

Chapter 1113

Use Requirements and Standards

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1113.01 Conditional Uses

- (a) Purpose: Under some unusual circumstances, a use which more intensely affects an area than those uses which are permitted in the zoning district in which it is proposed to be located may nevertheless be desirable and also compatible with the permitted uses within the zoning district, if the proposed use is properly controlled and regulated. The purpose of this Section is to establish the provisions whereby the Planning Commission may allow such uses to exist as conditional uses in specific zoning districts where these unusual circumstances exist and where the proposed uses will be consistent with the general intent and purpose of this UDO.
- (b) Applicability:
- (1) A use designated as a Conditional Use may be permitted in a zoning district, in accordance with this Section, when its location, extent and method of development will not substantially alter the character of the vicinity or unduly interfere with the use of adjacent lots in the manner prescribed for the zoning district. To this end, if the Planning Commission decides to grant a Conditional Use Permit, it may set forth additional requirements or conditions, or modify or waive any requirement, as will, in its judgment, render the Conditional Use compatible with the existing and future use of adjacent lots and the vicinity.
 - (2) When a proposed use involves two (2) or more Conditional Uses, the applicant shall seek a Conditional Use Permit for each such use, which may be done by one application (including one development plan, site plan, and/or construction plan, as required). The proposed uses shall meet the specific standards for each use, except as such requirements are modified or waived by the Planning Commission.

- (c) **General Provisions:** The following general provisions shall apply:
- (1) **Administration:** Any owner of property in the City may submit an application to the Planning Commission requesting a Conditional Use Permit.
Conditional Uses may be permitted in certain zoning districts, as listed in Chapter 1107, Table 1, Table 5 and Table 7. The procedure required prior to authorization of a Conditional Use Permit shall be as prescribed in this Section and section 1115.09.
 - (2) **Use Standards:** A Conditional Use, and its accessory uses, may be permitted in a zoning district only when the use, and its location, extent, and method of development, will not substantially alter the character of the area or interfere with the use of adjacent lots in the manner prescribed for the zoning district. In addition, the particular facts and circumstances of each proposed use shall be reviewed for conformity with the General Standards for Approval outlined in section 1113.01(d) and the Specific Standards contained in section 1113.01(e).
 - (3) **Development Standards:** A Conditional Use, and its accessory uses, must meet the Lot and Dimensional Requirements outlined for the Use or, if not specifically listed, the underlying zoning district, in Chapter 1107, Tables 2-4, Table 6, Table 8 and Table 9, in addition to any applicable Development Standards contained in Chapter 1111.
 - (3) **Compatibility:** Unless otherwise specified in the specific standards outlined in section 1113.01(e), the standards established in the underlying zoning district in which the Conditional Use is proposed to be located shall apply to the Conditional Use.
 - (4) **Similar Uses:** For any proposed use not specifically listed as a conditional use, but that appears to be similar to other listed Conditional Uses, the applicant may file with the Appeals Board for a determination of similar use. Upon such determination by the Appeals Board, the Planning Commission shall apply the specific standards for the determined similar use to the proposed use.
- (d) **General Standards for Approval:** A Conditional Use shall not be granted unless it meets **all** of the following standards:
- (1) The proposed use is a Conditional Use in the zoning district for which it is proposed;
 - (2) The proposed Conditional Use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Development Plan or this UDO;
 - (3) The proposed Conditional Use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the neighborhood;
 - (4) The proposed Conditional Use will not be hazardous or unreasonably disturbing to existing or future neighboring uses;
 - (5) The proposed Conditional Use will be served adequately by essential public facilities and services such as streets, police and fire protection, drainage, water and sewer, or the persons or agencies responsible for the establishment of the proposed use shall be able to adequately provide any such services;
 - (6) The proposed Conditional Use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

- (7) The proposed Conditional Use will not involve uses, activities, processes, materials, equipment and conditions or operations that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
 - (8) The proposed Conditional Use will have vehicular approaches to the property that are designed so as not to interfere with traffic on surrounding public thoroughfares; and
 - (9) The proposed Conditional Use will not result in the destruction, loss or damage of a natural, scenic, or historic features of major importance.
- (e) Specific Standards: This Section presents standards applicable to the specific Conditional Uses listed. Unless otherwise noted, the development standards of the zoning district, and any other applicable standards as contained in Chapter 1111 of this UDO, shall apply:
- (1) **Assisted Living and Life Care:**
 - A. Purpose: A residential facility for the aged or infirm, or any other reasonably independent person in need of limited care, that provides health monitoring services and assistance with daily activities, and may provide other services, such as recreational, social, educational and cultural activities, transportation and financial services
 - B. Standards:
 - (i) Single-family homes may not be used for such facilities.
 - (ii) The facility is not equipped for surgical care or for treatment of acute disease or serious injury, and is not primarily designed for patients being treated for mental illness or alcohol or drug addiction.
 - (iii) The proposed facility must meet all federal and/or state certification, licensing or approval requirements.
 - (iv) The proposed facility must meet local fire safety and Ohio Building Code requirements for the proposed use and level of occupancy.
 - (v) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it.
 - (vi) The exterior of the facility shall be compatible with the residential character of the neighborhood.
 - (vii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (viii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (ix) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
 - (x) The applicant will provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.

(2) **Bar, Lounge, and/or Tavern:**

- A. Purpose: The use shall be for the purpose of selling food and beverages, including alcoholic beverages, to be consumed on the premises.
- B. Standards:
 - (i) Such establishment shall be located at least two hundred fifty feet (250') from a residential district, churches and schools.
 - (ii) All activities shall take place in a fully enclosed sound-resistant building.
 - (iii) The site shall be kept free of litter and debris. The use of bars, lounges or taverns shall be no later than 2:30 a.m., unless otherwise specified by Planning Commission in approving a Conditional Use Permit.
 - (iv) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (v) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (vi) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.

(3) **Bed and Breakfasts:**

- A. Purpose: The use shall be for providing only overnight accommodation for guests, in up to five (5) guest rooms, and breakfast for said guests.
- B. Standards:
 - (i) The facility shall be compatible with surrounding uses and shall be of sufficient site area to accommodate existing and future needs.
 - (ii) Accessory buildings and detached garages used by one or more of the allowed guests shall not contain cooking facilities.
 - (iii) Breakfast shall be served on the premises only for the guests of the facility, and no other meals shall be provided. "Restaurants," as defined in Chapter 1103, included in Bed and Breakfasts shall be subject to the approval of Planning Commission.
 - (iv) The owner shall maintain a record of the stays of all guests. The same guest or group of registrants shall not stay at the facility for a period of more than seven (7) consecutive days or more than fourteen (14) total days within a given calendar year.
 - (v) The operator of the bed and breakfast facility must be the owner of record of the building, and hold no less than a fifty percent (50%) interest in the property. The owner must occupy the property.
 - (vi) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (vii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.

(viii) The proposed use shall comply with the City's Parking Regulations, contained in section 1111.07. Driveways may be used as off-street parking areas, except for that portion of a driveway located between the property line and the curb. For parking, setbacks shall be not less than ten (10) feet from any rear or side-yard lot line.

(4) Cemeteries and Mortuaries:

A. Purpose: Land used or intended to be used for the burial of the human or animal dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries, if operated in connection with and within the boundaries of such cemetery.

B. Standards:

(i) The site shall have direct access to a major thoroughfare, which the Planning Commission determines is adequate to serve the size of the facility proposed.

(ii) All buildings including, but not limited to crematories, mausoleums and mortuaries, shall not be located within one hundred feet (100') of a property line.

(iii) All graves or burial lots shall be setback not less than fifty feet (50') from any property line.

(iv) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.

(v) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.

(5) Churches and Places of Worship:

A. Purpose: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

B. Standards:

(i) The place of worship shall be used only for the purposes of the local congregation or organization and shall not be operated as or in connection with any commercial use, except that the renting of rooms for community service purposes is permitted.

(ii) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.

(iii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.

(iv) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.

(v) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.

(vi) In residential districts, all buildings shall be set back an additional one foot (1') over the usual yard requirements

for each one foot (1') of the building that exceeds thirty-five feet (35') in height.

- (vii) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.
- (viii) A cemetery associated with a church shall require a separate Conditional Use Permit under 1113.01(e)(5).
- (ix) Nursery, kindergarten, day care and compulsory (grades 1 through 12) schools shall be permitted accessory uses to a church; however, any outdoor playgrounds, tot lots, exercise areas, etc., shall be enclosed or otherwise protected from traffic or other hazards. The area shall be enclosed by a fence or wall a minimum of five feet (5') in height, except when the recreational area abuts a residential property, in which case it shall be enclosed by a solid wood fence or masonry wall six feet (6') high along the property line.

(6) Commercial Entertainment:

- A. Purpose: A commercial establishment that provides, as its primary activity, space for various types of sporting and/or leisure activities, and is completely contained within an enclosed building. Examples of such uses include skating rinks, bowling alleys, indoor playgrounds and movie theaters.

B. Standards:

- (i) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
- (ii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (iii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
- (iv) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (v) A six foot (6') high solid wood fence, masonry wall, or hedge shall be required along any property line adjacent to a residential use or residential district.
- (vi) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.
- (vii) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer. Interconnecting circulation aisles between parcels shall be provided.
- (viii) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not

conflict with major pedestrian movements. Access to an arterial or collector street is required.

- (ix) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
- (x) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion and to promote safety.
- (xi) When adjacent to a residential district, all buildings shall be set back an additional one foot (1') over the usual yard requirements for each one foot (1') of the building that exceeds thirty-five feet in height (35').
- (xii) If adjacent to a residential use or residential district, such use shall not create excess noise, dust, odors or other nuisances.
- (xiii) Planning Commission may limit the hours of operation of such use to assure compatibility with adjacent uses.

(7) Community Centers:

A. Purpose: A place, structure, area or other facility used for social and recreational programs open to the public and designed to accommodate and serve significant segments of the community. A community center may also be referred to as a convention center or a civic center.

B. Standards:

- (i) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
- (ii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (iii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
- (iv) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (v) In residential districts, all buildings shall be set back an additional one (1) foot over the usual yard requirements for each one (1) foot of the building that exceeds thirty-five (35) feet in height.
- (vi) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.

(8) Day Care, Child and/or Adult:

A. Purpose: The use shall be for the purpose of providing temporary care, for a portion of the day, to children and/or adults. A day care facility also may be operated as an accessory use to a place of worship, school, or other public or semi-public organization.

B. Standards:

- (i) The proposed facility must meet State certification, licensing or approval requirements.
- (ii) The proposed facility must meet local fire safety requirements for the proposed use and level of occupancy.
- (iii) The exterior of the facility shall be compatible with the residential character of the neighborhood, and the use shall comply with the Landscaping Standards contained in section 1111.06.
- (iv) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (v) The proposed use shall not require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07. Required parking shall be on the same lot as the principal use.
- (vi) An on-site drop off shall be provided at the main entrance to the facility with queuing area sufficient to accommodate eight (8) automobiles for facilities with twenty or fewer clients plus one (1) additional vehicle for each additional ten (10) clients served.
- (vii) The proposed use shall not generate an unreasonable increase in traffic volume and access to an arterial or collector street is required, or access shall be provided in a manner that does not cause heavy traffic on residential streets.
- (viii) There shall be on the site a safe outdoor play space or recreation area, which is enclosed or otherwise protected from traffic or other hazards. The space shall contain no less than sixty square feet (60 sq. ft.) per client and shall provide an opportunity for supervised outdoor play or recreation each day in suitable weather. The area shall be enclosed by a fence or wall a minimum of five feet (5') in height, except when the recreational area abuts a residential property, in which case it shall be enclosed by a solid wood fence or masonry wall six feet (6') high along the property.
- (ix) The City may require additional fencing, screening, or other measures necessary to protect the health, safety, and welfare of clients using day care centers in commercial, industrial, or other high hazard areas. It may also deny a request to locate a facility in such areas based on these considerations.
- (x) Use of outdoor recreational areas shall be limited to between the hours of 7:30 am and 8:00 pm.
- (xi) All day care centers shall provide evidence of comprehensive liability insurance insuring against damage to property or physical injury, in combined single limit form, in an amount of twenty-five thousand dollars (\$25,000) per person authorized to be cared for.
- (xii) The applicant will provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.

(9) Drive-Through Retail:

- A. **Purpose:** The use shall be for retail or service establishments which provide a designated place where people can drive up in automobiles and conduct the major portion of business without having to get out of their automobiles or where the serving of the automobile is the major business. Drive-Through Retail uses include, but are not limited to, drive-in theaters, Automatic Teller Machines (ATMs), drive-through party stores, banks with drive-throughs or drive-in banks, and car washes, whether automatic or manual, and any other freestanding drive-through retail structure.
- B. **Standards:**
- (i) Minimum lot area shall be sufficient area to accommodate the primary use and/or drive-through structure or as approved by City Engineer.
 - (ii) For car wash facilities, the applicant shall submit a plan of how the facility will prevent excess water from pooling within the right-of-way.
 - (iii) All outdoor storage, if allowed by Planning Commission, must be completely screened from view from adjacent properties and from the street.
 - (iv) No portion of the structure or its appurtenances, including ancillary, associated, or auxiliary equipment, shall be located in front of the established building line and at least one hundred feet (100') from any adjacent residential property or residential district.
 - (v) A solid wood fence, masonry wall, or hedge feet (6') in height shall be required along any property line on any side of the site adjacent to a residential use or residential district.
 - (vi) Such facilities shall be located on a major street in an area least disruptive to pedestrian and vehicular traffic. Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be one hundred feet (100') from an intersection. One (1) access drive per street frontage shall be permitted and interconnecting circulation aisles between parcels shall be provided in cross-access easements.
 - (vii) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major pedestrian movements shall not conflict with major vehicular circulation movements.
 - (viii) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
 - (ix) Off-street queuing space for seven (7) vehicles shall be provided for every drive-through retail facility, unless Planning Commission modifies this requirement. Queuing spaces shall not block or otherwise interfere with parking or site circulation patterns.
 - (x) Customer and employee parking shall be separated from drive-through activities, and customer parking shall be located in the area with highest accessibility to customer sales.

- (xi) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (xii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
- (xiii) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (xiv) Hours of operation may be regulated by the Planning Commission, and made a part of the conditions of the Conditional Use Permit.
- (xv) This use may be permitted where the applicant can demonstrate that the use is distributed and properly integrated into the site plan to avoid congestion, to minimize conflict points between auto traffic and pedestrians, to reduce the number of curb cuts and to prevent strip type development.

(10) Dwelling, Row House (or Townhouse):

- A. Purpose: A building or portion thereof designed, intended or used primarily for residential purposes. Row house dwellings are situated so that their sidewalls are shared with other like structures, all having their own separate entrances and being separate lots of record.
- B. Standards:
 - (i) The applicant shall submit construction plans showing that the proposed use is in compliance with the Ohio Building Code and local fire safety requirements for the proposed use and level of occupancy.
 - (ii) The exterior of the proposed use shall be compatible with the residential character of the neighborhood, and the use shall comply with the Landscaping Standards contained in section 1111.06.
 - (iii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iv) The proposed use shall not require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07. Required parking shall be on the same lot as the principal use.
 - (v) If patios are to be provided, they shall be shown on the construction plans, and may be enclosed with a solid wall or fence. The space between patio fences or walls shall not be less than five feet (5'), unless otherwise approved by Planning Commission.

(11) Elderly Housing:

- A. Purpose: An age-restricted residential development in any housing form that qualifies for an exemption as "housing for older persons" under the federal Fair Housing Amendments Act of 1988, 42 U.S.C. §3607(b).

B. Standards:

- (i) The area proposed shall be in single ownership, or if in several ownerships, the application shall be filed jointly by all the owners of the properties included in the plan.
- (ii) If the proposed use involves new development, the request for a Conditional Use shall be submitted along with the applicant's Development Plan (see Chapter 1111).
- (iii) The proposed use shall be appropriately located, and shall be in convenient walking distance of shopping and community facilities wherever possible.
- (iv) Each dwelling unit shall be occupied in accordance with the "housing for older persons" exemption under the federal Fair Housing Amendments Act. The applicant shall submit documentation showing that the proposed development will be restricted to elderly housing, in the form of deed restrictions on each lot, or in the case of a condominium development, by the articles of incorporation and the Homeowner's Association bylaws.
- (v) No dwelling unit in the development shall include more than two (2) bedrooms.
- (vi) Planning Commission may modify the Lot and Dimensional Requirements of the underlying zoning district for the proposed use, where it finds such modification to be in the best interest of allowing an appropriate Elderly Housing Development that will be harmonious with the surrounding neighborhood.
- (vii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (viii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
- (ix) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
- (x) If patios are to be provided, they shall be shown on the construction plans, and may be enclosed with a solid wall or fence. The space between patio fences or walls shall not be less than five feet (5'), unless otherwise approved by Planning Commission.

(12) **Food-Related Drive-In and Drive-Through Facility (including Fast Food Restaurants and Convenience Food Stores):**

- A. Purpose: The use shall be for the sale of food for consumption on the premises and/or pick-up via drive-in or drive-through facility. Food-Related Drive-In and Drive-Through Facilities include, but are not limited to, fast food restaurants, drive-through restaurants that prepare and/or dispense food or beverages and do not provide a place for all its customers to eat inside the building, or which serve food or beverages for carry out, or drive-in eating and drinking places, or establishments where customers may serve themselves and may eat or drink the food or beverages on the premises, and ice cream stands.

B. Standards:

- (i) All structures, including drive-in or drive-through windows and lanes, shall be set back at least one hundred (100) feet from any adjacent residential property.
- (ii) Drive-through menu board signs shall include freestanding, pole, pylon and monument signs. One drive-through menu board sign may be approved as part of the Conditional Use Permit, but only when all of the following conditions are fulfilled: the sign is located on the property to which it refers; the sign is not visible from the public right-of-way; the sign does not exceed six feet (6') in height; and the sign is located at least seventy-five feet (75') from a residential district.
- (iii) Loud speaker systems may be approved as part of the Conditional Use Permit if they do not create a nuisance for adjacent properties.
- (iv) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (v) A solid wood fence, masonry wall, or hedge feet (6') in height shall be required along the property line on any side of the site adjacent to a residential property.
- (vi) Off-street queuing space for seven (7) vehicles shall be provided for every drive-through and drive-in facility, unless Planning Commission modifies this requirement. Queuing spaces shall not block or otherwise interfere with parking or site circulation patterns.
- (vii) Customer and employee parking shall be separated from drive-in and drive-through activities and customer parking shall be located in the area with highest accessibility to dining or sales areas. A bypass lane shall be provided adjacent to the drive through lanes, which shall be separate from space used for maneuvering.
- (viii) The circulation system shall provide smooth, continuous traffic flow with efficient, non-conflicting movement throughout the site. Major pedestrian movements shall not conflict with major vehicular circulation movements.
- (ix) Access shall be from an arterial street or commercial collector and shall be provided in a manner that does not cause heavy traffic on residential streets. Access to such facilities shall be provided in a manner that is least disruptive to pedestrian and vehicular traffic. Access drives shall be one hundred feet (100') from an intersection. Two (2) access drives per facility may be permitted and interconnecting circulation aisles between parcels shall be provided in cross-access easements.
- (x) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (xi) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
- (xii) Hours of operation may be regulated by the Planning Commission, and made a part of the conditions of the Conditional Use Permit.

(xiii) This use may be permitted where the applicant can demonstrate that the use is distributed and properly integrated into the site plan to avoid congestion, to minimize conflict points between auto traffic and pedestrians, to reduce the number of curb cuts and to prevent strip type development.

(13) Gasoline Service Station and Gasoline Service Stations with Convenience Food Stores:

- A. **Purpose:** An establishment or business with one or more fueling positions, and of which the sale and storage of automotive fuel to the public is the principal activity, or an establishment or business with one or more fueling positions, which also offers for retail sale other related motor vehicle products, household consumer merchandise, beverages, cigarettes, packaged foods, and/or the preparation and sales of delicatessen sandwiches, ice cream counters or other foods, and other related items.
- B. **Standards:**
- (i) Facilities shall be compatible with the surrounding area with sufficient site area to accommodate existing and future uses.
 - (ii) All outdoor storage, if permitted by Planning Commission, must be completely screened from view from adjacent properties and the street.
 - (iii) No portion of the structure or its appurtenances, including ancillary, associated, or auxiliary equipment shall be located in front of the established building line.
 - (iv) All outdoor display areas, gasoline pumps, canopies, and any buildings used for service shall be located at least fifty (50) feet from any adjacent residential property or district.
 - (v) A solid wood fence, masonry wall, or hedge feet (6') high shall be required along any property line adjacent to a residential use or district.
 - (vi) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.
 - (vii) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.
 - (viii) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not conflict with major pedestrian movements. Interconnecting circulation aisles between parcels shall be provided.
 - (ix) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
 - (x) Off-street, queuing space shall be provided for two (2) vehicles for each gasoline pump island located on the site. Queuing spaces shall not block or otherwise interfere with parking or site circulation patterns. Customer and

employee parking shall be separated from drive-through activities, and customer parking shall be located in the area with highest accessibility to customer sales.

- (xi) All areas not paved or covered by the building shall be landscaped and all landscaped areas shall be separated from all paved areas by six inch (6") high curbing.
- (xii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (xiii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
- (xiv) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (xv) The proposed use shall comply with all federal, state and/or local underground storage facilities requirements, licensing requirements and/or business regulations.

(14) Group Homes (includes Adult Group Home, Community Alternative Home and Group Home for the Physically and Mentally Disabled):

A. Purpose: These uses provide accommodation to adults in need, as well as supervision and personal care services.

B. Standards:

- (i) The proposed facility must meet all federal and/or state certification, licensing or approval requirements.
- (ii) The proposed facility must meet local fire safety requirements and Ohio Building Code requirements for the proposed use and level of occupancy.
- (iii) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07.
- (iv) Such facilities shall not be located within six hundred feet (600'), including a public or private right-of-way, of an existing group home.
- (v) The exterior of the facility shall be compatible with the residential character of the neighborhood.
- (vi) The facility shall be reasonably accessible, by virtue of its location or transportation provided by the applicant, to medical, recreational and retail services required by its residents, and to employment opportunities, if applicable.
- (vii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (viii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
- (ix) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, and will include a structured procedure whereby any neighbor grievances may be filed and resolved.

- (x) The applicant will provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.

(15) Health Care and Human Services:

- A. **Purpose:** A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human needs including, but not limited to, diagnostic centers, treatment centers, rehabilitation centers, extended care centers, intermediate care facilities, outpatient services or central service facilities serving one or more institutions.
- B. **Standards:**
 - (i) The proposed use shall meet all applicable federal, state and/or local licensing requirements, certification requirements and/or business regulations.
 - (ii) The proposed facility must meet local fire safety requirements and Ohio Building Code requirements for the proposed use and level of occupancy.
 - (iii) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07.
 - (iv) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
 - (v) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (vi) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
 - (vii) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
 - (viii) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion and promote safety.
 - (ix) When adjacent to residential districts, all buildings shall be set back an additional one foot (1') over the usual yard requirements for each one foot (1') of the building that exceeds thirty-five feet (35') in height.
 - (x) A solid wood fence, masonry wall, or hedge six feet (6') high shall be required along any property line adjacent to a residential use or residential district.
 - (xi) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.
 - (xii) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact

on residential streets. Access drives shall be as approved by the City Engineer.

- (xiii) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not conflict with major pedestrian movements. Interconnecting circulation aisles between parcels shall be provided.
- (xiv) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
- (xv) The applicant will provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.

(16) Hotel, Lodge, and Motel:

- A. Purpose: The use shall be for the purpose of providing overnight accommodation to transient guests for compensation.
- B. Standards:
 - (i) Parking and service areas shall be completely screened from view by a six foot (6') solid fence, wall or evergreen hedge when adjacent to a residential use or district.
 - (ii) Access to an arterial or collector street is required. Sufficient area shall be provided to accommodate vehicular loading, unloading and drop-off without conflicting with parking and drive-aisles.
 - (iii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iv) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (v) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
 - (vi) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
 - (vii) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.
 - (viii) This use may be permitted where the applicant can demonstrate that the use is distributed and properly integrated into the site plan to avoid congestion, to minimize conflict points between auto traffic and pedestrians, to reduce the number of curb cuts and to prevent strip type development.

(17) In-Law Suites:

- A. **Purpose:** The use shall be for the purpose allowing an independent dwelling unit in conjunction with and clearly subordinate to a primary dwelling unit, for the habitation of family members as described below:
- B. **Standards:**
 - (i) The in-law suite must be located in the principal structure, which includes attached garages or areas over attached garages, and shall only include basements when such basements have their own, separate ingress and egress.
 - (ii) Maximum size of the in-law suite shall not exceed eight hundred sixteen square feet (816 sq. ft.).
 - (iii) The structure must maintain a single-family residential appearance that blends with the principal structure and the neighborhood. An architectural rendering and floor plan must be provided and approved by Planning Commission. Said plans shall include a landscape plan, which will be followed as approved.
 - (iv) The in-law suite may be located on the first or second floor.
 - (v) Maximum lot coverage by all structures on one lot is thirty five percent (35%).
 - (vi) All in-law suites must meet the current edition of the Ohio Building Code.
 - (vii) The property owner must live on site, and the in-law suite must be subservient to the principal use of the property as a dwelling.
 - (viii) The in-law suite shall be occupied only by a member of the family of the owner of the principal residence, who is related to the owner by blood, marriage or adoption.

(18) Keeping of Farm Animals in the R-1A District:

- A. **Purpose:** It is recognized that the R-1A Estate Residential District, due to its larger lot size and the location of the District, may provide adequate area for some limited agricultural uses. This use shall be for the purpose of allowing limited agricultural uses in the R-1A, Estate Residential District on lots less than two (2) acres. No agricultural uses shall be permitted in the R-1A District on lot less than two (2) acres without a conditional use permit, and such uses shall be subject to the requirements and conditions placed upon them by these standards and any additional conditions set forth by the Planning Commission.
- B. **Limitations:** Such uses shall be limited to one (1) sheep, goat, hog or other small farm animal.
- C. **Standards:**
 - (i) The structure containing the farm animal or horse shall be located not less than one hundred feet (100') from any adjoining residence.
 - (ii) No storage of manure or odor or dust-producing substance shall be permitted.
 - (iii) Land shall be fenced so as to securely confine such animals. Such fencing shall not be located closer to any public right-of-way or private street than the minimum setback in the District and shall not be located closer than fifteen feet (15') from any other residential property line.

(iv) The use shall comply in all respects with any and all applicable state and federal regulations.

- D. Validity: The Conditional Use Permit for the Keeping of Farm Animals in the R-1A District may be issued for an initial period of one (1) year and renewed for three (3) year periods thereafter. Conditional Use Permits shall be specific to the owner and property for which the the Permit is approved; they shall not be transferable to a subsequent owner of the property, nor shall they transfer with the owner to another location. Such Permit shall terminate upon the property no longer being used for such use or upon the sale or change of ownership of such dwelling or land, or upon violation of any provisions of this Section.

(19) Landing Fields:

- A. Purpose: A specific area designated for the take-off and landing of aircraft.
- B. Standards:
- (i) The applicant must provide documentation that the proposed use meets all FAA requirements.
 - (ii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (iv) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.

(20) Large Format Retail Standards:

- A. Purpose: The intent of this Section is to provide development standards for retail uses larger than fifty thousand square feet (50,000 sq. ft.) of gross floor area.
- B. Standards:
- (i) All facades of a building that are visible from adjoining properties and/or public streets shall contribute to the pleasing- scale features of the building and encourage community integration by featuring characteristics similar to a front facade.
 - (ii) All sides of a principal building that directly face an abutting public street shall feature at least one (1) customer entrance. Where a principal building directly faces more than two (2) abutting public streets, this requirement shall apply only to two (2) sides of the building, including the side of the building facing the primary street, and another side of the building facing a secondary street.
 - (iii) Facades greater than one hundred feet (100') in length shall incorporate recesses and projections a minimum of three feet (3') in depth and a minimum of twenty contiguous feet (20') within each one hundred feet (100') of façade length. Windows, awnings, entry areas, and arcades shall total at least sixty percent (60%) of the façade length facing a public street.

- (iv) Smaller retail spaces that are part of a larger principal retail building shall be transparent between the height of three feet (3') and eight feet (8') above the walkway grade for no less than sixty percent (60%) of the horizontal length of the building façade. Windows shall be recessed and should include visually prominent sills, shutters, or other such forms of framing. Smaller retail spaces shall have separate outside entrances.
- (v) Building facades shall include a repeating pattern that shall include no less than three (3) of the following elements: color change, texture change, material module change, or expression of architectural or structural bay through a change in plane no less than twelve inches (12") in width, such as an offset, reveal, or projecting rib. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.
- (vi) Rooflines shall provide variations to reduce the massive scale of these structures and to add visual interest. Rooflines shall have a change in height every one hundred linear feet (100') in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and rooftop mechanical equipment from public view. Alternating lengths and designs may be acceptable and can be addressed during the Development Plan.
- (vii) Predominant exterior building materials shall be of high quality. These include brick, wood, limestone, other native stone, and tinted/textured concrete masonry units. Smooth-faced concrete block, tilt-up concrete panels, or pre-fabricated steel panels are prohibited as exterior building materials.
- (viii) Façade colors shall be of low reflectance, subtle, neutral or earth tone colors. The use of high intensity colors, metallic colors, black or fluorescent colors is prohibited.
- (ix) Building trim may feature brighter colors than façade colors, but neon tubing is prohibited.
- (x) Each principal building or tenant space shall have a clearly defined, highly visible customer entrance with a minimum of three (3) of the following features: canopies, porticos, overhangs, recesses/projections, arcades, raised cornice parapets over the door, peaked roof forms, arches, outdoor patios, display windows, architectural details such as tile work and moldings which are integrated into the building structure and design, integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
- (xi) Loading docks, trash collection, outdoor storage and similar facilities and functions, as provided for by the Ohio Building Code, shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets. Use of screening materials that are different from or inferior to the principal materials of the building and landscape is prohibited. No areas for outdoor storage,

trash collection or compaction, loading or other such uses shall be located within twenty feet (20') of any public or private street, public sidewalk or access easement, or internal pedestrian way. No delivery, loading, trash removal, or similar operations are permitted between the hours of 10:00 p.m. and 7:00 a.m., except in special circumstances and where steps are taken to reduce noise impacts.

- (xii) Each retail development shall contribute to the establishment or enhancement of the community and public spaces by providing at least two (2) community amenities such as a patio/seating area, pedestrian plaza with benches, outdoor play area, kiosk area, water feature, clock tower, steeple, or other such deliberately shaped area and/or a focal feature or amenity that adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.
- (xiii) A continuous internal pedestrian walkway shall be provided from the perimeter public sidewalk to the principal customer entrance. This internal walkway must feature landscaping, benches, and other such materials/facilities for no less than fifty percent (50%) of its length.
- (xiv) Sidewalks shall be provided along the full length of the building along any façade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six feet (6') from the facade of the building to provide planting beds for foundation landscaping.
- (xv) Internal pedestrian walkways shall provide a weather protection feature such as an awning within thirty feet (30') of all customer entrances.
- (xvi) The internal pedestrian walkways shall be distinguished from driving surfaces through the use of special pavers, bricks, or scored concrete to enhance pedestrian safety and the attractiveness of the walkways.
- (xvii) The proposed use shall comply with the City's Parking Regulations, contained in section 1111.07, and no more than sixty percent (60%) of the off-street parking area for the entire property shall be located between the front facade of the principal building and the primary abutting street, unless the principal building and/or parking lots are screened from view by out-lot development and additional tree plantings and/or earth berms.
- (xviii) Where building facades face adjacent residential uses, an earthen berm shall be installed, no less than six feet (6') in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of fifteen feet (15') on center. Additional landscaping may be required to effectively buffer adjacent land use as deemed appropriate.
- (xix) Primary tenant spaces that exceed seven thousand five hundred gross square feet (7,500 sq. ft.) in area shall be

structurally designed to be easily divided into smaller tenant spaces.

- (xx) Standing seam metal roofs are strongly preferred.
- (xxi) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (xxii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (xxiii) In its discretion, Planning Commission may waive or modify any of these requirements as they apply to a particular use.

(21) Medical and Health-Related Office:

- A. Purpose: A commercial or noncommercial establishment that provides, as its primary activity, health-related services to the general public on an outpatient basis. Examples of such uses include, but are not limited to, doctors' offices and dentists' offices.
- B. Standards:
 - (i) The proposed use shall not provide space for overnight treatment.
 - (ii) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
 - (iii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iv) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (v) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
 - (vi) The proposed use shall meet all applicable federal, state and/or local licensing requirements, certification requirements and/or business regulations.
 - (vii) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.
 - (viii) A solid wood fence, masonry wall, or hedge six feet (6') high shall be required along any property line adjacent to a residential use or district.

(22) Motor Vehicle-Oriented Business:

- A. Purpose: The use shall be for the purpose of providing services to motor vehicles, including but not limited to oil-change facilities, tire service business, etc.. It is exclusive of drive-through structures, such as restaurants, banks, etc.

B. Standards:

- (i) Facilities shall be compatible with the surrounding area with sufficient site area to accommodate existing and future uses.
- (ii) All outdoor storage must be completely screened from view from adjacent properties and the street.
- (iii) All hydraulic hoists, oil pits and all lubricants, greasing and repair equipment shall be enclosed entirely within a building. No outdoor assembly or repair of motor vehicles shall be permitted.
- (iv) No portion of the structure or its appurtenances, including ancillary, associated, or auxiliary equipment shall be located in front of the established building line.
- (v) All outdoor display areas, gasoline pumps, canopies, and any buildings used for service shall be located at least fifty (50) feet from any adjacent residential property or district.
- (vi) A solid wood fence, masonry wall, or hedge feet (6') high shall be required along any property line adjacent to a residential use or district.
- (vii) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.
- (viii) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.
- (ix) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not conflict with major pedestrian movements. Interconnecting circulation aisles between parcels shall be provided.
- (x) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
- (xi) Off-street queuing space for seven (7) vehicles shall be provided for every drive-through and drive-in facility, unless Planning Commission modifies this requirement. Queuing spaces shall not block or otherwise interfere with parking or site circulation patterns.
- (xii) Off-street, queuing space shall be provided for two (2) vehicles for each gasoline pump island located on the site. Queuing spaces shall not block or otherwise interfere with parking or site circulation patterns. Customer and employee parking shall be separated from drive-through activities and customer parking shall be located in the area with highest accessibility to customer sales.
- (xiii) All areas not paved or covered by the building shall be landscaped and all landscaped areas shall be separated from all paved areas by six inch (6") high curbing.
- (xiv) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined

in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.

- (xv) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
- (xvi) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.

(23) Personal Services:

- A. Purpose: A commercial establishment that provides, as its primary activity, a service either to an individual or to an individual's personal property (excluding motor vehicles, boats or other vehicles). Examples of such uses include, but are not limited to, shoe repair shops, watch repair shops, banks, and savings and loan institutions.
- B. Standards:
 - (i) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07.
 - (ii) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
 - (iii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iv) The proposed use shall comply with the Landscaping Standards contained in section 1111.05.
 - (v) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
 - (vi) No portion of the structure or its appurtenances, including ancillary, associated, or auxiliary equipment shall be located in front of the established building line.
 - (vii) If adjacent to a residential use or residential district, such use shall not create excess noise, dust, odors or other nuisances.
 - (viii) Planning Commission may limit the hours of operation of such use to assure compatibility with adjacent uses.
 - (ix) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.
 - (x) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.
 - (xi) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not conflict with major pedestrian movements.

Interconnecting circulation aisles between parcels shall be provided.

- (xii) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
- (xiii) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.
- (xiv) This use may be permitted where the applicant can demonstrate that the use is distributed and properly integrated into the site plan to avoid congestion, to minimize conflict points between auto traffic and pedestrians, to reduce the number of curb cuts and to prevent strip type development.

(24) Recreation, Commercial:

- A. **Purpose:** A commercial establishment that provides, as its primary activity, outdoor space for various types of sporting and/or leisure activities, though a portion of the activities may be carried on within an enclosed building. Includes all uses such as golf courses, go-cart racing, putt-putt golf, paint ball facilities, and driving ranges that are privately owned and operated with the intention or earning a profit by providing entertainment for the public.
- B. **Standards:**
 - (i) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
 - (ii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (iv) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residential properties.
 - (v) A solid wood fence, masonry wall, or hedge six (6) feet high shall be required along any property line adjacent to a residential use or district.
 - (vi) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.
 - (vii) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.
 - (viii) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout

the site. Major vehicular circulation movements shall not conflict with major pedestrian movements. Interconnecting circulation aisles between parcels shall be provided.

- (ix) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
- (x) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.
- (xi) The exterior of any buildings shall be compatible with the residential character of the neighborhood.
- (xii) In residential districts, all buildings shall be set back an additional one foot (1') over the usual yard requirements for each one foot (1') of the building that exceeds thirty-five feet (35') in height.
- (xiii) If adjacent to a residential use or residential district, such use shall not create excess noise, dust, odors or other nuisances.
- (xiv) Planning Commission may limit the hours of operation of such use to assure compatibility with adjacent uses.
- (xv) This use may be permitted where the applicant can demonstrate that the use is distributed and properly integrated into the site plan to avoid congestion, to minimize conflict points between auto traffic and pedestrians, to reduce the number of curb cuts and to prevent strip type development.

(25) Residential Treatment Facility:

- A. Purpose: This use provides residential services to adults in need, who cannot otherwise care for themselves, or who are convalescing or undergoing rehabilitation and/or treatment.
- B. Standards:
 - (i) The proposed facility must meet federal and/or state certification, licensing or approval requirements.
 - (ii) The proposed facility must meet local fire safety requirements and Ohio Building Code Requirements for the proposed use and level of occupancy.
 - (iii) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07.
 - (iv) Such facilities shall not be located within six hundred (600) feet, including a public or private right-of-way, of an existing group home or other residential treatment facility.
 - (v) The exterior of the facility shall be compatible with the residential character of the neighborhood.
 - (vi) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.

- (vii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
- (viii) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (ix) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, and will include a structured procedure whereby any neighbor grievances may be filed and resolved.
- (x) The applicant will provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.

(26) Restaurants:

- A. Purpose: A commercial establishment that provides, as its primary activity, prepared food for consumption on the premises inside of a building.
- B. Standards:
 - (i) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07.
 - (ii) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
 - (iii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iv) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (v) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
 - (vi) No portion of the structure or its appurtenances, including ancillary, associated, or auxiliary equipment shall be located in front of the established building line.
 - (vii) A restaurant shall not include drive-through facilities or any other facilities for eating or picking up food outside of the building except upon approval of a Food-Related Drive-Through Conditional Use by the Planning Commission, under section 1113.01(e)(13).
 - (viii) A solid wood fence, masonry wall, or hedge six feet (6') in height shall be required along any property line adjacent to a residential use or district.
 - (ix) If adjacent to a residential use or residential district, such use shall not create excess noise, dust, odors or other nuisances.
 - (x) Planning Commission may limit the hours of operation of such use to assure compatibility with adjacent uses.
 - (xi) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum

distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.

- (xii) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.
- (xiii) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not conflict with major pedestrian movements. Interconnecting circulation aisles between parcels shall be provided.
- (xiv) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
- (xv) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.
- (xvi) This use may be permitted where the applicant can demonstrate that the use is distributed and properly integrated into the site plan to avoid congestion, to minimize conflict points between auto traffic and pedestrians, to reduce the number of curb cuts and to prevent strip type development.

(27) Retail, including Business Retail, Consumer Retail, General Retail and Grocery Food and Beverage:

A. Purpose:

- (i) *Business Retail:* A commercial establishment that provides, as its primary activity, sales of goods and/or services to other commercial establishments. Examples of such uses include, but are not limited to, office furniture stores, uniform and linen services.
- (ii) *Consumer Retail:* A commercial establishment (excluding a restaurant or motor vehicle) that provides, as its primary activity, sales of goods to the general public. Establishments in this category retail a wide range of product lines including apparel, appliances and home furnishings, paint, hardware, toiletries, cosmetics, photographic equipment, jewelry, toys, sporting goods, automotive parts, and dry goods.
- (iii) *General Retail:* A commercial establishment (excluding a restaurant or motor vehicle) that has, as its primary activity, the sale of goods to the general public. Examples of such uses include garden shops, building supply stores and contractor showrooms.
- (iv) *Grocery Food and Beverage:* Establishments that retail food and beverage merchandise from fixed point-of-sale locations and that have special equipment (e.g., freezers, refrigerated display cases and refrigerators) for displaying food and beverage goods.

B. Standards:

- (i) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07.
- (ii) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
- (iii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (iv) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
- (v) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (vi) No portion of the structure or its appurtenances, including ancillary, associated, or auxiliary equipment shall be located in front of the established building line.
- (vii) All outdoor display areas, canopies, and any buildings used for service shall be located at least fifty feet (50') from any adjacent residential property or district.
- (viii) When adjacent to residential districts, all buildings shall be set back an additional one foot (1') over the usual yard requirements for each one foot (1') of the building that exceeds thirty-five feet (35') in height.
- (ix) A solid wood fence, masonry wall, or hedge six feet (6') in height shall be required along any property line adjacent to a residential use or residential district.
- (x) If adjacent to a residential use or residential district, such use shall not create excess noise, dust, odors or other nuisances.
- (xi) Planning Commission may limit the hours of operation of such use to assure compatibility with adjacent uses.
- (xii) The minimum distance of driveways from intersections shall be as approved by the City Engineer. The minimum distance of driveways to an entrance of a school, place of worship, cemetery, or day care center shall be as approved by the City Engineer.
- (xiii) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.
- (xiv) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not conflict with major pedestrian movements. Interconnecting circulation aisles between parcels shall be provided.
- (xv) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.

- (xvi) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.
- (xvii) Grocery Food and Beverage establishments shall have staff trained in the processing of food products to guarantee the proper storage and sanitary conditions required by regulatory authority.
- (xviii) Such use may be permitted where the applicant can demonstrate that the use is distributed and properly integrated into the site plan to avoid congestion, to minimize conflict points between auto traffic and pedestrians, to reduce the number of curb cuts and to prevent strip type development.

(28) Schools, including Colleges and Universities:

- A. Purpose: This use includes Elementary Schools, Junior High Schools, Senior High Schools, and colleges and universities, which are institutions other than a trade schools that provide full-time or part-time education beyond high school
- B. Standards:
 - (i) The lot area shall be adequate to accommodate the required off-street parking requirements without any variances to said requirements, as outlined in section 1111.07.
 - (ii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (iii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
 - (iv) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
 - (v) In residential districts, all buildings shall be set back an additional one foot (1') over the usual yard requirements for each one foot (1') of the building that exceeds thirty-five feet (35') in height.
 - (vi) A solid wood fence, masonry wall, or hedge six feet (6') in height shall be required along any property line adjacent to a residential use or residential district.
 - (vii) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, promote safety, and reduction in the impact on the residential character of the neighborhood, as applicable.

(29) Self-Service Storage Facilities or Mini-Warehouses:

- A. Purpose: A facility consisting of a building or group of buildings, usually in a controlled-access compound, that may contain varying sizes of individual, self-contained, enclosed, compartmentalized and controlled-access stalls or lockers for the dead storage of customers' residential goods or wares, that are owned, leased or rented.

B. Standards:

- (i) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (ii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
- (iii) A solid wood fence, masonry wall, or hedge six (6) feet in height shall be required along any property line adjacent to a residential use or residential district.
- (iv) The proposed facility must meet local fire safety and Ohio Building Code requirements for the proposed use and level of occupancy.
- (v) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.
- (vi) The circulation areas shall provide smooth, continuous flow with efficient, non-conflicting movement throughout the site. Major vehicular circulation movements shall not conflict with major pedestrian movements. Interconnecting circulation aisles between parcels shall be provided.
- (vii) The use shall meet the required number of loading spaces for industrial uses, as outlined in section 1111.07, unless otherwise required by Planning Commission.
- (viii) Every parking and loading space shall have sufficient access and maneuvering area. All maneuvering areas shall be on the same lot as the use the area is intended to serve.
- (ix) The applicant shall submit a plan indicating safe traffic ingress and egress, traffic circulation, and on-site parking, which plan shall be subject to approval by Planning Commission to assure reduced congestion, and promote safety.
- (x) No outside storage of any type shall be permitted.
- (xi) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residential zoned properties.

(30) **Skilled Nursing Facility:**

A. Purpose: A residential facility used for the care of the aged, infirm, chronically ill, incurably ill or any other person dependent on regular and ongoing nursing care.

B. Standards:

- (i) Such use shall not be equipped for surgical care or for treatment of acute disease or serious injury, nor shall it be primarily designed for patients being treated for mental illness or alcohol or drug addiction.
- (ii) The proposed facility must meet federal and/or state certification, licensing or approval requirements.
- (iii) The proposed facility must meet local fire safety requirements and Ohio Building Code requirements for the proposed use and level of occupancy.
- (iv) The proposed use shall not generate an unreasonable increase in traffic volume or require special off-street

parking, and may not use on-street parking to meet the parking requirements applicable to it, as outlined in section 1111.07.

- (v) The exterior of the facility shall be compatible with the residential character of the neighborhood.
- (vi) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (vii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06.
- (viii) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (ix) The applicant will provide documentation indicating the need for the facility, the specific clientele it will serve, and the location and type of similar facilities operated by the applicant.

(31) Upper Floor Dwelling Units:

- A. Purpose: The purpose of this use is to allow upper floor dwelling units in the C-3 District, where ground floor commercial uses, as are permitted in the C-3 District, and residential uses on the upper floors of the same building are not incompatible.
- B. Standards:
 - (i) Such dwelling units may not be located on the ground floor.
 - (ii) Separate direct access to a ground floor entrance must be provided.
 - (iii) The proposed dwelling unit must meet local fire safety requirements for the proposed use and level of occupancy.
 - (iv) The proposed use must meet all Ohio Building Code requirements.
 - (v) All Upper Floor Dwelling Units shall be provided parking spaces in accordance with the multi-family parking requirements contained in section 1111.07; excepting that parking may be provided by a satellite parking lot.

(32) Vehicle Dealer (including new and used):

- A. Purpose: The use shall be for the display, for sale, lease or rental, of new or used passenger motor vehicles, motorcycles, trucks, RV's and boats, where no repair work is done except minor incidental repair.
- B. Standards:
 - (i) There shall be no parking or display of any vehicles within any right-of-way. The side/rear yard minimum dimensions shall be twenty (20') feet.
 - (ii) All outdoor display, storage, and sales facilities and areas shall be maintained in a neat and orderly condition.
 - (iii) The outdoor display of goods for sale shall not be located in areas intended for traffic circulation according to the site plan.
 - (iv) Access shall be from an arterial street or collector or shall be provided in a manner that does not cause heavy impact on residential streets. Access drives shall be as approved by the City Engineer.

- (v) Loud speaker systems may be approved as part of the Conditional Use Permit if they do not create a nuisance for adjacent properties.
- (vi) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residential properties.
- (vii) All outdoor display, storage, and sales facilities shall be limited to those shown on the approved site plan.
- (viii) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
- (ix) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.

(33) Vehicle Repair Services:

- A. **Purpose:** A commercial establishment that provides, as its primary activity, repair or restoration of vehicles, including the rebuilding or reconditioning of engines and/or transmissions; collision services, including body, frame or fender straightening or repair; overall painting; vehicle steam cleaning; upholstery; and replacement of parts and motor service of passenger cars and trucks not exceeding one and one-half ton capacity.
- B. **Standards:**
 - (i) All activities, including, but not limited to, repair, restoration, cleaning, washing and drying operations, shall be performed entirely within an enclosed structure. During the time work is performed on a vehicle, the vehicle shall be entirely within the building.
 - (ii) There shall be no outside display of merchandise.
 - (iii) No unlicensed and/or inoperable vehicle shall be permitted on the property outside of the principal structure for more than forty-eight (48) hours.
 - (iv) Where the proposed use includes body and fender repair or painting, there will be not emissions of odors, dust, smoke, gas or fumes from the premises on which the use is proposed to be located.
 - (v) All EPA guidelines for disposal or use of materials or chemicals shall be strictly complied with.
 - (vi) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (vii) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (viii) A solid wood fence, masonry wall, or hedge six feet (6') in height shall be required along any property line adjacent to a residential use or residential district.
 - (ix) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residential properties.
 - (x) A Conditional Use Permit for a vehicle repair shop to be operated in conjunction with a gasoline service station

may be granted by Planning Commission, provided that the proposed use meets the requirements of this paragraph and paragraph (13).

(34) Veterinary Services (includes Animal Hospitals/Clinics, Veterinarian Offices and Grooming Services):

- A. **Purpose:** This use provides grooming and/or care, diagnosis and treatment of sick, ailing, infirmed or injured animals and those in need of medical or surgical attention. This use may include overnight accommodations for the treatment, observation or recuperation of such animals, and may also include boarding if it is incidental to the primary activity.
- B. **Standards:**
- (i) The proposed use shall not be in any structure housing a residential use.
 - (ii) There shall be no burial or incineration of animals on the premises.
 - (iii) All activities shall be conducted within a totally enclosed and air-conditioned building. If the applicant proposes outside animal runs, stalls or cages, such use must be specifically approved by Planning Commission, under the conditions that Planning Commission deems appropriate to assure the use will not have a detrimental effect on adjoining uses, and may include, without limitation, restrictions on hours of use and additional buffering requirements. If Planning Commission approves such outside animal runs, stalls or cages, the same shall be kept in a clean and sanitary condition and shall be screened from the view of the traveling public and any adjacent residential uses. A screening plan must be submitted to the Planning Commission for approval.
 - (iv) Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.
 - (v) The proposed use shall comply with the Landscaping Standards contained in section 1111.06, and the City's Parking Regulations, contained in section 1111.07.
 - (vi) Cut-off type lighting fixtures shall be used in parking areas to minimize impact to neighboring residentially-zoned properties.
- (f) **Validity:** A Conditional Use Permit issued under this Section shall have no expiration date, but shall be subject to revocation, as provided below. Conditional Use Permits shall be specific to the applicant and the building, structure and/or address for which the Permit is approved; they shall not be transferable to a subsequent owner, tenant or occupant of the designated building, structure and/or address, nor shall they transfer with the applicant to another location. A Conditional Use Permit shall terminate upon the building, structure and/or address no longer being used for such Conditional Use, or upon the change of occupancy of such building, structure and/or address, or upon violation of any provisions of this UDO.

- (g) Revocations:
- (1) The following shall be considered as grounds for the revocation of a Conditional Use Permit at any time during the term of the Permit:
 - A. The violation of any one or more of the general or specific conditions of the Permit or of any special conditions placed upon the Permit by the Planning Commission;
 - B. Any change in use that is different from that specified as permitted in the granted Permit;
 - C. Any change in extent of use that results in a violation of the conditions of the Permit or any regulations contained in this UDO; and/or
 - D. Failure to allow periodic inspections by the Zoning Official or his designee at any reasonable time;
 - (2) For any of the reasons listed above, Planning Commission may, upon the recommendation of the Zoning Official, revoke a Conditional Use Permit. The holder of said Permit shall be notified of the time, date and place at which Planning Commission intends to consider a revocation of his Permit, and shall be given an opportunity to address Planning Commission on the matter.
 - (3) Conditional Use Permits that have been revoked may not be applied for again until a period of one year has lapsed from the date of revocation.
 - (4) The provisions of the Section shall not be construed as limiting in any manner the powers or authority of the City of Franklin to protect the health, safety and welfare of its residents, including the investigation and elimination of nuisances.

1113.02 Sexually Oriented Businesses

- (a) **Purpose:** It is the purpose of this Section to regulate Sexually Oriented Businesses in order to promote the health, safety, morals, and general welfare of the citizens of the City of Franklin, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of Sexually Oriented Businesses within the City of Franklin. The provisions of this Section do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this Section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Section to condone or legitimize the distribution of obscene material.
- (b) **Findings:** The City Council has received substantial evidence concerning the adverse secondary effects of adult uses on the community in findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to: Austin, Texas; Denver, Colorado; Fort Worth, Texas; Indianapolis, Indiana; Islip, New York; Kansas City, Missouri; Los Angeles, California; Newport News, Virginia; New York, New York; Phoenix, Arizona; Seattle, Washington; St. Paul, Minnesota; Tucson, Arizona; and Whittier, California; along with Manatee County, Florida; New Hanover County, North Carolina; and the State of Minnesota.
- (c) **Definitions:** for purposes of this section,
- (1) "ADULT ARCADE" means any place to which the public is permitted or invited where either or both
 - A. Motion picture machines, projectors, video or laser disc players, or
 - B. Other video or image-producing devices are available, run via coin, token, or any form of consideration, to show images to five (5) or fewer persons at one time; and where the images shown and/or live entertainment presented are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
 - (2) "ADULT BOOKSTORE or ADULT MEDIA STORE" means a commercial establishment in which forty percent (40%) or more of its stock in trade constitutes, and/or forty percent (40%) or more of its public floor area displays or contains, "ADULT MEDIA" or "SEXULLY ORIENTED NOVELTIES OR TOYS."
 - (3) "ADULT CABARET" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:
 - A. Persons who appear in a "state of nudity" or "state of semi-nudity"; or
 - B. Live entertainment characterized by the depiction or description of specified anatomical areas or specified sexual activities; or

- C. Live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment; or
 - D. Exhibiting films, motion pictures, video cassettes, video discs, DVDs, CDs, slides or other photographic or electronic reproductions, whether analog or digital, that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (4) "ADULT MEDIA" means books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, DVDs and CDs or other devices used to record images, that are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- (5) "ADULT MOTEL" means a hotel, motel or similar commercial establishment that:
- A. Offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this sex-oriented type of photographic reproductions; or
 - B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours: or
 - C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- (6) "ADULT MOTION PICTURE THEATER" means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- (7) "ADULT THEATER" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of semi-nudity, live performances which are characterized by the depiction or description or specified anatomical areas, specified sexual activities, or live entertainment of an erotic nature including exotic dancers, strippers, male or female impersonators, or similar entertainment.
- (8) "LIVE VIEWING BOOTH" means any private or semi-private booth, or any viewing room of less than one hundred fifty square feet (150 sq. ft.) of floor space, to which the public may gain admittance, wherein a live performance is presented to five (5) or fewer persons at any one time.
- (9) "NUDE MODEL STUDIO" means any place where a person who appears semi-nude or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- Nude Model Studio shall not include:
- A. A proprietary school licensed by the State of Ohio, or a college, junior college or university supported entirely or in part by public taxation.

- B. A private college or university that offers educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or
 - C. An establishment holding classes in a structure that has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; where in order to participate in a class a student must enroll at least three days in advance of the class; and where no more than one semi-nude model is on the premises at any one time.
- (10) "NUDITY" or "STATE OF NUDITY" or "NUDE" means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.
- (11) "SEMI-NUDITY" or "STATE OF SEMI-NUDITY" OR "SEMI-NUDE CONDITION" or "SEMI-NUDE" means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.
- (12) "SEX STORE" means a business offering goods for sale or rent and that meet any of the following tests:
- A. More than ten percent (10%) of the stock in trade or more than ten percent (10%) of the gross public floor area of the business consists of "sexually-oriented novelties or toys;" or
 - B. It offers for sale items from any two (2) of the following categories: "adult media," "sexually-oriented novelties or toys," lingerie, or apparel or other items marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than fifteen percent (15%) of the stock in trade of the business or occupies more than fifteen percent (15%) of the gross public floor area of the business; or
 - C. Which advertises or holds itself out in any forum as a sexually oriented business by use of such terms as "sex toys, "marital aids," "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a sexually oriented business.
- (13) "SEX STORE" shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to persons employed in the medical, legal or education professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for use by an educational institution.
- (14) "SEXUAL ENCOUNTER CENTER" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.
- (15) "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult cabaret, adult media store, adult motion picture theater, adult theater, nude model studio, sex store, or sexual encounter center. "Sexually Oriented Business" does not include an adult motel as defined above.
- (16) "SEXUALLY ORIENTED NOVELTIES OR TOYS" means instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate or arouse human genital organs or female breasts.
- (17) "SPECIFIED ANATOMICAL AREAS" means:
- A. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - B. Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.
- (18) "SPECIFIED CRIMINAL ACTIVITY" means any of the following offenses:
- A. Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country; for which:
 - (i) less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or
 - (ii) less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.
 - B. The fact that a conviction is being appealed shall not prevent such conviction from constituting a specified criminal activity as defined in this Section.
- (19) "SPECIFIED SEXUAL ACTIVITIES" means any of the following:
- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
 - C. Excretory functions as a part of or in connection with any of the activities set forth in A. or B., above.
- (20) "STOCK IN TRADE" means the individual items offered for sale or rental in the area of an establishment open to the public.
- (21) "VIDEO BOOTH" means any private or semi-private booth or any viewing room of less than one hundred fifty square feet (150 sq. ft.) of floor space or area to which the public may gain admittance, wherein a still or motion picture machine, projector, video monitor, or similar equipment is available for the purpose of showing still or motion pictures, videos, or similar images or photographic reproductions to five (5) or fewer persons at any one time.

- (22) "VIEWING BOOTH" means live viewing booth or video booth.
- (23) "VIEWING BOOTHS" means live viewing booths, video booths, or any combination thereof.
- (d) Classification: Businesses subject to Sexually Oriented Business licensing are classified as follows:
- (1) Adult arcades;
 - (2) Adult bookstores or adult media stores;
 - (3) Adult cabarets;
 - (4) Adult motion picture theaters;
 - (5) Adult theaters;
 - (6) Nude model studios;
 - (7) Sex stores;
 - (8) Sexual encounter centers; or
 - (9) Any combination of classifications set forth in paragraphs (1) through (8), above.
- (e) Establishment And Location Of Sexually Oriented Businesses: A Sexually Oriented Business may be located only in accordance with the restrictions contained in (1) through (7), below.
- (1) A Sexually Oriented Business may be located only in an area zoned for Industrial Use under this UDO.
 - (2) No Sexually Oriented Business may be established within five hundred feet (500') of:
 - A. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;
 - B. A public or private educational facility including child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;
 - C. A boundary of a residential district as shown on the Zoning Map; or
 - D. A public park or recreational area which has been designated for park or recreational activities including a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the City which is under the control, operation, or management of either the City or which is operated or managed by another public entity.
 - (3) No Sexually Oriented Business may be established within five hundred feet (500') of the property line of a lot regulated as a lawful non-conforming residential use as defined in this UDO.
 - (4) No Sexually Oriented Business may be established, operated or enlarged within five hundred feet (500') of another Sexually Oriented Business or any Sexually Oriented Business as defined in this UDO.
 - (5) Not more than one Sexually Oriented Business shall be established or operated in the same building, structure, or portion thereof, and the floor area of any Sexually Oriented Business in any building, structure, or portion thereof containing another Sexually Oriented Business may not be increased.

- (6) For the purpose of subsections (2) & (3) of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the principal building or structure or tenant space if located in a multi-tenant building used as the part of the premises where a Sexually Oriented Business is operated, to the nearest property line of the premises of a use listed in subsection (2) & (3).
 - (7) For purposes of subsection (4) of this Section, the distance between any two Sexually Oriented Businesses or a Sexually Oriented Business and any Sexually Oriented Business shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure or tenant space if located in a multi-tenant building in which each business is located.
 - (8) No Sexually Oriented Business that was in compliance with the above locational restrictions at the time that it received a license will be subsequently found not to be in compliance if, subsequent to the receipt of the license, a use listed in subsection (2) is newly established or expands so as to be within five hundred feet (500') of the Sexually Oriented Business.
- (f) Additional Regulations Concerning Lot, Yard, Height, Parking, Building And Site Design Standards, And Site Development Plan Requirements:
- (1) Lot area and width, setbacks, buffering, yard area, height provisions and other site development requirements for a Sexually Oriented Business are those specified in the Industrial Districts of section 1107 of this UDO.
 - (2) Parking requirements for an Adult Cabaret are those specified for restaurants in section 1111.07 of this UDO.
 - (3) Parking requirements for other Sexually Oriented Businesses are those specified for retail stores in section 1111.07 of this UDO.
- (g) Sign Regulations For Sexually Oriented Businesses:
- (1) All signs shall be “business signs and wall signs” as defined and regulated in section 1111.08 of this UDO, but in no event shall the maximum allowable sign area exceed forty (40) square feet. Any address sign area shall be included in the maximum sign area calculation.
 - (2) Review and approval procedures for a sign permit for a Sexually Oriented Business shall be in accordance with this UDO.
 - (3) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or street in front of the building.
 - (4) Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square-foot sign may be placed on the door to state hours of operation and admittance to adults only.
- (h) Severability And Effect Of Partial Invalidity: If any paragraph, subsection or clause of this Section shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

1113.03 Home Occupations

- (a) **Purpose:** The purpose of the provisions in this Section is to protect the character of residential neighborhoods while recognizing that advances in technology and telecommunications and changes in the job market have diminished the importance of traditional workplaces. These regulations are intended to recognize this shift and to allow in residential structures, where appropriately limited, nonresidential activities that are clearly subordinate and incidental to the residential use of the property and which are compatible with the residential character of the neighborhood.
- (b) **Definition:** “Home Occupation” means an activity, profession, occupation, service, craft or hobby operated or carried out for pecuniary gain, which is conducted or operated in, or directed from, a residential dwelling or unit which is clearly incidental and secondary to the use of the dwelling or unit for residential purposes. Home Occupations shall be further defined as “Type A - Family Home Occupation” or “Type B- Retail Home Occupation” depending upon their intensity and potential effects upon the neighborhood.
- (c) **Type A - Family Home Occupation:** This type of Home Occupation has little or no impact on the surrounding residential area and requires no permit. In general, a Home Occupation Type A is located and conducted so that the average neighbor, under normal circumstances, would not be aware of its existence. Regulations: A Home Occupation Type A shall be a permitted accessory use in any residential district only if all of the following regulations are met:
- (1) **General:**
 - A. The use is compatible with the residential use of the property and the surrounding residential uses.
 - B. Retail sales of merchandise, products or goods shall be prohibited, provided, however, that orders previously made by telephone, internet, or at a sales party or meeting may be filled on the premises. That is, direct retail sales of products or goods off display shelves or racks is not permitted, but client/customer may pick up an order placed earlier, as described above.
 - (2) **Employees:** The use is owned or conducted by one or more residents of the dwelling and only employs residents of the dwelling unit in which it is located.
 - (3) **Area:**
 - A. The use is conducted wholly within the dwelling, and any space used for sales, service or production does not occupy more than twenty percent (20%) of the ground floor area of the dwelling unit, excepting Type B Family Day Care Homes.
 - B. The use, including any storage of materials or equipment related thereto, shall be carried on entirely within the dwelling or unit and not in an accessory building; however, part of the floor area of an attached garage may be used if the use does not occupy parking spaces required for the dwelling use by the parking regulations of this UDO, outlined in section 1111.07.
 - C. The use shall not constitute primary or incidental storage facilities for a business, industrial or agricultural activity conducted on the premises.

(4) Exterior Appearance:

- A. The exterior appearance of any structure on the premises shall not be altered nor shall there be any structural modifications of the residence or garage, such as a separate business entrance. The use within the principal structure shall not be conducted in a manner that would cause the premises to differ from its residential character or which is inconsistent or incompatible with the normal scale, orientation or appearance of neighboring dwellings. No activity, materials, goods or equipment indicative of the use shall be visible from any public way or adjacent property.
- B. There shall be no outside appearance of the use, including, but not limited to, parking, signs or lights, excepting that one nameplate sign, attached flush to the dwelling and not exceeding two square feet (2 sq. ft.) in area shall be permitted. Neither freestanding nor illuminated signs shall be permitted.

(5) Hours of Operation:

- A. In no case shall the home occupation be open to on-site clients or customers earlier than 7:00 a.m., nor later than 7:00 p.m., excepting parties and meetings held for the purpose of selling merchandise or taking orders. Other motor vehicle traffic relating to the conduct of the use shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m.
- B. Parties or meetings within the dwelling, held for the purpose of selling merchandise or taking orders, shall not be held more than four times each month.

(6) Parking/Traffic:

- A. On-site clients or customers shall not exceed six (6) per day, excepting Type B Family Day Care Homes.
- B. The use does not necessitate the parking of more automobiles than can be accommodated in the dwelling or unit's driveway.
- C. The use shall not generate a significantly greater volume of traffic than would normally be expected in a residential area. The number of deliveries, pick-ups, origin, or destination trips relating to the use shall not exceed three (3) per day.
- D. There shall be no merchandise or goods sold, or services rendered that require receipt or delivery of merchandise, goods or equipment other than by passenger motor vehicle, parcel delivery service, or U.S. mail service. No deliveries by tractor/trailer are permitted.

(7) Environmental Impact:

- A. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including visible or audible interference with radio and television reception or which cause fluctuation in line voltage off the premises.
- B. The use shall not generate any solid waste or sewage discharge, in volume or in type, which is not normally associated with residential use in the neighborhood.
- C. No highly explosive, toxic or combustible material shall be used or stored on the premises.

- (8) Other Applicable Laws or Regulations:** The use may not involve any illegal activity; it shall be the homeowner's responsibility to ensure compliance with all applicable state and federal regulations.

- (9) **“Type B Family Day Care Homes:”** as defined by Ohio Revised Code Chapter 5104, for six (6) or fewer children shall be considered Home Occupation Type A’s as long as the requirements of this Section and Ohio Revised Code Chapter 5104 are complied with.
- (d) **Type B - Retail Home Occupation:** This type of Home Occupation has the potential for greater impact on the surrounding residential area and therefore requires a Conditional Use Permit. All persons conducting home occupations that classify as Type B, and which are planned, presently existing, or which are established, changed or enlarged after this chapter is in effect, shall be required to obtain a Conditional Use Permit. Initial application for a Conditional Use Permit for a Home Occupation Type B shall require a public hearing.
- (1) **Application:** The application process shall be the same as for other Conditional Uses under this Zoning Code.
 - (2) **Regulations:** A Conditional Use Permit for a Home Occupation Type B in any residential district may be granted if all of the following regulations are met:
 - (3) **General:**
 - A. The use is compatible with the residential use of the property and the surrounding residential uses.
 - B. The retail sales of products or goods, particularly products or goods produced on the premises, may be permitted by the Planning Commission provided that such merchandise or goods are specified and approved as a part of the application for the Permit, and provided that the Planning Commission determines that such retail sales will not become a detriment to or have an adverse impact on the existing residential character of the lot or neighborhood.
 - (4) **Employees:** The use is owned or conducted by residents of the dwelling unit in which it is located and employs not more than two (2) employees who are not residents of the dwelling or unit.
 - (5) **Area:**
 - A. The use is conducted within the dwelling, and any space used for sales, service or production does not occupy more than twenty-five percent (25%) of the ground floor area of the dwelling unit.
 - B. Accessory buildings may be used for storage of materials and equipment related to the use, provided that such buildings comply with setback and other requirements for accessory buildings as contained in this UDO.
 - C. The use shall not constitute primary or incidental storage facilities for a business, industrial or agricultural activity conducted off the premises.
 - (6) **Exterior Appearance:**
 - A. Alterations to the exterior appearance of any structure in connection with the use may be permitted by the Planning Commission provided that such alteration is specified and approved as a part of the application for the Permit, and provided that the Planning Commission determines that such alteration will not cause the premises to differ from its residential character, nor be inconsistent or incompatible with the normal scale, orientation or appearance of neighboring dwellings. No activity, materials, goods or equipment

indicative of the use shall be visible from any public way or adjacent property.

- B. Any signage shall be of the type and size permitted in the zoning district under the City's sign regulations, outlined in section 1111.08, and shall be approved by Planning Commission as a part of the Conditional Use Permit.

(7) Hours of Operation:

- A. Depending upon the foreseeable impact the intensity of a particular use may have on the surrounding neighborhood, it is within the discretion of the Planning Commission to limit the operations of a particular use to certain operating hours as a condition of granting a Permit. Should Planning Commission fail to establish operating hours for the use, in no case shall the home occupation be open to on-site clients or customers earlier than 7:00 a.m., nor later than 7:00 p.m., excepting parties and meetings held for the purpose of selling merchandise or taking orders.
- B. Parties or meetings within the dwelling for the purpose of selling merchandise or taking orders shall not be held more than four times each month.

(8) Parking/Traffic:

- A. Clients or customers shall not exceed twelve (12) per day on average.
- B. At least two (2) off-street parking spaces shall be provided, unless this requirement is waived by the Planning Commission. No required parking shall be provided in any front yard, except for the driveway, which may be used to fulfill this requirement. There shall be no paving or modification of the front yard for parking purposes other than the customary space used for the driveway.
- C. The use shall not generate a significantly greater volume of traffic than would normally be expected in a residential area. The number of deliveries, pick-ups, origin, or destination trips relating to the use shall not exceed five (5) per day.
- D. There shall be no merchandise or goods sold, or services rendered that require receipt or delivery of merchandise, goods or equipment other than by passenger motor vehicle, parcel delivery service, or U.S. mail service. No deliveries by tractor/trailer are permitted.

(9) Environmental Impact:

- A. No equipment or process shall be used which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including visible or audible interference with radio and television reception or which cause fluctuation in line voltage off the premises.
- B. The use shall not generate any solid waste or sewage discharge, in volume or in type, which is not normally associated with residential use in the neighborhood.
- C. No highly explosive, toxic or combustible material shall be used or stored on the premises.

- (10) Other Applicable Laws or Regulations:** The use may not involve any illegal activity; it shall be the homeowner's responsibility to ensure compliance with all applicable state and federal regulations.

- (e) Validity: The Conditional Use Permit for the Home Occupation Type B may be issued for an initial period of one (1) year and renewed for three (3) year periods thereafter. Conditional Use Permits shall be specific to the owner of the Home Occupation and the dwelling or unit for which the Home Occupation is approved; they shall not be transferable to a subsequent owner of the designated dwelling or unit, nor shall they transfer with the owner to another location. A Home Occupation Type B shall terminate upon the dwelling no longer being used for such Home Occupation or upon the sale or change of ownership of such dwelling or land, or upon violation of any provisions of this Section.

- (f) Renewals: The owner of the Home Occupation Type B is responsible for applying for renewals of the Conditional Use Permit. Upon application for renewal, the Zoning Official shall inspect the premises for conformance with the original Permit and shall review the record regarding the Permit and shall make a recommendation to the Planning Commission. If the Planning Commission finds no cause to disallow renewal of the application or cause for review of the application, the Planning Commission may authorize the Zoning Official to administratively approve the renewal application. If the Planning Commission determines the use has been the subject of unresolved complaints or violations of conditions or for other good cause, the Planning Commission may cause the application to come before the Planning Commission for a public hearing, may review the application as if it were a new application, and may renew the Permit as is, may renew the Permit with added conditions as the Planning Commission finds appropriate, or may deny and/or revoke the Permit.

- (g) Revocations:
 - (1) The following shall be considered as grounds for the revocation of a Home Occupation Conditional Use Permit at any time during the term of the Permit:
 - A. Any change in use or any change in extent of use, area of dwelling or unit being used, or mechanical or electrical equipment being used that is different from that specified as permitted in the granted Permit, which is not first approved by the Zoning Official.
 - B. Any change in use or any change in extent of use, area of dwelling or unit being used, or mechanical or electrical equipment that results in a violation of these regulations.
 - C. Failure to allow periodic inspections by the Zoning Official or his designee at any reasonable time when an adult member of the family is present.
 - (2) If one or more of the regulations of this Section are violated, or for any of the reasons listed above, Planning Commission may, upon the recommendation of the Zoning Official, revoke a Conditional Use Permit for a Home Occupation Type B. The holder of said Permit shall be notified of the time, date and place at which Planning Commission intends to consider a revocation of his Permit, and shall be given an opportunity to address Planning Commission on the matter.
 - (3) Home Occupation Permits that have been revoked may not be applied for again until a period of one year has lapsed from the date of revocation.

- (h) Firearms Dealers: Any person wishing to operate a firearms dealer business as a home occupation must have a current and valid Federal firearms license before conducting any such business. Any Federal firearms “stocking” type license shall automatically be considered a Home Occupation Type B and shall require a Conditional Use Permit.

- (i) Prohibited Uses: The following shall not be considered as Home Occupations and shall not be permitted as either Home Occupation Type A’s or Type B’s:
 - (1) Animal Hospitals.
 - (2) Kennels.
 - (3) Clinical or Medical Centers.
 - (4) On-site major appliance or large equipment repair.
 - (5) Mortuaries.
 - (6) Antique shops or sales.
 - (7) On-site Motor vehicle, lawn mower, trailer or boat repair, service, sales, or rentals, or trailer rentals.
 - (8) Restaurants, taverns, or private clubs.
 - (9) Yard, lawn, garage or porch sales.
 - (10) Animal obedience training schools.
 - (11) Music, dance, business, exercise, art or martial art schools.
 - (12) Tourist homes, rooming houses, bed and breakfasts.
 - (13) Retail or wholesale distribution or sales of household goods or food products.
 - (14) Any other use found to be prohibited by the Planning Commission.

- (j) Miscellaneous:
 - (1) In the case of a dwelling or unit that is part of a common interest ownership community (a community in which at least some of the property is owned in common by all of the residents) the provisions of this Section shall not be deemed to supersede any deed restrictions, covenants, agreements, master deeds, by-laws or other documents that prohibit Home Occupations within dwellings or units in the community.
 - (2) The provisions of this Section shall not be construed as limiting in any manner the powers or authority of the City of Franklin to protect the health, safety and welfare of its residents, including the investigation and elimination of nuisances.

1113.04 Nonconformities

- (a) Purpose: Within the zoning districts established by this UDO or amendments that may later be adopted, there may exist lots, structures and uses of land and structures that were lawful before this UDO was passed or amended, but would be prohibited, regulated or restricted under the terms of this UDO or a future amendment. It is the intent of this UDO to permit these nonconformities to continue until they are removed or discontinued, but not to encourage their continuance. Such uses are declared by this UDO to be incompatible with permitted uses in the zoning districts involved. It is further the intent of this UDO that nonconformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the zoning district, except by appeals to the Appeals Board for approval of specific plans, and with the exception that construction of decks, porches and detached garages meeting proper setbacks on their own shall not require approval by the Appeals Board.
- (b) Incompatibility of Nonconformities: Nonconformities are declared by this UDO to be incompatible with permitted uses in the zoning districts in which such uses are located. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this UDO by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the zoning district in which such use is located.
- (c) Avoidance of Undue Hardship: To avoid undue hardship, nothing in this UDO shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this UDO, and upon which actual building construction has been carried on diligently. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where demolition or removal of an existing building has substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently to completion within two (2) years.
- (d) Certificates of Nonconformance: The Zoning Official may, upon his/her own initiative, or shall upon the request of any owner, issue a Certificate of Zoning Compliance for any lot, structure, use of land, use of structure or use of land and structure in combination, that certifies that the lot, structure or use is a valid nonconforming use. The Certificate shall specify the reason why the use is a valid nonconforming use, including a description of the extent and kind of use made of the property in question, the portion of the structure or land used for the nonconforming use, and the extent that dimensional requirements are nonconforming. The purpose of this paragraph is to protect the owners of lands or structures that are, or are becoming, nonconforming. One copy of the Certificate shall be returned to the owner and one copy shall be retained by the Zoning Official, who shall maintain, as a public record, a file of all such nonconforming lots,

structures, uses of land, uses of structures, or uses of structures and land in combination.

- (e) Substitution/Change of Nonconforming Uses: So long as no structural alterations are made, except as required by enforcement of other codes or ordinances, any nonconforming use may, upon application to and approval by the Appeals Board, be changed to another nonconforming use of the same classification or of a less intensive classification, provided that the Appeals Board shall find that the use proposed for substitution is equally appropriate or more appropriate to the zoning district than the existing nonconforming use. In permitting such change, the Appeals Board may require that additional conditions and safeguards be met, which requirements shall pertain as stipulated conditions to the approval of such change, and failure to meet such conditions shall be considered a punishable violation of this UDO. Whenever a nonconforming use has been changed to a less intensive use or becomes a conforming use, such use shall not thereafter be reverted to a more intensive use or other nonconforming use.
- (f) Single Nonconforming Lots of Record: In any zoning district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single nonconforming lot of record at the effective date of adoption or amendment of this UDO. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both (that are generally applicable in the zoning district), provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the zoning district in which such lot is located.
- (g) Nonconforming Lots of Record in Combination: If two or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this UDO, and if all or part of the lots with no buildings do not meet the requirements established for lot width and area in the zoning district in which such lots are located, the lots involved shall be considered to be an undivided parcel for the purposes of this UDO. No portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this UDO, nor shall any division of any parcel be made which creates a lot with a width or area below the requirements for the zoning district, as stated in this UDO.
- (h) Nonconforming Uses of Land: At the time of adoption of this UDO, if lawful uses of land exist which would not be permitted by the regulations imposed by this UDO, these uses may be continued so long as they remain otherwise lawful, provided that:
 - (1) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this UDO;
 - (2) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this UDO;

- (3) If any such nonconforming uses of land are voluntarily discontinued or abandoned for more than six (6) months (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this UDO for the zoning district in which such land is located; and
 - (4) No additional structure not conforming to the requirements of this UDO shall be erected in connection with such nonconforming use of land.
- (i) Nonconforming Structures: Where a lawful structure exists at the effective date of adoption or amendment of this UDO that could not be built under the terms of this UDO by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No such nonconforming structure may be enlarged or altered in a way that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;
 - (2) Should such nonconforming structure or nonconforming portion of a structure be destroyed, by any means, to the extent of more than fifty percent (50%) of the cost of replacement of such structure, it shall not be reconstructed except in conformity within the provisions of this UDO; and
 - (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- (j) Nonconforming Uses of Structures or of Structures and Land in Combination: If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this UDO that would not be allowed in the zoning district in which it is located under the terms of this UDO, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (1) No existing structure devoted to a use not permitted by this UDO in the zoning district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;
 - (2) Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for such use at the time of adoption or amendment of this UDO, but no such use shall be extended to occupy any land outside such building;
 - (3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zoning district, and the nonconforming use may not thereafter be resumed;
 - (4) When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for more than six (6) months (except when government action impedes access to the premises), the structure, or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and

- (5) When nonconforming use status is applied to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- (k) Termination of Use Through Discontinuance: When any nonconforming use is discontinued or abandoned for more than six (6) months, it shall not thereafter be continued or resumed, nor shall it be substituted or replaced with another nonconforming use. Upon such termination, any new use shall be in conformity with the regulations of the zoning district in which it is located. The intent to continue a nonconforming use shall not be evidence of its continuance.
- (l) Termination of Use by Damage or Destruction: In the event that any nonconforming building or structure is destroyed by any means to the extent of more than fifty percent (50%) of the cost of replacement of such structure, exclusive of foundation, it shall not be rebuilt, restored or reoccupied for any use unless it conforms to all applicable regulations of this UDO.
- (1) When such a nonconforming structure is damaged or destroyed to the extent of fifty percent (50%) or less of the replacement cost, no repairs or rebuilding shall be permitted except in conformity with the following conditions:
- A. A Certificate of Zoning Compliance pertaining to such restoration shall be applied for within three (3) months and issued within six (6) months of such destruction, and rebuilding shall be diligently pursued to completion within one (1) year of the issuance of the Certificate, with the exception that the Zoning Official may allow no more than one six (6) month extensions for extenuating circumstances, and Council may allow a second six (6) month extension for extenuating circumstances; and
 - B. Such restoration shall not cause a new nonconformity, nor shall it increase the degree of nonconformance or noncompliance existing prior to such damage or destruction.
 - C. If such restoration is not completed within the one (1) year allowed, or within such extensions as may be granted by the Zoning Official and Council, the structure or building shall be demolished and removed within six (6) months. If the owner fails to demolish and remove such structure as required, the City may cause such building or structure to be demolished and removed and place the costs therefore as a lien upon the property, to be placed on the tax duplicate, and to be collected as other taxes are collected.
- (2) Exception: If the nonconformity is the sole result of noncompliance with current setback regulations, the building or structure may be rebuilt, restored and reoccupied, as of right, for any conforming use so long as the building or structure is built upon the exact footprint of the previous building or structure, and the new building or structure complies in all other respects with this UDO.
- (m) Repairs and Maintenance: On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement on non-bearing walls, fixtures, wiring or plumbing, provided that the cubic content existing

when it became nonconforming shall not be increased. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Where appropriate, a building permit for such activities shall be required.

1113.05 Accessory Buildings and Uses

- (a) **Purpose:** Accessory buildings may be erected only upon a lot on which a principal structure already exists. The use of the accessory building must be secondary and incidental to the principal structure and use. An accessory building that is attached to the main building shall comply with all the requirements of this UDO that are applicable to the principal building.
- (b) **Permit Required:** A permit is required to be issued before an accessory building or structure is constructed or installed, or before an accessory use may occur on a parcel or lot.
- (c) **Permit Process:**
- A. The Zoning Official may issue an Accessory Use Permit to the owner of the property on which the proposed accessory building or use is to be located. The Zoning Official will base his decision upon a site plan submitted by the applicant and on the extent to which the plan demonstrates that the accessory building or use is in conformance with the General Standards and the Specific Standards of this Section. If the Zoning Official denies an Accessory Use Permit, the applicant may file an appeal within twenty (20) days with the Appeals Board, in accordance with section 1115.10.
 - B. The applicant shall submit with his application the fee prescribed by section 1105.09.
- (d) **General Provisions:** The following general provisions shall apply:
- (1) **Location:**
 - A. No accessory building or structure shall be located in a platted easement;
 - B. No accessory building shall be erected in any required front yard or court;
 - C. Storage structures are to maintain a setback of three feet (3') from property lines; and
 - D. Mechanical devices or units incidental to the operation or use of the principal building, as described, shall not be located nearer to any street than the nearest wall of the principal building in question, or nearer to any side or rear property line than three feet (3').
 - (2) **Number/Lot Coverage:** The number of accessory uses allowed shall be limited to coverage of thirty five percent (35%) of the lot, including the principal structure; provided, however that not more than one (1) portable shed shall be permitted per lot.
 - (3) **Height:**
 - A. No storage accessory structure shall exceed fifteen feet (15') in height.
 - B. No recreational accessory structure shall exceed fifteen feet (15') in height.
 - C. No pet structure shall exceed six feet (6') in height.
 - D. Mechanical devices or units shall not exceed eighty inches (80") in height.

- (4) **Standards:** The following standards are presented by accessory use and/or building type.
- (e) Antenna and Antenna Towers (excluding Dish Antennae):
- (1) **Definitions:**
- A. “Antenna” means any system of wires, poles, rods or similar devices used for the transmission or reception of Television Broadcast Signals.
 - B. “Antenna tower” means any structure, greater than twenty-five feet (25’) in height, used for the primary purpose of supporting one or more antennas, as defined above, including foundation, guys and other components thereof.
- (2) **Location:**
- A. No antenna tower or tower mast shall be located in or occupy any part of a front or side yard, and in a rear yard, must be at least five feet (5’) from the rear property line.
 - B. Antennae, antenna towers, including foundation guys and other components thereof, shall not project over any property line.
 - C. No antenna tower or tower mast shall extend more than sixty feet (60’) above the ground site on which it is located.
 - D. If mounted on the roof of a dwelling or other building, an antenna tower or mast shall not extend more than twenty feet (20’) above the highest ridge of the roof.
- (3) **Number:** Not more than one antenna tower with antennae shall be erected on any lot or parcel of land, whether the same is free-standing, attached to a building wall or mounted on a building roof; provided, however, that this restriction shall not apply to a tower or antenna attached to a wall or mounted on the roof of a residence which does not project more than six feet (6’) above the highest ridge of the roof, and if the maximum horizontal dimension of such tower and antenna does not exceed twelve feet (12’).
- (f) Decks, Patios, Porches and Balconies:
- (1) **Location:**
- A. All decks, patios, porches and balconies shall be attached or contiguous to the principal structure or principal building.
 - B. Decks, patios and porches may be located in an interior side yard or rear yard, as long as they are at least five feet (5’) from the side and rear property lines and do not occupy any part of a platted easement.
 - C. Front porches shall have a front yard setback of no less than ten feet (10’) (see 1113.07(e)(2)).
 - D. Balconies shall be located completely within the buildable area.
- (2) **Encroachments:** The following requirements apply only to decks and patios and porches that encroach into required yards, and shall not apply to decks, patios or porches that are located entirely within the buildable area:
- A. Decks and Patios:
 - (i) The deck platform or patio shall meet all requirements of the City’s Building Code.
 - (ii) The deck or patio shall have no solid walls or roof planes of any kind, except a guardrail, which may be up to thirty-eight inches (38”) in height above the top of the deck or patio.

B. Porches:

- (i) The porch shall be freestanding and directly adjacent to a principal building, or attached to the principal building.
- (ii) The porch shall have railings or walls on the sides not exceeding thirty-eight inches (38”) in height from the platform.

(g) Dish-Type Satellite Signal Receiving Antennas:

- (1) **Purpose:** Regulation of dish antennae is intended to provide guidelines for their approval which will accommodate the generally larger diameter of satellite dish antennae, provide for screening to mitigate the mass of the dish, provide for the most aesthetically pleasing dish location, and provide for their safe and appropriate installation.
- (2) **Definitions:**
 - A. “Dish Antenna” means any system of wires, poles, rods or similar devices used for the transmission or reception of Television Broadcast Signals, Direct Britches Signals, Direct Britches Satellite Services, and/or Multi-Channel Multi-Point Distribution Services.
 - B. “Antenna tower” means any structure, greater than twenty-five feet (25’) in height, used for the primary purpose of supporting one or more antennas, as defined above, including foundation, guys and other components thereof.
- (3) **Applicability:** All dish-type satellite signal receiving antennas are subject to the provisions set forth in this Section. Satellite signal receiving antennas shall comply with the restrictions contained herein so that the health, safety and aesthetic objectives of the community can be accomplished.
- (4) **General Standards:** A dish antenna, when installed in any zoning district, shall be:
 - A. Located to the rear of the principal building or structure, from any lot lines of adjoining lots, and not situated over or in any easement;
 - B. Not visible from the street, except when either located on the side or rear wall of the building, in the rear yard, or in the buildable area adjacent to the rear yard and behind the principal structure.
 - C. An accessory use subordinate to the principal use of the site;
 - D. Erected on a foundation designed to support the loads intended;
 - E. Screened from adjacent properties and landscaped;
 - F. Open-mesh type, if possible;
 - G. Wired underground;
 - H. Properly maintained;
 - I. Designed to withstand a wind force of up to seventy miles per hour (70 m.p.h.);
 - J. Installed only after an Accessory Use Permit have been issued. A building permit shall also be required when a foundation is involved.
 - K. Removed within twelve (12) months of ceasing operation or when replaced or unused.
- (5) **Standards for Installation in Residential Districts:** The following standards shall apply to installation of dish antennae in any District zoned for permitted residential uses:
 - A. Ground Installation:

- (i) Installed in compliance with the General Standards for all zoning districts;
 - (ii) Installed as close to grade elevation as possible, and in no case shall any portion of the antenna exceeds a height of six feet (6') above the elevation of the ground site on which it is located. Where the ground under the foundation has been raised to a higher level than the surrounding surface, the permissible height of the satellite antenna shall be reduced by the height of such mound or raised surface; and
 - (iii) The maximum diameter of the dish shall not exceed three feet (3').
- B. Roof-Mounted:
- (i) It does not project above the ridge of the roof to which it is attached; or if attached to a flat roof, it may not project more than three feet (3') above the coping or parapet of said roof;
 - (ii) A dish antenna shall not be mounted upon architectural features including but not limited to towers, cupolas or spires; and
 - (iii) A satellite antenna may be mounted to the side or rear walls of the principal building, but may not project above adjacent roof edge, ridge, and/or eave lines.
- (6) Standards for Installation in Commercial or Office Districts:**
- A. Ground Installation:
- (i) Installed in compliance with the General Standards for all zoning districts;
 - (ii) Installed as close to grade elevation as possible, and in no case shall any portion of the antenna exceeds a height of fifteen feet (15') above the elevation of the ground site on which it is located. Where the ground under the foundation has been raised to a higher level than the surrounding surface, the permissible height of the satellite antenna shall be reduced by the height of such mound or raised surface;
 - (iii) The maximum diameter of the dish shall not exceed twelve feet (12'); and
 - (iv) Located in a yard not adjacent to a residential use or residential district.
- B. Roof-Mounted:
- (i) Shall be reviewed for safety, compatibility with surrounding development and for other design measures that screen or otherwise make the dish antenna appear less obtrusive;
 - (ii) A dish antenna shall not be mounted upon architectural features including but not limited to towers, cupolas, spires or chimneys; and
 - (iii) A satellite antenna may be mounted to the side or rear walls of the principal building, but may not project above adjacent roof edge, ridge, and/or eave lines.
- (7) Standards for Installation in Industrial Districts:**
- A. Ground Installation:
- (i) Installed in compliance with the General Standards for all zoning districts;
 - (ii) Compatible in height with the surrounding development; and

(iii) Located in a yard not adjacent to a residential use or residential district.

B. Roof-Mounted:

- (i) Shall be reviewed for safety, compatibility with surrounding development and for other design measures that screen or otherwise make the dish antenna appear less obtrusive;
- (ii) A dish antenna shall not be mounted upon architectural features including but not limited to towers, cupolas, spires or chimneys; and
- (iii) A satellite antenna may be mounted to the side or rear walls of the principal building, but may not project above adjacent roof edge, ridge, and/or eave lines.

(h) Fences/Walls:

(1) **General Requirements:**

- A. Barbed-Wire Fences: Fences or walls having wire or metal prongs or spikes or cutting points or edges of any kind whatsoever or which is charged with electric current, shall be prohibited. Picket fences shall have points blunted.
- B. Construction on Mound: Where a fence/wall, ornamental feature or hedge is constructed on a mound, or where the ground under same has been raised to a higher level than the surrounding surface, the permissible height of the fence/wall, ornamental feature or hedge shall be reduced by the height of such mound or raised surface.
- C. Safety: No person shall install or cause to be installed along or adjacent to the boundary line of the front yard of any lot or parcel of ground in this City, any barrier composed of one or more strands of wire, rope, cord, plastic or other type of line, stretched between stakes, poles, trees or other supports, located as above described. However, a temporary barrier of such type, so constructed or marked as to be readily visible, may be installed to prevent damage to a newly planted lawn, or other new planting or new driveway/sidewalk. The temporary barrier is to be maintained only for such length of time as is reasonably necessary.
- D. Intersection Clearance: On a corner lot, the “intersection clearance zone” is an area between the curb line or edge of pavement of the two intersecting streets and a diagonal line connecting the curb or edge of pavement of intersecting streets at a point thirty feet (30’) from their point of intersection. In this intersection clearance zone, no fence/wall, ornamental feature, snow fence, mound or hedge shall exceed thirty-two inches (32”) in height above the grade of the edges of the pavement or street gutter; however, in an intersection clearance zone, a plant or tree not exceeding two feet (2’) in diameter at a point thirty-two inches (32”) above the grade of the edges of the pavement or street gutter and whose foliage is kept trimmed to such diameter up to at least seven feet (7’) above the grade, shall be permitted.
- E. Variance: Variances to the requirement of this Chapter shall be made in accordance with section 1115.10.
- F. Enforcement and Penalties: The Zoning Official shall follow section 1105.12 in enforcing this Section of the UDO.

- (2) **Location:** Fences or walls may be located in yards as follows:
- A. **Forty-Eight Inches or Less:** A fence or wall may be located in any front, side or rear yard if the fence does not exceed, at any point, forty-two inches (42") in height above the elevation of the surface of the ground at such point, except the posts for the fence may exceed the height of the fence by six inches (6"). No fences or walls shall be located within any right-of-way or any road or utility easement area. Fences placed in any front yard shall be ornamental only.
 - B. **Six Feet or Less:** A fence or wall may be located in a rear or side yard if the fence does not exceed, at any point, six feet (6') in height above the elevation of the surface of the ground at such point, except the posts for a fence may exceed the height of the fence by six inches (6"). No fences or walls shall be located within any right-of-way or any road or utility easement area.
- (3) **Corner Lots and Through Lots:** On a corner lot, each yard of a lot abutting upon a street shall be considered as a front yard on each respective street. On a double frontage lot/through lot, each yard of a lot abutting upon a street shall be considered as a front yard on each respective street.
- (4) **Closed Fences or Walls Supported by Posts:** Fences or walls supported by posts on the side of the fence or wall shall be erected so that exposed posts and supporting cross-elements shall face the property initiating the request or on which the fence or wall is constructed. This provision shall not apply, if the adjacent property owner files with the Zoning Official consent to have the fence erected so that such posts and cross-elements face his property. Fences shall be erected so that no exposed posts or supporting cross-elements face public property. This provision shall not apply if the fence is the same on both sides such as split rail fences or board and batten fences.
- (5) **Double Fences:** No fence or fences shall be constructed so that there are two more-or-less parallel fences in the same yard, unless there be a distance of at least five feet (5') between the fences or their appurtenances.
- (6) **Ornamental Fences:** An ornamental fence may be located in a front, side or rear yard, if it is forty-eight inches (48") or less in height.
- (7) **Snow Fences:** Temporary snow fences, forty-two inches (42") or less in height, may be erected during the months of November through March each year. Such fences are to be used only to control the drifting of snow on walks, driveways, streets or alleys.
- (8) **Mounds:**
- A. No mound exceeding thirty-two inches (32") in height.
 - B. No mound shall be erected in the intersection clearance zone, as defined in section 1113.05(h)(1), on corner lots.
 - C. The grading and drainage of mounds shall follow the requirements set forth by the City Engineer.
- (9) **Retaining Walls, Dry-Stacked Stone Decorative Walls and Entry Features:** May be located in front yards, side yards, and rear yards as follows:
- A. Shall not exceed height of thirty-six inches (36") if located in a front yard;

B. Shall not be erected in the intersection clearance zone, as defined in section 1113.05(h)(1), on corner lots.

- (i) Garages and Carports, Detached:
 - (1) **Setbacks:** No detached garage or carport shall be permitted nearer to any front lot line than sixty feet (60'), provided that in the case of a corner lot, where the choice by the owner of the longer street lot line is approved, this requirement shall apply only to the distance of such building from the shorter street lot line. A detached garage or carport shall be distant at least ten feet (10') from any dwelling situated on the same lot, and at least three feet (3') from any lot lines of adjoining lots, and shall not occupy any easement.
 - (2) **Timing of Construction:** No detached garage or carport shall be erected or constructed prior to the erection or construction of the principal or main building, except in conjunction with the same.
 - (3) **Quantity:** There shall be no more than one detached garage or carport per dwelling unit.
 - (4) **Height:** No detached garage or carport shall exceed the following height limitations, unless specifically permitted under separate City Ordinance; or, if converted to habitable use, shall exceed the rear yard height plane limits required for principal structures. A detached garage or carport roof shall not exceed the height dimensions allowed for the principal use, excepting that the Appeals Board may approve increased height to meet unusual circumstances as a variance if such a variance will not be detrimental to the adjacent property. The top plate wall height supporting all sloping roofs shall not exceed nine feet (9') above the parking floor elevation of the garage, and the maximum height to coping or parapet for all flat and sloping roofs with pitches less than four feet (4') of vertical rise in twelve feet (12') of length shall not exceed fifteen feet (15') at any point above the parking floor elevation of the garage.
 - (5) **Area Limits:** A detached or connected garage located completely within the buildable area of a lot shall not be subject to the limitations associated with detached garages. It shall be governed by the limitations regulating principal buildings in the zoning district in which it is located, except that it may not be used as an additional dwelling unit unless permitted in that zoning district.

- (j) Gazebos, Trellises, and Other Open-Sided Structures: These structures are defined as free-standing, unheated structures, which are unenclosed except for a structural system supporting a roof, and may have screen panels which are used to enclose the open spaces between structural elements. The structure must meet the following minimum design criteria:
 - (1) **Height:**
 - A. All open-sided structures shall be limited to one story.
 - B. The height to the top of the highest roof ridge beam, or to the highest point of any other roof form, from the finished floor may not exceed fifteen feet (15').
 - C. If the structure is built on a mound, deck, or other elevated surface, the height of this elevated surface at its highest point above grade shall be added to the height of the structure to determine the overall height of the structure being measured.
 - (2) **Area:** The area may not exceed two hundred square feet (200 sq. ft.).

- (3) **Materials:** All finished roof surfaces, except for flat roofs, shall be metal, seal-tab asphalt shingles, clay tile, slate or wood shingles. All other finish surfaces shall be either wood, brick, stone, screen or any combination thereof.
 - (4) **Location:** All such structures shall be located at least five feet (5') from any lot lines of adjoining lots, and shall not occupy any easement.
 - (5) **Illumination:** Illumination of the structure exterior is prohibited. Illumination within the structure shall not exceed seventy (70) foot candles measured at a horizontal plane three feet above the finished floor.
- (k) **Swimming Pools and Hot Tubs (Private):**
- (1) **Application of Requirements:** All provisions of this paragraph shall apply to private or non-commercial swimming pools and hot tubs.
 - (2) **Location, Area and Height:**
 - A. All hot tubs shall be located within the buildable area. In the event a proposed hot tub has more than one hundred fifty square feet (150 sq. ft.) of area on the water surface when filled to capacity, all regulations for swimming pools shall apply.
 - B. All swimming pools or parts thereof shall be located in the rear yard, shall be at least ten feet (10') from the side or rear line of the lot or parcel upon which it is situated, and shall be at a distance ten feet (10') greater than the building setback line as fixed by the UDO from any street on which such lot or parcel abuts. The area of the swimming pool proper, including decks, walks and other appurtenances, shall not exceed the percentage of lot area specified in section 1113.05(d)(2).
 - C. Swimming pool accessories are limited to diving boards, slides and lights designed to illuminate the pool and the immediate surrounding area. None of these accessories may exceed ten (10) feet in height, such height to include rails, supports and other safety devices, and may not cover a ground surface area in excess of thirty square feet (30 sq. ft.).
 - (3) **Fences or Barriers:**
 - A. Every swimming pool shall be completely enclosed by a fence or barrier of sturdy construction not less than forty-eight inches (48") in height, measured from the level of the ground where located, which shall be of such design and construction as to effectually prevent a child from crawling or otherwise passing through or under such fence. Each gate in such fence or barrier shall be provided with a self-latching gate. Where the top of the pool structure is above grade, such as an aboveground pool, the barrier shall be permitted to be at ground level, such as the pool structure, or mounted on top of the pool structure. No part of any fence shall be located between the building setback line and the street on which the lot or parcel abuts.
 - B. A variance may be requested to make exceptions to, or modifications of, the requirements of this paragraph for fences in cases in which, in Appeals Board's opinion, such

requirements are not essential to safety and the enforcement thereof would place undue hardships on the owners.

- (4) **Lights:** All lights used for illuminating a swimming pool, hot tub or the surrounding areas shall be so designed, located and installed as to confine the direct beams thereof to the lot or parcel on which the pool or hot tub is located, and so as not to constitute a nuisance or undue annoyance to occupants of abutting property.
- (5) **Drainage:** Provisions shall be made for drainage of the swimming pool into a public storm sewer where possible or sanitary sewer, in which case drainage may be into such ditch or watercourse. Permission must be obtained from the Zoning Official before the swimming pool is drained in whole or in any substantial amount, in order to prevent overloading the sewer or ditch in times of heavy rain. In no case shall the swimming pool be drained, directly or indirectly, into any street or onto any neighboring property which is not owned by the pool owner.

1113.06 Industrial Performance Standards

- (a) **I-1 Light Industrial District:** The following performance standards shall apply in an I-1 Light Industrial District and are in addition to the standards outlined and further described in Chapter 1107.
- (1) **Lighting:** Exterior lighting shall be shaded wherever necessary to avoid casting direct light off-site.
 - (2) **Noise:** Industrial uses shall not produce either continuous or intermittent noise at a level, at the property line, which causes harm or annoyance to adjacent property owners.
 - (3) **Odor:** Industrial uses shall not emit odors or odor-causing substance that can be detected at the property line.
 - (4) **Vibrations:** Industrial uses shall not produce vibrations that can be detected at the property line.
 - (5) **Air Pollution, Smoke and Dust:** Industrial uses shall keep air pollution and smoke at an acceptable minimum, as determined by the Ohio Environmental Protection Agency, and shall keep dust and other particulate matter borne by air from leaving the lot by landscaping, paving, or other appropriate means.
 - (6) **Heat and Glare:** Industrial uses that produce intense heat or glare shall only be conducted in a totally enclosed building.
 - (7) **Toxic Material:** Industrial uses shall not emit toxic or noxious matter that is injurious to human health or comfort. Where such emission could be produced as a result of an accident or equipment malfunction, adequate safeguards considered suitable for the industry involved shall be taken.
 - (8) **Explosive Material:** Industrial uses shall not store, utilize or manufacture pyrophoric and explosive powders and dusts, or materials or products that decompose by detonation.
 - (9) **Outdoor Storage:**
 - A. Industrial uses that are allowed outdoor storage shall not have any material stored above a height of twenty feet (20'). No storage shall be allowed within the front yard. All outdoor storage shall be enclosed by a fence not less than six feet (6') and not more than ten feet (10') in height. Within areas of open storage, fire lanes shall be provided as required by the Fire Chief.
 - B. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground except in a light or heavy industrial district. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.
 - C. All outdoor storage of raw materials shall be contained by an enclosure, fence or wall in a manner to prevent transfer from the lot of said materials by wind, flood or natural causes or forces.
 - D. When adjacent to a residential zoning district or a residential use, all outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence, wall or planting to conceal such facilities.
 - E. No garbage shall be deposited upon a lot in such form or manner that it may be transferred from the lot by wind, flood

or natural causes or forces. All garbage that might cause fumes or dust, constitute a fire hazard or be edible or attractive to rodents or insects, shall be stored outdoors only in closed containers constructed of impervious material.

- (b) **I-2 General Industrial District:** The following performance standards shall apply in an I-2 General Industrial District:
- (1) **Lighting:** Exterior lighting shall be shaded wherever necessary to avoid casting direct light off-site.
 - (2) **Air Pollution, Smoke and Dust:** Industrial uses shall keep air pollution and smoke at an acceptable minimum, as determined by the Ohio Environmental Protection Agency, and shall keep dust and other particulate matter borne by air from leaving the lot by landscaping, paving, or other appropriate means.
 - (3) **Heat and Glare:** Industrial uses that produce intense heat or glare shall only be conducted in a totally enclosed building.
 - (4) **Toxic Material:** Industrial uses shall not emit toxic or noxious matter that is injurious to human health or comfort. Where such emission could be produced as a result of an accident or equipment malfunction, adequate safeguards considered suitable for the industry involved shall be taken.
 - (5) **Explosive Material:** Industrial uses shall not store, utilize or manufacture pyrophoric and explosive powders and dusts, or materials or products that decompose by detonation.
 - (6) **Outdoor Storage:**
 - A. Industrial uses that are allowed outdoor storage shall not have any material stored above a height of twenty feet (20'). No storage shall be allowed within the front yard. All outdoor storage shall be enclosed by a fence not less than six feet (6') and not more than ten feet (10') in height. Within areas of open storage, fire lanes shall be provided as required by the Fire Chief.
 - B. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground except in a light or heavy industrial district. Tanks or drums of fuel directly connected with heating devices or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.
 - C. All outdoor storage of raw materials shall be contained by an enclosure, fence or wall in a manner to prevent transfer from the lot of said materials by wind, flood or natural causes or forces.
 - D. When adjacent to a residential zoning district or a residential use, all outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence, wall or planting to conceal such facilities.
 - E. No garbage shall be deposited upon a lot in such form or manner that it may be transferred from the lot by wind, flood or natural causes or forces. All garbage that might cause fumes or dust, constitute a fire hazard or be edible or attractive to rodents or insects, shall be stored outdoors only in closed containers constructed of impervious material.
- (c) **Self-Service Storage Facilities and Mini-Warehouses:** Outdoor storage of any type shall not be permitted at any self-service storage facility or mini-warehouse.

1113.07 Supplementary Regulations

- (a) **External Effects:** No land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; noise, brilliant light or vibration; smoke, dust, fumes, odor or other form of air pollution; heat, cold or dampness; electrical or electronic disturbances; nuclear radiation; or any other condition, substance or element which is dangerous, injurious, noxious or otherwise objectionable to any person or property outside of the premises on which such building, structure or use is located. Such uses, when lawfully permitted under the provisions of this UDO, shall be operated in a manner so as to ensure that the property rights of all other parcels of land will not be adversely affected to the extent of reducing the enjoyment of property rights thereon.
- (b) **Modifications of Dimensional Requirements:**
- (1) **Exceptions to Height Limitations:**
 - A. Chimneys, domes, spires and necessary mechanical appurtenances and radio and television towers may exceed district height limitations.
 - B. Public, semipublic or public service buildings, hospitals, institutions or schools, where permitted, may be erected to a height not exceeding ninety feet (90') when the required side and rear yards are each increased by one foot (1') for each foot of additional building height above the height regulations for the district in which the building is located.
 - C. Radio and television towers for residential uses shall be located centrally on a contiguous parcel having a dimension at least equal to the height of the tower measured from the center of the base of the tower to all points on each property line.
 - (2) **Yards Required for Corner and Through Lots:**
 - A. In any district, the side yard of a corner lot that abuts the side street shall have the same setback requirements as the front yard. The Zoning Official shall determine which is the front yard and which is the side yard.
 - B. A rear yard shall be provided parallel to and opposite from the front yard.
 - C. On through lots, the front yard requirements shall apply to all street frontages.
 - (3) **Lots Adjoining Alleys:** In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements of this UDO, one-half the width of such alley abutting the lot shall be considered as part of such lot.
- (c) **Removal of Soil, Sand or Other Materials:** The use of land for the removal of topsoil, sand and other materials from the land, other than materials from basement excavations, is not permitted in any district, except under a temporary permit from the Appeals Board. This permit may be denied or issued in appropriate cases after the filing of an application accompanied by a suitable agreement or bond that such removal will not cause stagnant water to collect and will not leave the surface of the land, at the expiration of such permit, in an unstable

condition or unfit for the growing of turf or for other land uses permitted in the district in which such removal occurs.

- (d) **Essential Services:** Essential service shall be allowed in any district insofar as permitted, authorized or regulated by law or other ordinance. Buildings required in conjunction with an essential service may be permitted in any district when approved by the Planning Commission. In granting such permission, the Planning Commission shall take into consideration the location, size, use and effect such building will have on the adjacent land.
- (e) **Projections into Yards:**
- (1) Chimneys, flues, sills, pilasters, cornices, eaves, gutters and other similar features may project into a side yard setback a maximum of twelve inches (12").
 - (2) Porches and steps may project into the front yard setback of a dwelling unit, but shall have a setback of ten feet (10'), and no other structural projections will be permitted.
- (f) **Parking of Commercial Trucks and Trailers on Private Property:**
- (1) **Required Screening:** No commercial motor vehicle, and no commercial trailer having four (4) or more tires, shall be parked, stored or allowed to remain for more than twenty-four (24) hours in any forty-eight (48) hour period on any lot or parcel of land in this City, within a front yard or side yard, unless fully contained within an enclosed structure.
 - (2) **Restrictions for Unscreened Parking:** Any commercial motor vehicle with no more than four tires, and any commercial trailer having four (4) or more tires, may be parked, stored or allowed to remain outside of a fully enclosed structure, subject to the following conditions:
 - A. All such vehicles and trailers, when parked more than two hours in any twenty-four (24) hour period, shall be located no closer to any street right-of-way than the building setback line or the most remote wall of the building elevation facing the street, whichever is further from the street;
 - B. All such vehicles or trailers shall be parked at least three feet (3') from any side lot line. A side yard facing a street on a corner lot shall be considered a front yard;
 - C. Only one such vehicle or trailer may be parked outside of a fully enclosed building at any one dwelling unit, and may not be parked outside in addition to a recreational vehicle, trailer or boat parked in compliance with section 1113.05(h); and
 - D. Any equipment and/or load attached to, or supported by, such vehicle must be totally enclosed within the vehicle to conceal it from external observation.
 - (3) **Exemptions for Temporary Vehicle Usage:** This Section shall not apply to:
 - A. Emergency vehicles;
 - B. Utility vehicles on service calls;
 - C. Vehicles used for conveying the necessary tools and materials to premises where labor, using such tools and materials, is to be performed during the time of parking such vehicles, or to the time during which such vehicle, trailer or semi-trailer is being loaded or unloaded, or used to deliver or hoist property or merchandise for completion of delivery, if such loading,

unloading or other activities referred to in this provision are conducted diligently and without unnecessary delay; or

D. As approved by the Zoning Official.

(g) Parking of Motor Vehicles:

(1) **Restrictions in Residential Districts:** In a residential zoning district, an automobile, motorcycle or other motor vehicle shall not remain on any non-impervious parking surface (such as lawn) of any lot for a period of not more than four hours. Impervious surfaces are any surface that cannot be easily penetrated by water, thereby resulting in runoff. All vehicles parked or stored on residential property, other than in completely enclosed buildings, shall be operable and in condition to be legally operated on public highway or street and shall bear proper tags and validation stickers. For purposes of this Section, a motor vehicle shall be deemed inoperable when any of the following conditions exist:

- A. One or more wheels are missing;
- B. One or more tires are missing;
- C. One or more tires are flat;
- D. One or more windows are cracked, broken or missing;
- E. The windshield is shattered or missing;
- F. Parts necessary for the operation of the vehicle are missing or any other parts such as fenders, doors, and hoods; or,
- G. When the vehicle is not capable of being started and driven from the location in question.

(2) **Collector's Vehicles:** In accordance with the Ohio Revised Code, collector's vehicles may be kept on private property, with the permission of the person having the right to possession of the property, if such vehicle bears current registration, is parked on an impervious surface in compliance with the UDO. When parked anywhere other than the driveway, the vehicle shall be concealed by means of plant material or landscape design elements which obscure the visibility of the parked vehicle from adjacent residential property and public right-of-way.

(3) **Exemptions for Temporary Vehicle Usage:** This Section shall not apply to:

- A. Emergency vehicles;
- B. Utility vehicles on service calls; and
- C. Vehicles used for conveying the necessary tools and materials to premises where labor, using such tools and materials, is to be performed during the time of parking such vehicles, or to the time during which such vehicle, trailer or semi-trailer is being loaded or unloaded, or used to deliver or hoist property or merchandise for completion of delivery, if such loading, unloading or other activities referred to in this provision are conducted diligently and without unnecessary delay; or
- D. As approved by the Zoning Official.

(h) Parking of Recreational Vehicles, Watercraft and Recreational Trailers on Private Property: This paragraph addresses three types of equipment generically called recreational vehicles, watercraft and recreational trailers, (hereinafter referred to as vehicles), which are further defined below.

(1) **Definitions:**

- A. *Recreational Vehicle:* Means a vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreational and vacation use. Types of

recreational vehicles include, but are not limited to, self-propelled motor homes, and non-self-propelled travel trailers, truck campers, fifth wheel trailers and park trailers.

- B. *Recreational Trailers*: Types of recreational trailers include, but are not limited to, any form of device, equipment, or machinery on wheels, or a single wheel, that is intended to be pulled by a motor vehicle, whether or not attached to a motor vehicle. This shall include every vehicle designed and utilized for the sole purpose of transporting any boat, auto, snowmobile, recreational habitation, and the like, which does not have motor power, but is designed to be drawn by another vehicle.
 - C. *Watercraft*: Types of watercraft include, but are not limited to, any of the following when used or capable of being used for transportation on the water:
 - (i) A boat operated by machinery either permanently or temporarily affixed;
 - (ii) Personal watercraft, such as jet skis and wave runners;
 - (iii) A sailboat other than a sailboard;
 - (iv) An inflatable, manually propelled boat having a hull identification number meeting the requirements of the United States Coast Guard; and
 - (v) A canoe or rowboat.
- (2) **Specifications**: All such vehicles shall meet the following conditions when parked in any residential zoning district within the City:
- A. *Location/Screening*: When located outside an enclosed structure, all such vehicles must be parked within the buildable area of any given lot, and be screened from the view of surrounding neighbors and passing motorists. The use of tarpaulins and/or location within an open-sided carport does not qualify as adequate screening. If the Zoning Official receives an objection to the degree of obscurity, he shall determine if adequate screening or obscurity exists. The opinion of the Zoning Official may be appealed to Appeals Board by any party affected by this opinion, within twenty (20) days, pursuant to section 1115.10. The extent of owner liability for obscurity is limited to the erection of a six foot (6') opaque wooden fence screening the vehicle from view from all abutting property owners and streets.
 - B. *Parking*: No vehicle shall be parked, stored or allowed to remain for more than twenty-four (24) hours in any forty-eight (48) hour period within a front yard or side yard on any lot or parcel of land in this City, unless fully contained within an enclosed structure, except when being loaded or unloaded.
 - C. *Improvements*: No vehicle shall be parked, stored or allowed to remain on a lot or parcel of land which is not improved with a principal building.
 - D. *Habitation/Guest Occupancy*: A vehicle may not be used for overnight sleeping or living while parked on private property within the City, except that a vehicle may be parked on private property in the rear yard for a period not to exceed, in the aggregate, seventy-two (72) hours in any thirty (30) day period, and if the owner or person in charge of such vehicle is a bona fide guest of the occupant or occupants of such private property.

- E. *Storage*: No parked vehicle shall be used as a means of permanent storage for any materials that a reasonable person would not store. Acceptable materials include dishes, linens, or other items used in the course of travel in, or use of the vehicle.
 - F. *Registration*: All recreational vehicles and recreational trailers shall be operable and have borne valid registration and licenses within the most recent twelve (12) month period. All watercraft shall be operable and have been registered within the most recent twelve (12) month period. Operable in the case of a powered vehicle means a vehicle capable of being started and driven from the location in question. Operable in the case of a non-powered or waterborne vehicle means a vehicle capable of being towed from the location in question.
 - G. *Indoor Storage*: Parking vehicles under roof within a permanent enclosure is encouraged.
 - H. *Maintenance/Condition*: A vehicle is inadequately maintained, and shall be removed from the City, when all of the following conditions are met:
 - (i) The vehicle is three years or older; and
 - (ii) The vehicle is extensively damaged. Such damage may include, but is not limited to, any of the following: broken windows or windshield, missing wheels, tires, motor or transmission or any other major parts; and/or
 - (iii) The vehicle is apparently inoperable.
 - I. *Ownership*: The vehicle must be owned by a resident on whose lot it is parked, unless it qualifies for the guest occupancy exception above.
 - J. *Safety*: The vehicle shall not be parked in an unsafe manner.
- (i) Authority to Grant Parking Exceptions: The Zoning Official is authorized to grant temporary exceptions to or modifications in special circumstances where a necessity exists for the use of a vehicle described in section 1113.07(f), (g) or (h) hereof, and the prohibitions contained in said section would constitute a real hardship. Such special circumstances may include, but are not limited to, the location of a field office required for a construction project. Such permission shall be limited to the time during which the use of such vehicle is reasonably necessary for the project for which such exception was granted.
- (j) Home Sales:
- (1) **Definition**: “Home Sale” means a sale of personal property to the general public conducted in or on any property within a residential zoning district, to include, without limitation, garage sales, patio sales, yard sales, porch sales, driveway sales, motor vehicle sales, and the sale of boats, trailers, motorcycles, motor homes and the like.
 - (2) **Prohibitions**:
 - A. No person shall sell, or offer for sale, at such home sale any merchandise that has been purchased, consigned or otherwise acquired for purposes of resale. The offering of new merchandise for sale shall be evidence that such merchandise was acquired by the resident for purpose of resale. No person shall sell, or offer for sale, at such home sale any personal

- property except such as has been owned and maintained by such person or members of his family on or in connection with the premises on which such sale is held.
- B. This prohibition shall not apply to not-for-profit corporations, churches, temples, schools, fraternities, sororities, associations, clubs or lodges. Such organizations may conduct sales of personal property donated to them on real estate owned or occupied by such organizations.
- (3) **Frequency and Duration of Sales:** Only one such sale may be conducted on any parcel of real estate in any two (2) month period, which sale shall be limited to not more than four (4) consecutive days or two (2) consecutive weekends of two (2) days each. No sale may commence before the hour of 8:00 a.m. or extend later than 8:00 p.m. This shall not apply to the sale of motor vehicles, boats, trailers, motorcycles or motor homes.
- (4) **Other Conditions of Sales:** No sign advertising a home sale may be displayed at any place except on the premises on which the sale is held. Only one such sign may be displayed, and its display shall be limited to the dates and hours during which the sale is held. Such sign shall not be larger than four square feet (4 sq. ft.) in area, shall not be illuminated or animated, and shall not contain any advertising material unrelated to the conduct of the sale. No sign may be displayed for the sale of a motor vehicle, boat, trailer, motorcycle or motor home on the premises.
- (5) **Sale of Motor Vehicles, Boats, Trailers, Motorcycles and Motor Homes:** The following provisions shall apply in the case of any motor vehicle, boat, trailer, motorcycle or motor home offered for sale:
- A. Such vehicles may be displayed for sale only upon an impervious surface on any portion of the lot, including those located in any front, rear or side yards, provided that the vehicle is not parked in the City's right-of-way. Only one such item may be displayed at any time;
- B. No person shall park or leave standing any vehicle upon any property not owned or controlled by such person for the principal purpose of advertising or displaying it for sale;
- C. Not more than two (2) signs, each of which shall not exceed one square foot (1') in area, may be displayed for the sale of such item upon or in the motor vehicle, boat, trailer, motorcycle or motor home only, provided that such signs shall not be illuminated or animated; and
- D. Any such motor vehicle, boat, trailer, motorcycle or motor home displayed for sale must be in operating condition and capable of being immediately moved under its own power if self-propelled or, if not self-propelled, by towing by ordinary means available upon the premises. This shall not apply to corporations not-for-profits, churches, temples, schools, fraternities, sororities, associations, clubs, lodges, or any form of business, whether sole proprietorship, partnership, or corporation, carried on for profit whether formally organized or not.
- (6) **Exemptions:** Except as provided in (4) and (5) above, these provisions shall not apply to a sale of property publicized solely by classified advertising by newspaper or internet, which describes or identifies the specific property offered for sale and does not

designate the date, hours or location of the sale other than by stating the name, address or telephone number of the seller.

(k) Limited Agricultural Uses in R-1A:

- (1) **Purpose:** It is recognized that the R-1A Estate Residential District, due to its larger lot size and the location of the District, may provide adequate area for some limited agricultural uses. Certain agricultural uses, as outlined in this section, shall be permitted as-of-right in R-1A District on lots of two (2) acres or more.
- (2) **Limitations:** Agricultural uses in the R-1A District shall be limited to:
 - A. The raising for private use or sale of fruit, vegetables or nursery stock;
 - B. The keeping of sheep, goats, hogs or other small farm animals;
 - C. The keeping of bovine and/or equine animals.
- (3) **Standards for the Raising for Sale of Fruit, Vegetables or Nursery Stock:** The raising of produce or nursery stock for the purposes of sale shall require ten (10) acres and adequate off-street parking. Land acreage shall be measured exclusive of road or street right-of-way. Any signage associated with such use shall require a sign permit.
- (4) **Standards for the Keeping of Small Farm Animals:**
 - A. One sheep, goat, hog or other small farm animal may be kept per one and one-half (1.5) acres of land, but in no case shall the total number of animals exceed four (4) such animals regardless of the size of the lot. Land acreage shall be measured exclusive of road or street right-of-way.
 - B. The structure containing the farm animal shall be located not less than one hundred feet (100') from any residence on an adjoining parcel.
 - C. No storage of manure or odor or dust-producing substance shall be permitted.
 - D. Land shall be fenced so as to securely confine such animals. Such fencing shall not be located closer to any public right-of-way or private street than the minimum setback in the District and shall not be located closer than fifteen feet (15') from any other residential property line.
 - E. No farm animals shall be kept on a vacant lot unless the owner of such vacant lot lives on a lot contiguous to said vacant lot.
 - F. The use shall comply in all respects with any and all applicable state and federal regulations.
- (5) **Standards for the Keeping of Bovine and/or Equine Animals:**
 - A. The minimum area of any lot on which bovine and/or equine animals may be kept shall be five (5) acres, exclusive of road or street right-of-way; but in no case shall the total number of animals exceed three (3) such animals over six months of age and three (3) foals up to six months in age, regardless of the size of the lot.
 - B. The structure containing the animal shall be located not less than one hundred feet (100') from any residence on an adjoining parcel.
 - C. No storage of manure or odor or dust-producing substance shall be permitted.
 - D. Land shall be fenced so as to securely confine such animals. Such fencing shall not be located closer to any public right-of-way or private street than the minimum setback in the District

and shall not be located closer than fifteen feet (15') from any other residential property line.

- E. No such animals shall be kept on a vacant lot unless the owner of such vacant lot lives on a lot contiguous to said vacant lot.
- F. The use shall comply in all respects with any and all applicable state and federal regulations.

1113.08 Standards for Utility Structures

(a) Purpose and Applicability:

- (1) The purpose of this section is to regulate the placement, construction and appearance of above-ground utility structures in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive utility marketplace in the City.
- (2) This section shall apply to structures that house above-ground utility devices such as electrical transformers, switch boxes, telephone pedestals, telephone boxes, cable television boxes and similar devices, excluding the following:
 - A. Utility boxes or structures that are attached to and located within at least two feet (2') of the principal dwelling and the serve the principal dwelling;
 - B. Utility boxes or structures that are traffic signal control boxes;
 - C. Utility boxes or structures of which all dimensions (height, length and depth) are twenty-four inches (24") or less;
 - D. Utility boxes or structures that are pole-mounted and the box or structure is at least fifteen feet (15') above grade, where each dimension of the box or structure is less than thirty-six inches (36").

(b) Placement Standards:

(1) **Public Right-of-Way:**

- A. Utility structures may only be located in the public right-of-way in compliance with the City of Franklin's Right-Of-Way Ordinance, Chapter 903 of the Codified Ordinances of the City of Franklin, and the applicable provisions of this Chapter.
- B. The placement of any utility structure shall not obstruct sight distance requirements for public street intersections and private drives as provided in either the City of Franklin's Codified Ordinances or the then current edition of the Ohio Manual for Uniform Traffic Control Devices.
- C. No Utility structure shall be located within five feet (5') of any fire hydrant.

(2) **Private Property:** Utility Boxes located on private property (property that is not public right-of-way) shall be located:

- A. Only within the area of a recorded easement that permits such a box; or
- B. By authority of a written instrument signed by the owner(s) of all properties on which the utility box is to be located and in which sufficient property rights are granted for the location and placement of such a box.
- C. Landscaping required by these utility structure standards may be located on private property outside of the area of an easement permitting the utility structure; however all required vegetation shall be placed within close proximity (as determined by the Zoning Official) to the utility structure the vegetation is intended to screen. See Screening Standards (below).

(c) Minimum Setback Requirements:

- (1) Large Utility Boxes shall be defined as those utility structures where any two (2) of the dimensions of the box or structure is greater than thirty-six inches (36") in terms of height, width or depth. The following setback requirements shall apply to Large Utility Boxes:
 - A. A Large Utility Box shall not be located in a public right-of-way unless it complies with the provisions of Chapter 903 of the Codified Ordinances and so long as the box adheres to the provisions of this section, specifically the screening and appearance standards.
 - B. Placement of Large Utility Boxes in the rear yard and in a non-street side yard shall be encouraged where possible.
 - C. Large Utility Boxes may be located within required front and street side yards provided there is adequate screening per the Screening Standards, below.
 - D. Large Utility Boxes shall be placed at least twenty-five (25) feet away from any principal dwelling.
 - E. Large Utility Boxes located in the front yard or within the required street side yard shall adhere to all landscaping and appearance standards of this section.
- (2) Small Utility Boxes shall be defined as those utility structures where each dimension (height, width and length) of the box or structure is less than thirty-six inches (36"). The following setback requirements shall apply to Small Utility Boxes:
 - A. A Small Utility Box shall not be located in a public right-of-way unless it complies with the provisions of Chapter 903 of the Codified Ordinances and so long as the box adheres to the provisions of this Chapter, specifically the screening and appearance standards.
 - B. Placement of Small Utility Boxes in the rear yard and in a non-street side yard shall be encouraged where possible.
 - C. Small Utility Boxes may be located within required front and street side yards provided there is adequate screening per the Screening Standards, below.
 - D. If multiple Small Utility Boxes are proposed for placement in the same vicinity in a front yard or within a street side yard, they shall be located as follows:
 - (i) If two (2) Small Utility Boxes are located within six feet (6') of each other, placement of each box shall be parallel to the closest public right-of-way as much as possible.
 - (ii) If three (3) Small Utility Boxes are located within six feet (6') of each other, placement shall require two boxes parallel to the closest public right-of-way with the third directly behind one of the front (and closer to the right-of-way) Small Utility Boxes.
 - (iii) If four (4) Small Utility Boxes are located within six feet (6') of each other, placement shall be two boxes parallel to the closest public right-of-way, with the third directly behind one of the front two Small Utility Boxes and the fourth directly behind the other front Small Utility Boxes.

- (iv) If more than four (4) Small Utility Boxes are located within six feet (6') of each other, placement shall be as determined by the Franklin Zoning Official.

(d) Appearance Standards:

- (1) The exterior color of all utility structures and boxes shall be approved by the Zoning Official prior to installation.
- (2) The color and location of all labeling to be placed on the exterior of any utility structure or box shall be approved by the Zoning Official prior to the placement of this labeling.
- (3) All labeling on any single utility structure or box shall cover a combined area no larger than one-half square foot (1/2 sq. ft.).
- (4) Electric meters that are to be placed in conjunction with a utility structure or box installation shall be placed as follows:
 - A. Attached to the appropriate utility structure or box that minimizes its visibility from the closest public right-of-way;
 - B. Attached to the side of the utility structure or box and not mounted on top; and
 - C. The placement of the meter is to be shown on any electrical permit application that accompanies the proposed utility structure or box application.
- (5) If the utility structure installation requires the installation of a pad affixed to the ground, the pad shall be constructed of concrete.
- (6) The exterior of the utility structure or box shall be maintained to provide a neat and orderly appearance. The owner or user shall keep the exterior painted and graffiti-free. Upon notice from the City that the exterior of any utility structure or box is in need of maintenance, the owner or user thereof shall have fourteen (14) days from receipt of said notice to correct the problem. If correction is not undertaken within fourteen (14) days, the City may cause the correction or repairs to be done. Fees for such correction or repair shall be immediately due and payable to the City. Notice of such assessment shall be given to the owner or user by mailing such notice to the address utilized by the County Treasurer for tax billing purposes. All assessments not paid within ten (10) days after such mailing shall be certified by the Finance Director to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected. The City may also collect such costs together with interest through a civil action in the appropriate court of law having jurisdiction thereof and seek such additional orders from a court of competent jurisdiction as may be necessary from time to time in order to enforce the provisions of this section.

(e) Screening Standards:

- (1) Utility structures or boxes on private property shall be screened with landscaping or fencing, as outlined below. Utility structures or boxes in the public right-of-way shall be screened with landscaping, as outlined below, when required by the Zoning Official.
- (2) **Landscaping:**
 - A. Unless fences or walls are used to screen the utility structure or box, existing or new landscaping may be used to screen utility structure or box installations, provided that the landscaping shall consist of plants in a quantity, size and

location that provide at least fifty percent (50%) opacity after one year's (one growing season) growth.

- B. Unless fences or walls are approved by the Franklin Zoning Official, the minimum number of plants shall be as follows:
 - (i) For single, Large Utility Boxes, a combination of at least five (5) bushes or trees shall be installed.
 - (ii) For two or more Large Utility Boxes a combination of at least eight (8) bushes or trees shall be installed for the first two Large Utility Boxes, and three (3) more bushes or trees for each additional box.
 - (iii) For single, Small Utility Boxes, located in a front yard or located in a street side yard, a combination of at least three (3) bushes or flowering plants shall be installed.
- C. For multiple Small Utility Boxes located in a front yard or located in a street side yard, a combination of at least five (5) bushes or flowering plants shall be installed for the first two Small Utility Boxes, and thereafter the number of additional plants for each additional Small Utility Box in the same front or street side yard shall be as determined by the Zoning Official.
- D. The location, size and types of required screening plants shall be as approved by the Zoning Official.
- E. At least one third of the required plants shall be evergreen, unless otherwise approved by the Zoning Official.

(3) Fences and Walls:

- A. Fences and walls may be included as elements to meet screening requirements only upon:
 - (i) The Franklin Zoning Official's determination that such elements are appropriate for the particular utility structure or box location; and
 - (ii) After comment or opportunity for comment by the owners of the properties upon which the utility structure or box is to be located.
- B. All fences and walls must meet the fence and wall provisions of the City's Zoning Code.

(4) Other Screening: If approved by the Zoning Official, the screening of any utility structure or box may be achieved through the placement of the utility structure or box adjacent to existing accessory structures.

(5) Maintenance: The owner of the utility structure or box shall maintain all landscaping and/or fencing or other screening in a neat and orderly manner. Upon notice from the City that the screening of any utility structure or box is in need of maintenance, the owner or user thereof shall have fourteen (14) days from receipt of said notice to correct the problem. If correction is not undertaken within fourteen (14) days, the City may cause the correction or repairs to be done. Fees for such correction or repair shall be immediately due and payable to the City. Notice of such assessment shall be given to the owner or user by mailing such notice to the address utilized by the County Treasurer for tax billing purposes. All assessments not paid within ten (10) days after such mailing shall be certified by the Finance Director to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected. The City may also collect such costs together with interest through a civil action in the appropriate court of law having jurisdiction thereof and seek such additional orders

from a court of competent jurisdiction as may be necessary from time to time in order to enforce the provisions of this section.

(f) Approvals, Notifications, Information Submissions and Removals.

(1) A Zoning Permit shall be required for the placement, whether permanent or temporary, of any Utility Box on private property or within a public right-of-way.

(2) **Administrative Review:** The following provisions shall govern the issuance of administrative approvals:

A. All utility structures or boxes not specifically herein exempted shall require a Certificate of Zoning Compliance and applicable building permits prior to installation.

B. Each applicant for administrative approval shall apply for a Certificate of Zoning Compliance and provide the information to address the requirements of this section. The application shall include:

(i) A scaled site plan of the proposed utility structure or box location;

(ii) Scale drawing indicating the size, material, color, labeling information, and any required pad of the proposed utility structure or box;

(iii) A landscaping/screening plan indicating the location, size and types of screening proposed;

(iv) A copy of the easement or other written documentation that shows the legal authority and ownership of property rights sufficient for the applicant to place the proposed utility structure or box in the proposed location; and

(v) The applicant shall pay a non-refundable fee to reimburse the City for the costs of reviewing the application.

C. The application shall be reviewed by the Zoning Official for administrative approval to determine if the proposed use complies with this section as well as all applicable requirements of the underlying zoning district.

D. If a Certificate of Zoning Compliance in connection with an administrative review is denied, the applicant shall be entitled to file an appeal within twenty (20) days after the Zoning Official's decision. The appeal shall be filed with the Appeals Board and shall specify the grounds for such appeal.

(3) **Notification to Property Owners:**

A. As part of the Zoning Permit approval process, the owner of the utility structure or box (or the entity applying for the zoning permit) shall provide written notice of the proposed utility structure or box placement to the owners of the property (lot or parcel) upon which the utility structure or box is to be located, plus written notice to all owners of properties that abut the property upon which the utility structure or box is proposed to be located.

B. All notices to property owners shall be in writing and sent by U.S. mail, certified, with return receipt (green card) requested. In lieu of U.S. certified mail, the applicant may elect to provide written notice to property owners by hand delivery, and with such election the applicant shall provide proof of delivery by form of receipt and by form of affidavit supplied to the City of Franklin.

- C. The written notice to property owners shall, at minimum, inform the owners of the following:
 - (i) The applicant's full name, mailing address, phone number and contact person;
 - (ii) A statement that application has or will very soon be filed with the City of Franklin for a Zoning Permit for the installation of a utility structure or box;
 - (iii) A statement briefly describing the size of the proposed utility structure or box and a drawing showing the proposed location of the utility structure or box.
- D. A copy of the written notification to property owners shall be provided to the Franklin Zoning Official as part of the Zoning Permit approval process.

(g) Removal of Obsolete Utility Structures:

- (1) Obsolete utility structures and/or boxes, including pads, shall be removed and be replaced with grass unless other vegetation is required by the Zoning Official. Restoration of the property shall occur within three (3) months after the abandonment of the Utility Box. Unless otherwise provided for, all restoration costs and expenses shall be the obligation of the Utility Provider or applicant.
- (2) Utility structures and/or boxes of a Provider who fails to comply with this section and which remain unused facilities shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to: abating the nuisance; or taking possession of the facilities and restoring them to a useable condition subject to the finding of the PUCO pursuant to the requirements of ORC Sections 4905.20 and 4905.21; or requiring removal of the facilities by the Provider. If the City abates the nuisance it may take all action necessary to recover its costs to abate said nuisance, including but not limited to, those methods set forth in ORC Section 715.261.