Fence: A wall or barrier for the purpose of enclosing space or separating parcels of land.

Fish and wildlife habitat area: land managed for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean cooperative and coordinated land use planning is critically important among counties and cities in a region. In some cases, intergovernmental cooperation and coordination may show that it is sufficient to assure that a species will usually be found in certain regions across the state. Fish and wildlife habitat conservation areas include areas with which endangered, threatened, and sensitive species have a primary association; waters of the state; state natural area preserves and natural conservation areas; and streams and rivers planted with game fish by a governmental agency.

Floodway: The channel of the Cowlitz River and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface. The floodway designations of the national Flood Insurance Program delineate the location of the floodway.

Floor area, gross: The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

Frequently flooded areas: lands in the flood plain subject to a one percent or greater chance of flooding in any given year. These areas include, but are not limited to, streams, rivers, lakes, coastal areas, wetlands, and the like. The 100-year flood plain designations of the National Flood Insurance Program delineate the presence of frequently flooded areas.

Garage, private: An accessory building or an accessory portion of the main building designed or used for the shelter or storage of vehicles owned by or operated only by the occupants of the main building (s).

Garage, public: A building used for the care, repair or storage of automobiles, or where such vehicles are kept for remuneration, hire or sale.

Geologically hazardous areas: Areas that because of the susceptibility to erosion, sliding, earthquake, or other geological events, are not generally suited to locating commercial, residential, or industrial development consistent with public health or safety concerns. Geologically hazardous areas are characterized by slopes greater than 15% and known erosion, landslides, settling, rockslide, debris flow, and/or seismic hazards as defined by the US Department of Agriculture Soil Conservation Service.

Grade: The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the areas between the building and the property line, or when the property line is more than five (5) feet from the building, between the building a line five (5) feet from the building.

Home occupation: An occupation or profession carried on by a member of the family residing within any dwelling.

Homeowners association: A community association that is organized in a development in which individual owners share common interest and responsibilities for costs and upkeep of common open space or facilities.

Hospital, animal and/or veterinary clinic: A place where animals are given medical care and the boarding of animals is limited to short term care incidental to hospital use.

Hotel: A building that has more than five (5) guest rooms where lodging with or without meals is provided for compensation. The building may include one (1) apartment for use of the resident manager.

Impervious surface: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration.

Junk Yard: Any premises devoted wholly or in part to the storage, buying or selling or otherwise handling or dealing in old rags, sacks, bottles, cans metal, paper, rubber or other Chapters commonly known as junk.

kennel: An structure in which five (5) or more dogs or cats are housed.

Kitchen: Any room or rooms, or portion of a room or rooms, used or intended to be designed to be used for cooking or the preparation of food.

Livestock: Horses, bovine animals, sheep, goats, donkeys, mules and chickens.

Loading space: A space on the same site with the use served which provides for the temporary parking of a vehicle while loading or unloading merchandise, materials or passengers.

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law to be separately owned, used, developed, or built upon.

Lot area: The total horizontal area within the boundary lines of the lot.

Lot, corner: A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot depth: The average distance measured from the front lot line to the rear lot line.

Lot frontage: The length of the front lot measured at the street right-of-way line.

Lot, interior: A lot other than a corner lot.

Lot line: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Lot line, front: The lot line separating a lot from a street right-of-way.

Lot line, rear: The lot line opposite and most distant from the front lot line. In the case of triangular or other wise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and a maximum distance from the front lot line.

Lot line, side: Any lot line other than a front or rear lot line.

Lot, through: A lot having frontage on two streets, including a lot at the intersection of two streets when the side street of such lot forms an internal angle of less than forty-five (45) degrees.

Lot, width: The mean width of the lot measured at right angles to its depth.

Medical clinic or hospital: A facility specializing in providing clinical, temporary and emergency services of a medical or surgical nature to human patients and is licensed by state law.

Mini-park: A small park to provide adequate active recreational facilities to the serve the residents of the immediately surrounding neighborhood. A park that is open to the public that is not less than two thousand (2,000) square feet and more than thirty thousand (30,000) square feet. At least fifteen (15) percent of the mini-park must be equipped with imaginative play apparatus oriented to younger children and seating accommodations for patents.

Mobile/manufactured home: A dwelling on one or more chassis for towing to the point of use and designed to be used with a permanent foundation as a residence on a year around basis and which bears an insignia issued by a state or federal regulatory agency indicating that the mobile/manufactured home complies with all applicable construction standards. A recreational vehicle is not a mobile/manufactured home.

Mobile/manufacture home park: A site containing space with required improvements and utilities that are leased for the long-term placement of mobile/manufacture homes and that may include services and facilities for the residents.

Motel: A group of attached or detached building containing individual sleeping units where a majority of such units have direct access to the outside without the necessity of passing through the main lobby of the building.

Nonconforming building or structure: A building or structure, the size, dimensions, or location of which was lawful prior to the adoption, revision or amendment to this Ordinance but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Nonconforming lot: A lot existing at the effective date of this Ordinance that does not meet the minimum area requirement of the zoning district in which the lot is located.

Nonconforming use: A use or activity that was lawful prior to the adoption, revision or amendment of this Ordinance but that fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district in which the use is located.

Open record hearing: A hearing, conducted by a single hearing body authorized under Title 11, Chapter V to conduct such hearings, that creates the city's record through testimony and submission of evidence and information, under procedures prescribed by ordinance or resolution. An open record hearing may be held prior to the city's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

Parcel: A tract or plat of land of any size which may or may not be subdivided or improved.

Parking lot: A publicly or privately owned area which is improved, maintained and used for the sole purpose of accommodating four or more vehicles.

Parking lot, private: A parking area for the exclusive use of the owners, tenants, lessees or occupants of the lot on which the parking area is located or their customers, employees or whomever else they permit to use the parking area.

Parking lot public: A structure or an open space, other than a public street or alley, designed or used for the temporary parking of vehicles and available for public use, with or without a payment of a fee.

Parking space: A space for the parking of a motor vehicle within a public or private parking area.

People with functional disabilities: A person who, because of recognized chronic, physique, or mental condition or disease, is functionally disabled to the extent of: a) needing care, supervision or monitoring to perform activities for daily living or instrumental activities of daily living, b) needing supports to ameliorate or compensate for the effects of the functional disability so as to lead as independent a life as possible, or c) having a physical or mental impairment which substantially limits one or more of such person's major life activities, or d) having a record of having such an impairment. Being regarded as having such an impairment does not include current, illegal use of or active addition to a controlled substance.

Performance guarantee: Any security, including cash, which may be accepted by the city to ensure installation of required subdivision improvements; provided that the city shall not require more than ten (10) percent of the total performance guarantee in cash.

Permitted use: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Plat: 1) A map representing a tract of land showing the boundaries and location of individual properties and streets; 2) a map of a subdivision .

Plat, final: The final drawing of a subdivision and dedication prepared for filing for record with the Lewis County Auditor and containing all elements and requirements of RCW 58.17 and this Ordinance.

Plat, short: A map or representation of a short subdivision..

Plat, preliminary: A neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this Code.

Pocket Park: Any public park up to thirty thousand (30,000) square feet that is not equipped with imaginative play apparatus oriented to younger children.

Principal use: The primary or predominant use of any lot or parcel.

Private utility: A private business organization such as a public service corporation performing some public service and subject to special governmental regulation, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include, but are not limited to, water supply, electric power, gas, telecommunications and transportation for persons and freight.

Project permit: Any land use or environmental permit or license required from a local government for a project action, including but not limited to applications for development as provided in Title 11, Chapter V, Sections 14, 15, 16, and 17.

Public meeting: An informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the city's decision. A public meeting may include, but is not limited to, a permit application conference, council meeting, planning commission meeting, or a scoping meeting on a draft environmental impact statement. The proceedings at a

public meeting may be recorded and a report or recommendation may be included in the city's project permit application file.

Qualified expert: A person who prepares a technical assessment with expertise appropriate to the relevant critical area. Expertise shall consist of professional credentials and/or certification, any advanced degrees earned in the pertinent scientific discipline from a recognized university, the number of years of experience in the pertinent scientific discipline, recognized leadership in the discipline of interest, formal training in the specific area of expertise, and field and/or laboratory experience with evidence of the ability to produce peer-reviewed publications or other professional literature. Geologists preparing technical assessments shall meet the requirements of a licensed geologist under Chapter 18.220 RCW.

Recreational area, commercial: An area operated for profit and devoted to facilities and equipment for recreational purposes.

Recreational vehicle: A vehicular type unit designed as temporary living quarters for recreational camping or travel uses, with or without motive power including, but not limited to travel trailers, truck campers, commercial coaches and motor homes.

Recreational vehicle park: A lot or series of lots designed to provide safe and sanitary temporary housing or storage of recreational vehicles for limited periods of time, but which is not intended for use as a mobile/manufactured housing park.

Residence: A building or structure, or portion thereof, which is designed for and used to provide an abode for human beings.

Residential care facility: A facility licensed by the State of Washington that cares for at least five (5) and no more than fifteen (15) people with functional disabilities and is not an "Adult family home".

Right-of Way: A strip of land acquired by reservation, dedication, prescription or condemnation and intended to be occupied by a road, cross walk, electric transmission lines, oil or gas pipeline, water line, sanitary sewer, storm sewer, and other similar uses.

Roof: A structural covering over any portion of a building or structure, including the projections beyond the wall or supports of the building or structure.

School: Institution of learning offering instruction in the several branches of learning and study required by the Educational Code of the State of Washington to be taught in public and private schools.

Screen: A vertical barrier located in a limited space intended to provide a buffering effect, particularly for noise reduction or visual separation. Screens may consist of planted vegetation, attractive sight obscuring fencing, hedges, walls or earth berms or similar techniques.

Setback: The distance between a building or structure and any lot line.

Setback line: That line that is the required minimum distance from any lot line and that establishes the area within which buildings and structures must be placed.

Shoreline of statewide significance: The water area of the Cowlitz River together with the land underlying it.

Shoreland areas: Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and the contiguous flood plain areas landward two hundred (200) feet from the Cowlitz River.

Sidewalk: A paved, surfaced or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Special Use Park: Any park that is built and used for a specific event, such as the Toledo Softball Fields, Toledo Little League Fields, boat launches and monuments or memorials.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between the floor and the ceiling next above it shall be considered a story. If the finished floor level directly above the basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.

Street: A public or recorded thoroughfare fare which affords primary means of access to abutting property.

Street, arterial: Any street designed to carry large volumes of traffic as designated in the Transportation Element of the City of Toledo Comprehensive Plan.

Street, collector: A street that collects traffic from local streets and connects with an arterial street.

Street, cul-de-sac: A street with a single common ingress and egress.

Street, improved public: For subdivision purposes, any street which complies with city construction standards.

Street line: The boundary line between a street and the abutting property.

Street, local: A street designed to provide vehicular access to abutting property and to discourage through traffic.

Street, local: A street designed to provide vehicular access to abutting property and to discourage through traffic.

Street, loop: A local street of limited length that has its only ingress and egress at two points on the same side of a block or other parcel of land.

Structure: Anything constructed in the ground, or anything erected which requires location in the ground, but not including something having location on or in the supporting members of a fence less than six (6) feet in height, or paved areas.

Structural alterations: Any change in the supporting members of a building or structure.

Subdivision: The division or redivision of land into five or more lots, tracts, parcels, sites, or other divisions for the purpose of sale, lease, or transfer of ownership, except a Short Subdivision as defined in the Section.

Subdivision, cluster: A form of development that permits a reduction in lot area and bulk requirements with the remaining land area devoted to open space, active recreation, preservation of environmentally sensitive areas or agriculture.

Subdivision, Short: The division or redivision of land into four or fewer lots, tracts, parcels, sites or division for the purpose of sale, lease or transfer of ownership which does not involve any street or other dedications.

Surveyor: A person who is licensed in Washington State as a public land surveyor qualified to do professional surveying.

Tiny Home/House: A tiny house is a dwelling that may be built on wheels and is no larger than 400 square feet, including a kitchen, bathroom, and sleeping/living area, and must be built to the Washington State Building Code.

UGA (Urban Growth Area): An area within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Within these UGA's, growth will be encouraged and supported with adequate facilities.

Utilities: Installations for conducting water, sewerage, gas, electric, television, storm water, and similar facilities providing service to and used by the public.

Utility structure: Structures such as telecommunication and electrical transmission towers, pumping stations, electrical transformer stations and similar large equipment that is owned by a public utility.

Use: The nature of the occupancy, the type of activity or the character and form of improvements to which the land is devoted or may be devoted.

Wetland or wetlands: areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands.

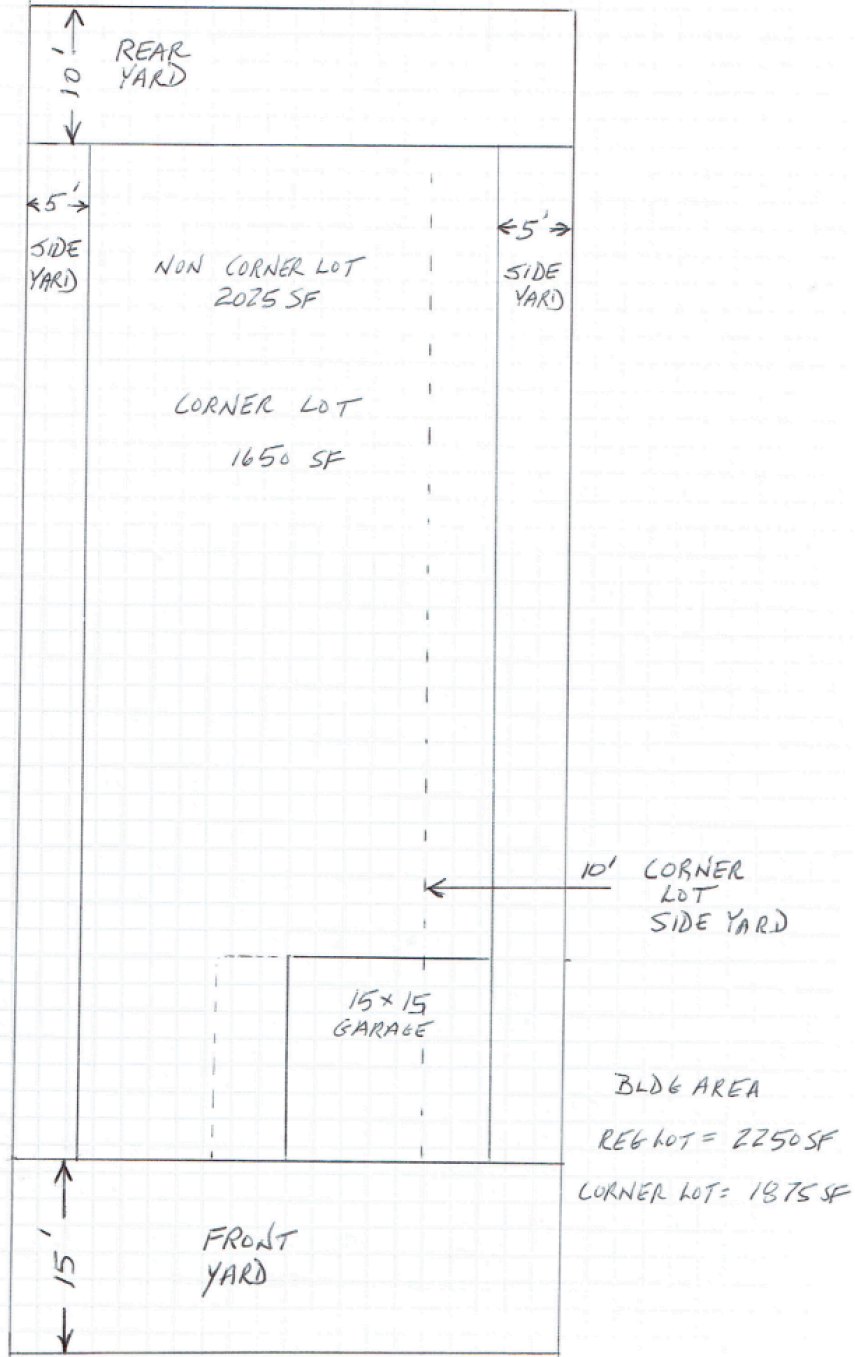
Yard: An open space that lies between the principal building and the nearest lot line. The minimum required yard as set forth in the Ordinance is unoccupied and unobstructed from the ground upward except as specifically provided in this Ordinance.

Zone: A specifically delineated area or district in the city within which uniform regulations and requirements govern the use, placement, spacing, and size of land buildings.

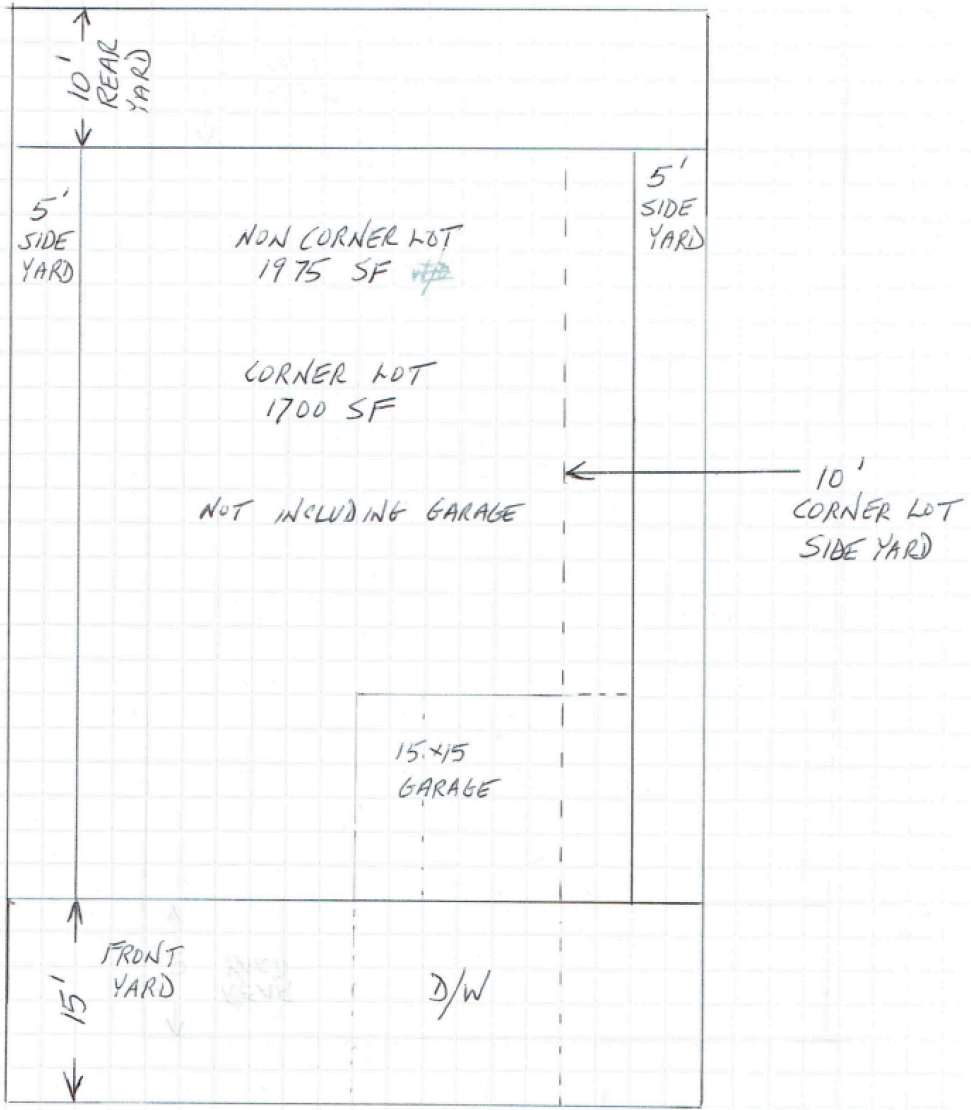
Zoning Map: The Official Zoning Map of the City of Toledo that is part of the zoning ordinance and delineates the boundaries of zone districts.

Reference Material

The following pages show examples layouts of single family houses on a 4,000 square foot lot.

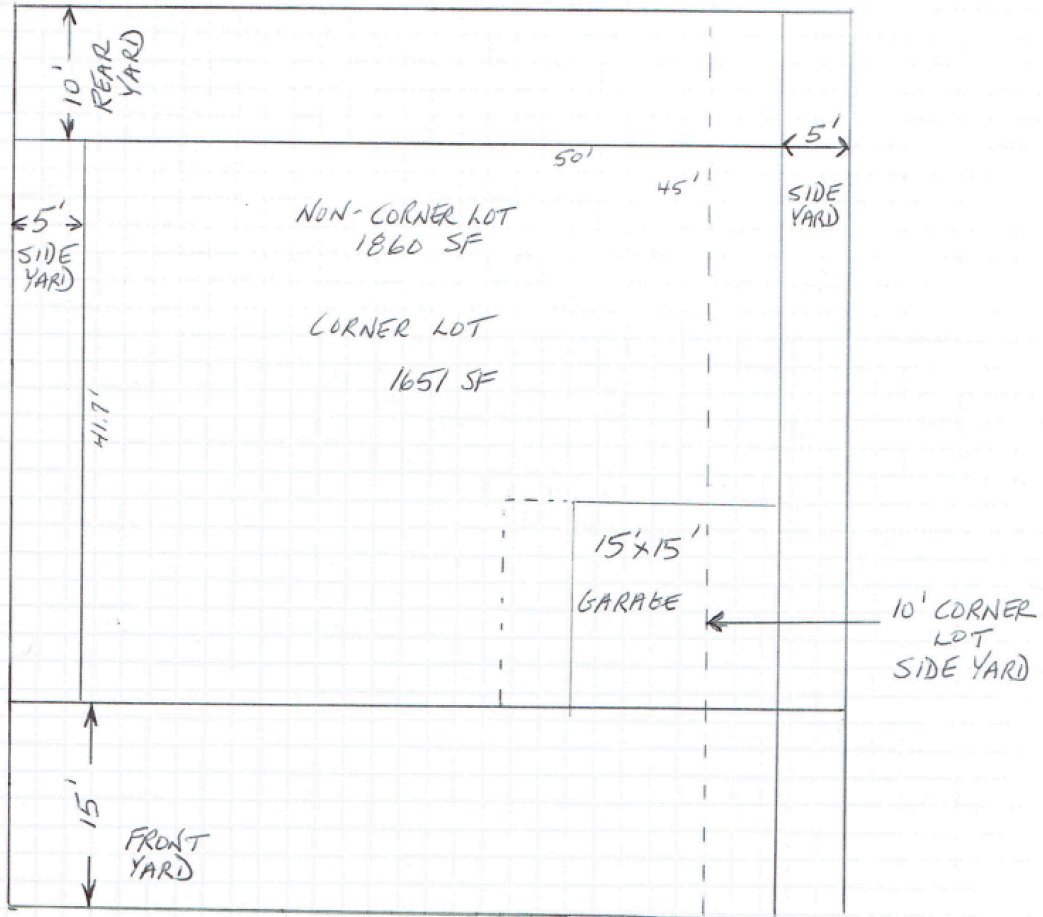


40 W 100 D 1" = 10'



50' W 90' D
1" = 10'

BLDG AREA = 2200 SF
CORNER LOT = 1925 SF



TOTAL BLDG AREA
INC. GARAGE

REG. LOT	2085 SF
CORNER LOT	1876 SF

60 W 66.7 D
1" = 10'