

**TITLE XI**

**ADMINISTRATION AND ENFORCEMENT**

**CHAPTER 1197  
ADMINISTRATION AND ENFORCEMENT**

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**1197.01 BUILDING COMMISSIONER**

A Building Commissioner shall be employed to act as the administrative officer for the purpose of effective proper administration of these development regulations. The term of employment, rate of compensation and other such conditions shall be set as of ordinance by Council. For the purpose of affecting this Code, the Building Commissioner shall have the powers of a Police Officer. (Ord. 173-2000. Passed 12-17-2000)

**1197.03 SUBMISSION OF APPLICATIONS**

All applications for Zoning Certificates shall be submitted to the Building Commissioner who may issue zoning certificates when all applicable provisions of this Code have been complied with. (Ord. 173-2000. Passed 12-17-2000)

**1197.05 ZONING CERTIFICATES REQUIRED**

- A. Before constructing, changing the use of, or altering any building, including accessory buildings, or changing the use of the premises, application shall be made to the Building Commissioner for a Zoning Certificate. The application shall include the following information:
1. A plot plan drawn to scale showing the exact dimension of the lot to be built upon.
  2. The location of all buildings existing upon said lot.
  3. The location, dimensions, height and bulk of structures to be erected.
  4. The intended use.
  5. The proposed number of sleeping rooms, dwelling units, occupants, employees and other uses.
  6. The yard, open area and parking space dimensions.
  7. Any other pertinent data as may be necessary to determine and provide for the enforcement of this Code.
- B. Within ten (10) days after the receipt of application, the Building Commissioner shall issue a Zoning Certificate if the application complies with the requirements of this Code and the application is accompanied by the proper fee.
- C. The Zoning Certificate shall become void at the expiration of six (6) months after date of issuance, unless construction is started. If no construction is started or use changed within six months of the date of permit, a new permit is required upon proper application.
- D. If the application is for a Conditional Zoning Certificate, the application procedure defined in Section 1161.03 will be followed in lieu of the above regulations.  
(Ord. 173-2000. Passed 12-17-2000)

**1197.07 CERTIFICATE OF OCCUPANCY REQUIRED**

No vacant land and no building hereafter erected or altered shall be occupied or used in whole or in part nor shall any owner or tenant of any land or building hereafter change the use classification or enlarge the use of any building or on any premises without a certificate of occupancy from the Building Commissioner stating that the use of the building or premises complies with the provisions of this Code. (Ord. 173-2000. Passed 12-17-2000)

**1197.09 PAYMENT OF FEES**

The Building Commissioner shall collect fees applicable to the administration of these regulations in accordance with rates established elsewhere by ordinance. (Ord. 173-2000. Passed 12-17-2000)

**1197.11 VIOLATIONS; ENFORCEMENT**

- A. Violations a Nuisance. Buildings erected, altered, moved, razed or converted, or any use of land or premises carried on in violation of any provision of these regulations are declared to be a nuisance per se. Any building or land use activities considered possible violations of the provisions of this Code which are observed by any Municipal Official shall be reported to the Building Commissioner.
- B. Inspection. The Building Commissioner shall inspect each alleged violation and shall, in writing, order correction of all conditions which are found to be in violation of this Code.
- C. Correction. Period. All violations shall be corrected within a period of thirty (30) days after written order is issued or for a longer period of time as indicated by the Building Commissioner in the written order. Any violations not corrected within the specified period of time shall result in the Building Commissioner initiating prosecution procedures.
- D. Revocation of Permits. Any permit issued by the Building Commissioner pursuant to this Zoning Ordinance; may be revoked by him for violations of the standards required for issuance of the permit. Any decision to revoke such permit is appealable to the Board of Zoning and Code Appeals pursuant to Chapter 1199. (Ord. 173-2000. Passed 12-17-2000)

**1197.13 PENALTIES**

- A. The owner or owner's of any building or premises or part thereof where anything in violation of this Code shall be placed or shall exist, and any tenant or occupant of such building or premises, and any architect, building or contractor who shall assist in the commission of any such violation, and any person who shall violate any of the provisions of this Code or fail to comply therewith shall for each violation or non-compliance be deemed guilty of a misdemeanor and upon conviction thereof, be fined not less than one hundred and fifty dollars. (\$150.00) or more than five hundred dollars (\$500.00). Each day such violation or failure to comply shall exist shall constitute a separate offense.
- B. In case any building is, or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land is or is proposed to be used in violation of this Code, Council, the Mayor, the Law Director, tile Building Commissioner, or any adjacent or neighboring property owner who would be especially damaged by such violation in addition to other remedies provided by law, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to

prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use.

- C. For any violations the Subdivision Regulations, the penalty shall be as follows:
1. Whoever willfully violates any rules or provision of these regulations or fails to comply with any order pursuant thereto, shall forfeit and pay not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00). Such sum maybe recovered with costs, in a civil action brought in the Court of Common Pleas of the County in which the land lies by a legal representative of the Municipality, in the name of the Municipality and for the use there of.
  2. A County Recorder who records a plat contrary to the provisions of these regulations shall forfeit and pay not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00), to be recovered with costs in a civil action by the legal representative in the name of, and for the use of the City.
  3. Any person, whether he be the owner or agent of the owner, who transfers any sublet, parcel or tract of such land from or in accordance with a plat of a subdivision before such plat has been recorded in the office of the County Recorder, shall forfeit and pay the sum of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) for each sublet, parcel or tract of land so sold. The description of such sublot, parcel or tract by metes and bounds in the deed or transfer shall not serve to exempt the seller from the forfeiture provided in this Section.
  4. Any person who disposes of, or offers for sale or lease, for a time exceeding five years, any lot, or any part of a lot; in a subdivision with intent to violate the provisions of these regulations, shall forfeit and pay the sum of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00) for each lot or part of a lot sold, offered for sale or leased, to be recovered with costs in a civil action; in the name of the City for use of the city.
- D. Any person, firm or corporation found guilty of a violation of any of the provisions or requirements of these development regulations shall for a first offense be fined in any sum not less than one hundred dollars (\$ 100.00), nor more than five hundred dollars (\$500.00) and for a second or subsequent offense, not less than five hundred dollars (\$500.00), nor more than one thousand dollars (\$ 1,000), or shall be imprisoned for a period not to exceed 6 months, or both such fine and imprisonment.
- E. Subsection (a) and (b) hereof apply to violations of these development regulations where a specific penalty is not prescribed herein. Subsection (e) and (d) hereof prescribe specific penalty for violations of the subdivision and landfill regulations.  
(Ord. 173-2000. Passed 12-17-2000)

**CHAPTER 1199**  
**BOARD OF ZONING AND BUILDING CODE APPEALS**

<b>1199.01</b>	<b>AUTHORITY, COMPOSITION AND APPOINTMENT.</b>	<b>1199.09</b>	<b>POWERS AND DUTIES.</b>
<b>1199.03</b>	<b>COMPENSATION OF MEMBERS.</b>	<b>1199.011</b>	<b>PROCEDURE.</b>
<b>1199.05</b>	<b>ORGANIZATION AND MEETINGS.</b>	<b>1199.13</b>	<b>FEEES.</b>
<b>1199.07</b>	<b>WITNESSES.</b>	<b>1199.15</b>	<b>NOTICE OF HEARING.</b>
		<b>1199.17</b>	<b>APPEALS.</b>

**1199.01 AUTHORITY, COMPOSITION AND APPOINTMENT.**

This section is enacted pursuant to 7.09 and 7.10 of the Twinsburg City Charter. There shall be a Board of Zoning and Building Code Appeal, which shall consist of five (5) members who shall be appointed by Council for a term of three (3) years, respectively. In the event of the absence from the City or incapacity of a member, the Council may appoint a substitute who may serve as a member of the Board with the same power and authority as a regular member until such member has returned or has become capacitated for service. Each member of the Board shall serve until his successor has been appointed.

(Ord. 173-2000. Passed 12-17-2000)

**1199.03 COMPENSATION OF MEMBERS**

The salary of each member of the Board shall be at the rate established by Council.

(Ord. 173-2000. Passed 12-17-2000)

**1199.05 ORGANIZATION AND MEETINGS**

The Board shall elect a chairman and vice chairman from its membership and shall prescribe rules for the conduct of its affairs. Meetings of the Board shall be held at such times as may be necessary. All meetings of the Board shall be public. The presence of three (3) members shall be necessary for a quorum. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Final disposition of any appeal shall be in the form of a resolution. (Ord. 173-2000. Passed 12-17-2000)

**1199.07 WITNESSES**

The Board Chairman or Acting Chairman may administer oaths and compel the attendance of witnesses in all matters coming within the preview of this Code.

(Ord. 173-2000. Passed 12-17-2000)

**1199.09 POWERS AND DUTIES**

- A. The Board shall have all powers prescribed by 7. 10 of the Twinsburg City Charter and shall have general appellate jurisdiction regarding administration of these development regulations, unless a different appellate procedure is prescribed in the Charter or Ordinances of Twinsburg
- B. The Board shall not possess the authority or power to hear, determine or grant variances to land use classifications established by ordinance.
- C. Variances.
  - 1. Where practical difficulty or unnecessary hardship results from the strict application of this Code, the Board shall have the power to vary or modify the regulations so that the spirit of this Code shall be observed, public safety secured, and substantial justice

- done; however, the Board shall not possess the authority or power to hear, determine, or grant variances to land use classifications or signs as established by this Code.
2. In every instance of granting a variance by the Board, there must be a showing by the Board that:
    - (a) The strict application of the provisions of the Code would result in practical difficulty or unnecessary hardship inconsistent with the general purpose of the intent of this Code.
    - (b) There are exceptional circumstances or conditions applying to the property involved or to the -intended use or development of the property that do not apply generally to other proper-ties or uses in the same zoning district or neighborhood.
    - (c) The granting of such variance will not be of substantial detriment to the public interest or to property or improvements in such district in which the variance is sought, and will not materially impair the purpose of this Code.
- D. Exceptions. The Board. may, in appropriate cases, and subject to appropriate conditions and safeguards, determine and vary the application of these regulations in harmony with their general purpose and intent as follows:
1. An extension or alteration of a non-conforming use may be authorized if:
    - (a) Such extension or alteration is necessary and incident to such existing nonconforming uses;
    - (b) Such extension or alteration is not a change in. use or a substantial addition;
    - (c) Such extension or alteration upgrades the neighborhood;
    - (d) Such extension or alteration will not be of substantial detriment to the public interest or to property or improvements in the neighborhood, and will not materially impair the purpose of these regulations.
  2. The extension of a use into a district immediately adjacent thereto may be permitted provided it is not more than twenty-five (25) feet beyond the dividing line of the two districts and under such conditions as will safeguard development in the adjoining district.
- E. Conditions. In granting a variance or exception, the Board may impose such conditions as it deems necessary to protect the public health, safety, and welfare and in the furtherance of the purposes and intent of this Code.
- F. Interpretation. The Board. may interpret the requirements of these development regulations in considering appeals before it, and must do so in such a way as to carry out the intent and purpose of these development regulations. The Board shall not in the process of interpretation, vary the requirements of these regulations.  
(Ord. 173-2000. Passed 12-17-2000)

### **1199.11 PROCEDURE.**

- A. The Board shall act in accordance with the procedure specified by law including these development regulations. All appeals and applications made to the Board shall be in writing and on the forms prescribed therefore. Every appeal or application shall refer to the specified provision of the Code involved, and shall set forth in detail the interpretation sought, the variance or exception applied for, and the grounds for same.
- B. Every decision of the Board shall be by resolution, each of which shall contain a full record of the findings of the Board by case number under one or another of the following headings:
  1. Interpretation;
  2. Exceptions;

### 3. Variance

together with all documents pertaining thereto. In the event that the Board will find it necessary to draw upon any planning, legal, engineering, or any other expert testimony, all such extra costs shall be paid by the petitioner.(Ord. 173-2000. Passed 12-17-2000)

#### **1199.13 FEES**

Fees for submitting application to the Board of Appeals as prescribed elsewhere by ordinance. (Ord. 173-2000. Passed 12-17-2000)

#### **1199.15 NOTICE OF HEARING**

- A. When a notice of appeal or application for variance or exception has been filed in proper form with the Board, the Mayor shall immediately place the said request upon the calendar for hearing and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal at least ten (10) days prior to the date of the scheduled hearing. Written ten day notice of such hearing shall also be given by mail to any person, firm or corporation owning premises located contiguous to and directly across the street from such appeal or application related property. All notices shall be sent to addresses given in the last assessment roll. The failure of delivery of any such notice shall not invalidate any action of this Board.
- B. Such hearings shall be advertised by one publication in one or more newspapers of general circulation in the Municipality at least ten (10) days before the date of such hearing. The Board, at its discretion, may send out further notices to publicize such hearings. The Board may recess such hearings from time to time and if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required. (Ord. 173-2000. Passed 12-17-2000)

#### **1199.17 APPEALS.**

- A. Appeals to the Board may be taken by any person, firm or corporation, or by any officer, board or department of the City, deeming himself or itself to be adversely affected by the decision of the Building Commissioner. Appeals shall be made no later than twenty (20) calendar days after the decision of said Building Commissioner. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative officer whose decision is appealed from, shall certify to the Board after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to the life or property. In such case, proceedings shall not be stayed by other than a restraining order granted by the Board or by a court having lawful jurisdiction.
- B. The Board shall make a decision on the appeal within ten (10) days after the public hearing, unless additional time is necessary because of unusual circumstances. Upon hearing, any party may appear in person or by attorney.  
(Ord. 173-2000. Passed 12-17-2000)

**CHAPTER 1201  
AMENDMENTS**

**1201.01 AUTHORITY AND PROCEDURE.**

**1201.01 AUTHORITY AND PROCEDURE.**

- A. The Council may from time to time on its own motion or on petition, after public notice and hearing, amend or change the regulations, districts or, building lines herein established, but no such amendment or change shall be effective unless the ordinance or petition proposing such amendment or change shall first be submitted to the Municipal Planning Commission for approval, disapproval or suggestions, and the Planning Commission shall have been allowed a reasonable time, not more than sixty days, for consideration and report.
- B. Whoever petitions the Council for a change in zoning, such petitioner shall deposit with the Director of Finance, a fee which is prescribed elsewhere by ordinance, payable to the City of Twinsburg from which the costs of legal notices, Planning Commission expense and engineer's fees shall be paid. If the required deposit is insufficient, the Council shall require the petitioner to pay the additional amount as a condition of approval. This fee shall not apply to any amendment introduced by a member of Council, the Mayor, Planning Commission or Board of Zoning and Building Code Appeals, acting in an official capacity.
- C. The Council shall hold a public hearing before the adoption of the proposed amendment. At least thirty (30) days notice of such amendment, and of the time and place of the hearing thereon, shall be given in a newspaper of general circulation, which shall include a statement that opportunity will be afforded to any person interested to be heard.  
If the amendment intends to re-zone or re-district ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed, by first class mail, at least twenty (20) days before the date of the public hearing, to the owners of property within and contiguous to and directly across the street from such parcel or parcels, at the addresses given on the last assessment roll. The failure of delivery of any such notice shall not invalidate any such amendment.
- D. In the event the City Council should approve any of the preceding changes, whether approved or disapproved by the Planning Commission, it shall not be approved or passed by the declaration of an emergency, and it shall not be effective, but it shall be mandatory that the same be approved by a majority vote of all votes cast of the qualified electors of the City of Twinsburg and of each ward in which the property so changed is located at the next general election or at a special election falling on the generally established day of the primary election. Said issue shall be submitted to the electors of the City only after approval of a change in zoning classifications or districts, or in the uses permitted in any zoning use classifications or districts by the Council for an applicant.

Ord. 173-2000. Passed 12-17-2000)



**CHAPTER 1203  
DEVELOPMENT AGREEMENT**

<b>1203.01 DEVELOPMENT AGREEMENT PROCEDURES.</b>	<b>1203.13 STATUS OF COMPREHENSIVE DEVELOPMENT CODE REQUIREMENTS ON LAND SUBJECT TO A DEVELOPMENT AGREEMENT.</b>
<b>1203.03 SUBMITTAL REQUIREMENTS.</b>	<b>1203.15 MONITORING EXECUTED DEVELOPMENT AGREEMENT.</b>
<b>1203.05 STATUS OF VESTING RIGHTS.</b>	<b>1203.17 RECORDING OF DEVELOPMENT AGREEMENT.</b>
<b>1203.07 PRELIMINARY DEVELOPMENT AGREEMENT.</b>	<b>1203.19 SUBSEQUENT PASSAGE OF STATE LAWS AND THEIR EFFECT ON EXISTING DEVELOPMENT AGREEMENTS.</b>
<b>1203.09 REQUIRED PUBLIC NOTICE.</b>	
<b>1203.11 REQUIRED PROVISIONS FOR AN APPROVED DEVELOPMENT AGREEMENT.</b>	

**1203.01 DEVELOPMENT AGREEMENT PROCEDURES**

The following procedures shall apply for Development Agreements:

- A. The City Council of the City of Twinsburg, in its sole and exclusive discretion, may enter into Development Agreements with the legal and equitable owners of real property within the City limits further set forth under the terms of this chapter. Entry into a Development Agreement by the City shall in no way whatsoever limit or modify any legislative power by the said City to adopt ordinances, resolutions, regulations, or to make executive, administrative, or legislative decisions of any kind which it had the power to make prior to entry into such Development Agreement, except to the degree that the Development Agreement, by its express terms and not by implication, gives vested rights to said property owner as to certain development permissions, required improvements and similar matters.
- B. A property owner desiring to enter into a Development Agreement with the City shall make a written request of such Development Agreement to the Mayor, and pay the fee as is established by ordinance. Such written request shall identify the lands which are desired to be subject to the Development Agreement and shall identify all legal and equitable owners having any interest in such property, and such ownership interests shall be certified by a title company. In the event that any partnerships, corporations, joint ventures or other entities, other than individuals, own a legal or equitable interest in such property, all principals and other persons with interest in such partnerships, corporations, or joint ventures shall be revealed.
- C. Upon receipt of such a request, the Mayor shall place the matter on the agenda of the City Council, and the City Council shall, in its discretion, determine whether or not it desires the Mayor to pursue negotiations with the property owner relative to the entry into a Development Agreement. In the event that the City Council determines not to proceed

with further negotiations or discussions regarding the Development Agreement, the fee paid by the property owner shall be refunded. In the event the City Council instructs the Mayor to proceed with further negotiations, the fee shall thereafter be non-refundable, regardless of whether or not a Development Agreement is ultimately executed between the City and the property owner.

- D. No Development Agreement negotiated under the authority provided herein shall modify density standards in any zoning district nor shall it modify any zoning district boundary or zoning class. (Ord. 173-2000. Passed 12-17-2000)

### **1203.03 SUBMITTAL REQUIREMENTS.**

Upon the City Council determining that it desires to proceed with further negotiations relative to a Development Agreement, the property owner shall submit, within thirty (30) working days, a development proposal for the subject property, to include the following information:

- A. Legal description of the lands to include identification of lands or "out-parcels" to be exempt from the agreement;
- B. The persons, firms, or corporations having a legal or equitable interest in the land;
- C. The desired duration of the Development Agreement, but not exceeding five (5) years; with subsequent two (2) year extension, provided that the applicant shows material progress towards achieving his obligations under the development agreement.
- D. Existing zoning class of all lands subject to the development agreement.
- E. The population densities, building intensities- and heights proposed to be developed.
- F. A description of all existing and proposed public facilities that will serve the land;
- G. The present land use categories of all abutting property. The complete names and addresses of all property owners abutting or lying within five hundred (500) feet of the subject property, as currently listed in the records of the Summit County Auditor.
- H. A certified property boundary survey prepared or updated by a registered surveyor.
- I. Jurisdictional wetlands, as determined by a wetland delineation which has been reviewed by the appropriate district of the U.S. Army Corps at Engineers. The applicant may submit a wetland delineation report with correspondence indicating Corps acceptance and any mitigation requirements.
- J. All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development, including water, sewer, gas, electricity, cable television, and other utilities;
- K. A Master Drainage Plan for the development indicating thereon existing drainage features and land topography, along with and superimposed thereon, the proposed drainage features indicating clearly the means by which the final developed land will collect, regulate, and conduct the runoff from the lands, developed and tributary thereto;
- L. The location, type, size, and height of fencing, earth berms, retaining wall, or screen planting to buffer abutting properties, or as is otherwise required by City regulations;
- M. A grading plan, and included therewith, the elevation requirements of the National Flood Insurance Program as applicable to the City.
- N. Tree and Vegetation Survey and Preservation Plan as specified by Chapter 1171.
- O. A landscape plan consistent with the provisions of Chapter 1172.
- P. Any easements existing or being imposed upon the lands for development;
- Q. Private or public parklands required or proposed for public park purposes; and
- R. Any further information that the Mayor or his staff may require because of the particular nature or location of the development. (Ord. 173-2000. Passed 12-17-2000)

**1203.05 STATUS OF VESTING RIGHTS**

The submission of a request for consideration of a Development Agreement, the City Councils willingness to pursue discussions, the resultant, negotiations regarding Development Agreement, the payment of any application fees for the submission of any applications, engineering plans, surveys, and any other expenditures or efforts in prosecution of the Development Agreement provided for herein by a property owner shall not vest any rights whatsoever in any land use designation in such property owner, nor shall it in any manner whatsoever limit the City Council or Planning Commission from undertaking any land use plan amendments that it would be otherwise legally entitled to undertake.

(Ord. 173-2000. Passed 12-17-2000)

**1203.07 PRELIMINARY DEVELOPMENT AGREEMENT.**

- A. The Mayor and staff shall review the development proposal of the property owner and shall meet and negotiate with the property owner regarding appropriate development of the property and the terms and conditions on which said property should be developed as the Mayor shall deem appropriate and necessary for the protection of the public interest. At such time as the property owner and Mayor have reached a tentative agreement as to the terms and conditions of a Development Agreement, or the Mayor deems that no further negotiations would be useful because of the unlikely possibility of reaching a concurrence on terms and conditions of a Development Agreement, the Mayor shall report the status of such negotiations to the City Council. Such tentative agreement shall not give rise to any development rights, or equitably or legally vest any development rights in the property owner.
- C. (In the event the Mayor and the property owner have negotiated terms of a mutually acceptable Development Agreement, the essential terms of that Development Agreement shall be presented in an outline form to City Council. City Council shall review the same and shall, if it determines to proceed further with completion of the Development Agreement by a majority vote , direct the City Law Director to reduce the said development terms to contractual form for further consideration by the City Council. This direction shall in no manner whatsoever obligate the City Council to ultimately approve a Development Agreement, or to approve any of the matters outlined to it by the Mayor as to any specific term or condition.
- D. In the event the Mayor and the property owner have not negotiated a mutually, satisfactory Development Agreement, the Mayor shall so notify the Council, and, the Development Agreement process as to the particular land, shall be concluded unless by a concurring vote of a majority of Council votes to continue. A further Development Agreement application on the same property may be submitted no sooner than one hundred and eighty (180) calendar days from the date of the Mayor's notification to Council that the previous Development Agreement application was terminated for failure to reach a mutually satisfactory agreement, or the City Council has concluded consideration of the Development Agreement, whichever is later. (Ord. 173-2000. Passed 12-17-2000)

**1203.09 REQUIRED PUBLIC NOTICE.**

- A. At such time as the City Law Director has reduced the terms of the proposed Development Agreement to written contractual form, Mayor shall transmit the draft

Development Agreement to City Council and Planning Commission with his written recommendation regarding adoption of the Development Agreement. Upon receipt of the draft Development Agreement and Law Director's recommendation, Planning Commission shall schedule a public hearing. Said public hearing shall be advertised at least seven (7) days before the public hearing date. Notice of intent to consider said Development Agreement shall also be mailed to all property owners abutting the subject land, or lying within five hundred (500) feet of the subject land, not less than thirty (30) days prior to the hearing at the Planning Commission. The applicant for the Development Agreement shall furnish an updated listing of the complete names and addresses of the affected owners. Said notice shall specify the location of the land subject to the Development Agreement, the development uses proposed on the property, the proposed population densities and building heights, and shall specify where a copy of the proposed agreement can be obtained.

- B. Prior to council action, the proposed Development Agreement shall have been reviewed at a public hearing by the Planning Commission, and its recommendation as to its execution, and any conditions or amendments shall have been provided to City Council. In the event that Planning Commission has failed to provide a recommendation to the City Council within sixty (60) days from the date that such Development Agreement has been submitted to it for action, this requirement may be waived by the City Council.
- C. At its discretion, City Council may conduct a second public hearing to accept further testimony or to provide additional clarification of the project, proposed conditions or amendments. This second public hearing shall be advertised and notice provided in the same manner as the Planning Commission public hearing described in Section 1203.09(a).
- D. Council may, by a majority vote, approve the form and execution of the Development Agreement at any regular -or special meeting following the Planning Commission public hearing, however, no action shall be taken in less than thirty (30) days following the Planning Commission public hearing so as to assure adequate time for consideration of public comments. Notice requirements in the same manner as the Planning Commission public hearing described in Section 1203.09(a).  
(Ord. 173-2000. Passed 12-17-2000)

### **1203.11 REQUIRED PROVISIONS FOR AN APPROVED DEVELOPMENT AGREEMENT**

Any Development Agreement approved under these regulations shall contain not less than the following requirements:

- A. A legal description of the land subject to the agreement and the identification. of all persons having legal or equitable ownership therein.
- B. The duration of the Development Agreement, which duration shall not exceed five (5) years, but which may be extended by mutual consent of the City and the property owner.
- C. The development uses permitted on the land, including population densities, building intensities, and building height.
- D. A conceptual site plan containing information as required by Sections 1181.05 of these development regulations. Since a site plan is required in the land use designation in which the property will ultimately be developed, all the requirements of that site plan process and submittals shall be met prior to development.
- E. A description of the public facilities that will service the development, including designation of the entity or agency that shall be providing such to serve the project, the

date by which such facilities will be constructed, and a schedule to assure public facilities shall be available concurrent with the impacts of the development. The Development Agreement may provide for a letter of credit or other surety to be deposited with the City for the construction of any new facilities that are required to be constructed. Alternatively, such construction may be a condition precedent to issuance of any building permits or other development permissions. In the event that new public facilities are in place and operating at the time that development permits are requested, no such letter of credit shall be necessary unless such facilities are not adequate for the project.

- F. A description of any reservation or dedication of land for public purposes. The Development Agreement shall provide specifically how the land dedication obligation for the project, if any, is to be met. In the event that land is to be conveyed to the City in discharge of the land dedication ordinance obligation, the Development Agreement will provide that such conveyance will be by warranty deed, and will be accompanied by a title insurance policy (at the expense of the property owner) in an amount not less than the fair market value of the land.
- G. A description of any other governmental approvals that are required for the project. The Development Agreement shall specifically provide that said development approvals will be obtained at the sole cost of the property owner and that, in the event any development approvals are not received, no further development of the property shall be allowed until such time as the City Council has reviewed the matter and determined whether or not to terminate the Development Agreement, or to modify it in a manner consistent with the public interest. Under these conditions, action in reliance on the Development Agreement, or expenditures in pursuance of its terms, or any rights accruing to the property owner thereunder shall not vest any development rights in the property owner, nor shall it constitute partial performance entitling the property owner to a continuation of the Development Agreement.
- H. A specific finding in the Development Agreement that development permitted or proposed is consistent with the City's Comprehensive Plan and the land development regulations, or if amendments are necessary to the district designations, that such Development Agreement is contingent upon those amendments being made and approved by a majority vote of the electorate.
- I. City Council may provide for any conditions, terms, restrictions, or other requirements determined to be necessary for the public health, safety, or welfare of its citizens, and such conditions, terms, or restrictions may be more onerous or demanding than those otherwise specifically required by the land development standards then existing in the City of Twinsburg, and may provide for off-site improvements, screening, buffering, setbacks, building height restrictions, land coverage restrictions, and similar types of matters that would not otherwise be required of the development under existing City ordinances and regulations.
- J. A statement indicating that failure of the Development Agreement to address a particular permit, condition, term, or restriction shall not relieve the property owner of the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions, and that any matter or thing required to be done under existing ordinances of the City of Twinsburg shall not be otherwise amended, modified or waived, unless such modification, amendment, or waiver is expressly in the authority of Council or Planning Commission with specific reference to the Code provision so waived, modified, or amended.

K. At City Council's discretion, the Development Agreement may provide the

entire development or any phase thereof, be commenced or be completed within any specific period of time, and may provide for penalties in the nature of monetary penalties, the denial of future building permits, the termination of the Development Agreement, or the withholding of Certificates of Occupancy. for the failure of the property owner to comply with any such requirement. (Ord. 173-2000. Passed 12-17-2000)

**1203.13 STATUS OF COMPREHENSIVE DEVELOPMENT CODE REQUIREMENTS ON LAND SUBJECT TO A DEVELOPMENT AGREEMENT.**

- A. The ordinances and regulations of the City governing the development of the land at the time of the execution of any Development Agreement provided for hereunder shall continue to govern the development of land subject to the Development Agreement for the duration of the Development Agreement. At termination of the duration, of the Development Agreement, all then existing codes shall become applicable to the project regardless of terms of the Development Agreement, and said Development Agreement shall be modified accordingly.
- B. The City may apply ordinances and policies adopted subsequently to the execution of the Development Agreement to the subject property, only if the City has held a public hearing and determined that such new ordinances and policies are:
  - 1. Not in conflict with the laws and policies governing the Development Agreement and do not prevent development of the land uses, intensities, or densities as allowed under the terms of the Development Agreement;
  - 2. Essential to the public health, safety and welfare and expressly state they shall apply to a development that is subject to a Development Agreement;
  - 3. Specifically anticipated and provided for in the agreement; and
  - 4. The City demonstrates substantial changes have occurred in pertinent conditions existing at the time of approval of the Development Agreement, or the Development Agreement is based on substantially inaccurate information supplied by the developer.
- C. All Development Agreements shall specifically provide that subsequently adopted ordinances and policies of general application in the City, shall be applicable to the lands subject to the Development Agreement. (Ord. 173-2000. Passed 12-17-2000)

**1203.15 MONITORING OF EXECUTED DEVELOPMENT AGREEMENTS**

The City shall review all lands subject to a Development Agreement not less than once every twelve (12) calendar months to determine if there has been demonstrated good faith compliance with terms of the Development Agreement. The Mayor or his designee shall report his findings to the City Council. In the event the City finds, on the basis of substantial competent evidence, there has been a failure to comply with the terms of the Development Agreement, the Agreement may be revoked or modified by the City upon thirty (30) days notice to the property owner as shown on the records of the Summit County Auditor. Such termination or amendment shall be accomplished only after a public hearing and notice as is herein for the adoption of a Development Agreement. Amendment or cancellation of the Development Agreement by mutual consent of the City and the property owner may be accomplished following the notice requirements required for initial adoption of the Development Agreement as previously described. (Ord. 173-2000. Passed 12-17-2000)

**1203.17 RECORDING OF THE DEVELOPMENT AGREEMENT**

No later than fourteen (14) days after execution of a Development Agreement, the City shall cause it to be recorded at the Summit County Auditor's office. Said Agreement and the burdens of the Development Agreement shall be binding upon, and the benefits of the Agreement shall inure to, all successors in interest to the parties to the Agreement. (Ord. 173-2000. Passed 12-17-2000)

**1203.19 SUBSEQUENT PASSAGE OF STATE LAWS AND THE EFFECT ON EXISTING DEVELOPMENT AGREEMENTS**

In the event that State and Federal laws are enacted after the execution of a Development Agreement which are applicable to and preclude the parties compliance with terms of the Development Agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant State or Federal laws, such modification or revocation to take place only after the notice provisions provided for the adoption of a Development Agreement have been complied with. Such persons as are defined by State law shall have standing to enforce the Development Agreement. (Ord. 173-2000. Passed 12-17-2000)

**Twinsburg Zoning and  
Development Regulations, dated 01.23.2006**  
Revisions (as of: 4.1.2010)

**Chapter 1105:**

- Ord. 112-2009; Passed 06.23.2009 (certain definition)

**Chapter 1148:**

- Ord. 190-2009; Passed 12.05.2006 (similar use: Training Center for Mentally Disabled)
- Ord. 33.2008; Passed 04.22.2008 (Business Design Standards)
- Ord. 69-2008; Passed 11.04.2008 (Mixed Use)

**Chapter 1149:**

- Ord. 109-2006; Passed 11.07.2006 (Adult Entertainment Establishments)

**Chapter 1150:**

- Ord. 70.2008; Passed 11.04.2008 (Flood Way District)

**Chapter 1151:**

- Ord. 71-2008; Passed 11.04.2008 (Conditional Use)

**Chapter 1153:**

- Ord. 72-2008; Passed 11.04.2008 (Accessory Buildings & Uses)

**Chapter 1174:**

- Ord. 17.2006; Passed 02.28.2006 (Shared Parking)

**Chapter 1183:**

- Ord. 93-2009; Passed 04.28.2009 (Subdivision Review)

**Chapter 1185:**

- Ord. 94-2009; Passed 04.28.2009 (Prelim. & Final Plat Submittals)