

ZONING ORDINANCE

CITY OF MT. HEALTHY

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ZONING ORDINANCE

PREPARED BY MCGILL SMITH PUNSHON, INC.

3700 Park 42 Drive, Suite 190 B

CINCINNATI, OHIO 45241

AUGUST, 1989 – Revisions: May, 2008

CITY OF MT. HEALTHY

ZONING ORDINANCE

PREAMBLE

An ordinance of the City of Mount Healthy, Ohio, enacted in accordance with the provisions of Chapter 713, Ohio Revised Code, and through the guidance of the City's Land Use Plan, dividing the City into zones and districts, encouraging, regulating and restricting therein the location, construction, reconstruction, alteration and use of structures and land; promoting the orderly development of residential, industrial, commercial, recreational and other land uses, and public areas; providing for adequate light, air and convenience of access to property by regulation the use of land and buildings and the bulk of structures in relationship to surrounding properties; limiting congestion in the public right-of-ways; providing the compatibility of different land uses and the most appropriate use of land; providing for the administration of this ordinance, defining the powers and duties of the administrative officers as provided hereafter, and prescribing penalties for the violation of the provisions in this ordinance or any amendment thereto, all for the purpose of protection the public health, safety, comfort and general welfare; and for the repeal thereof.

Therefore be it ordained by the council of the City of Mount Healthy, Hamilton County, State of Ohio:

Adopted by Ordinance

89-901

October 24, 1989

CITY OF MOUNT HEALTHY  
CHAPTER 155: ZONING ORDINANCE

Section

- 155.001 Purpose
- 155.002 Title
- 155.003 Definitions
- 155.004 Districts and boundaries thereof
- 155.005 General provisions

“A” Residence District Regulations

- 155.010 Use regulations
- 155.011 Height regulations
- 155.012 Area regulations
- 155.013 Intensity of use

“B” Residence District Regulations

- 155.020 Use regulations
- 155.021 Height regulations
- 155.022 Area regulations
- 155.023 Intensity of use

“C” Residence District Regulations

- 155.030 Use regulations
- 155.031 Height regulations
- 155.032 Area regulations
- 155.033 Intensity of use

“D” Residence District Regulations

- 155.040 Use regulations
- 155.041 Height regulations
- 155.042 Area regulations
- 155.043 Intensity of use

“DD” Planned Multiple Residence District

- 155.050 Use regulations
- 155.051 Procedure
- 155.052 Height regulations
- 155.053 Area regulations
- 155.054 Parking requirements
- 155.055 General requirements
- 155.056 Delay in construction
- 155.057 Violation of plan
- 155.058 General development plan provisions

## MT. HEALTHY- ZONING ORDINANCE

### Section “E and E-1” Retail Business District Regulations

- 155.060 Use regulations
- 155.061 Height regulations
- 155.062 Area regulations
- 155.063 Intensity of use
- 155.064 Development Plan

### “EE” Planned Business District Regulations

- 155.070 Use regulations
- 155.071 Procedure
- 155.072 Height and area requirements
- 155.073 Parking and loading requirements
- 155.074 General requirements
- 155.075 Delay in construction
- 155.076 Violation of Plan

### “F” Light Industrial District Regulations

- 155.080 Use regulations
- 155.081 Height regulations
- 155.082 Area regulations
- 155.083 Side yard, rear yard, and intensity of use

### “FF” Planned Light Industrial District Regulations

- 155.090 Use regulations
- 155.091 Procedure
- 155.092 Height and area requirements
- 155.093 Parking and loading requirements
- 155.094 General requirements
- 155.095 Delay in construction
- 155.096 Violation of Plan

### “G” Heavy Industrial District Regulations

- 155.100 Use regulations
- 155.101 Height regulations
- 155.102 Area regulations

“H” Parks, Playgrounds, and Recreational Areas

- 155.110 Use regulations
- 155.111 Height regulations
- 155.112 Area regulations

MT.HEALTHY - ZONING ORDINANCE

Section

General Regulations

- 155.120 Parking regulations
- 155.121 Fences
- 155.122 Nonconforming uses
- 155.123 Additional use, height, and area regulations and exceptions
- 155.124 Board of Zoning Appeals
- 155.125 Variances
- 155.126 Conditionally Permitted Uses
- 155.127 Child Day-Care Facilities
- 155.128 Group Care Homes
- 155.129 Conditional Use Permits for Historic Properties
- 155.130 Planned Unit Developments & Overlay Planned Development
- 155.131 Zoning Permits
- 155.132 Architectural Review Board (ARB)
- 155.133 Zoning Ordinance Amendments

Signs

- 155.140 Purpose and Intent
- 155.141 General Regulations
- 155.142 Signs by Zoning District
- 155.143 Administration and Enforcement

Enforcement and Remedies

- 155.150 Enforcement
- 155.151 Applicable provisions

Penalty

- 155.999 Penalty

### Sec. 155.001 PURPOSE

For the purpose of promoting public health, safety, morals, comfort, or general welfare; to conserve and protect property and property values; to secure the most appropriate use of land; and to facilitate adequate but economical provision of public improvements, all in accordance with the provisions of Chapter 713 of the Ohio Revised Code.

### Sec. 155.002 TITLE

This chapter shall be known and may be cited and referred to as the “zoning ordinance” to the same effect.

### Sec. 155.003 DEFINITIONS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word “BUILDING”, shall include the word “STRUCTURE”, and the word “SHALL”, is mandatory and not directory.

“ACCESSORY USE, BUILDING.” Accessory Use, Building means a use, object, or structure constructed or installed on, above, or below the surface of a parcel, which is located on the same lot as a principle use, object, or structure, and which is subordinate to or serves the principal use, object, or structure, is subordinate in area to the principal use, object, structure, and is customarily incidental to the principal use, object, or structure. Among other things, “Accessory Use, Building” includes anything of a subordinate nature attached to or unattached from a principal structure or use, such as fences, walls, sheds, garages, parking places, decks, poles, pools, poster panels and signs. Except as otherwise required in this Ordinance, and accessory use shall be a permitted use.

“ADULT ENTERTAINMENT” Any activity that is only permitted for persons aged 21 years or older, that may include sales of printed material, sexual paraphernalia, partially nude or nude dancing or other public presentations (including videos, programs or any visual representations) that may be offensive to the general public.

“ADVERTISING SIGNS” An advertising sign is any sign which describes, touts or offers for sale, either directly or indirectly, a product or service that is available, sold, manufactured or assembled upon the premises where such sign is displayed.

“AGRICULTURE.” The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses shall be secondary to that of the normal agricultural activities, and provided further that the above users shall not include the commercial feeding of garbage or offal to swine or other animals. The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within 100 feet of any residential zoning district.

“ALLEY.” A public thoroughfare which affords only a secondary means of access to abutting property.

“ANTIQUÉ STORE.” Means any building used for the sale of any old and authentic object of personal property which was made, fabricated or manufactured 60 or more years earlier and which has a unique appeal and enhanced value mainly because of its age and, in addition, may include the sale of any article of personal property which was made, fabricated or manufactured 20 or more years earlier and because of public demand has attained value in a recognized commercial market which is in excess of its original value.

“ANIMATED SIGNS.” Any sign which by mechanical action or by flashing, flickering, or alternating illumination or projection or by other means moves or appears to move.

“APARTMENT.” A room or suite of rooms in a multiple dwelling intended or designed for use as a residence by a single family.

“APARTMENT HOUSE.” See “DWELLING, MULTI-FAMILY”

“AUTOMOTIVE BODY REPAIRING AND PAINTING.” The repair or rebuilding of the body or frame components of motor vehicles, or the painting of such components.

“AUTOMOTIVE REPAIR.” The repair, rebuilding or reconditioning of motor vehicles or parts thereof including engines, drive lines, windows, wheels and interiors, but excluding automotive body work and painting.

“AUTOMOTIVE SERVICE STATION.” Buildings and premises where gasoline, oil, grease, batteries, tires, and motor vehicle accessories may be supplied and dispensed at retail and where in addition, the following services may be rendered and sales made:

1. Sales and service of spark plugs, batteries, and distributor parts;
2. Tire servicing and repair, but not recapping or re-grooving;
3. Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and blades, grease containers, wheel bearings, mirrors, and the like;
4. Radiator cleaning and flushing;
5. Greasing and lubrication; Providing and repairing fuel pumps, oil pumps, and lines;
6. Providing and repairing fuel pumps, oil pumps, and lines;
7. Minor servicing and repair of carburetors;
8. Adjusting and repairing brakes;
9. Minor motor adjustment not involving removal of the head or crankcase or racing the motor;

10. Sales of cold drinks, packaged food, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principle operations;
11. Provisions of road maps and other informational material to customers, provisions of restroom facilities;
12. Safety inspections.

Uses permissible at an automotive service station do not include automotive repair, body work, straightening of body parts, painting, welding, storage or automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A service station is not a repair garage nor a body shop.

“AUTOMOTIVE WRECKING.” The dismantling or wrecking of used motor vehicles, mobile homes, trailers, or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts.

“BANNER SIGN.” Shall mean any sign intended to be hung either with or without frames, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind. National flags, flags of political subdivisions, and symbolic flags of any nonprofit institution shall not be considered banners for the purpose of this Article.

“BASEMENT.” A story having part but not more than one-half of its height below grade. A “BASEMENT” is counted as a story for the purpose of height regulation.

“BOARD.” The Boarding of Zoning Appeals of the city.

“BOARDINGHOUSE.” A building other than a hotel where, for compensation, meals, or lodging and meals, are provided for three or more, but not more than 12 persons.

“BUILDING.” Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property when fixed to a permanent foundation.

“BUILDING FRONTAL WIDTH” The total linear measurement of all sides of a building which have major public entrances.

“BUILDING HEIGHT” The vertical distance from the average grade in the front yard to the highest point of the coping of a flat roof or, to the deck line of a mansard roof, or to the mean height level between the eaves and the ridge for gable, hip, and gambrel roofs.

“CELLAR” A story having more than one-half of its height below grade. A “CELLAR” is counted as a story for the purpose of height regulation only if it is used for dwelling purposes other than by a janitor employed on the premises.

“CELLULAR COMMUNICATION SERVICES” means personal communications accessed by means of cellular equipment and services.

“CELLULAR OR WIRELESS COMMUNICATIONS ANTENNA” shall mean any structure or device used to receive or transmit electromagnetic waves between cellular phones, pagers, commercial mobile services, wireless services and ground- wired communications systems including both directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas such as whips and other equipment utilized to serve personal wireless communication services.

“CELLULAR OR WIRELESS COMMUNICATIONS SITE” shall mean a tract, lot or parcel of land that contains the cellular or wireless communications tower, antenna, support structure(s), parking and any other uses associated with and ancillary to cellular or wireless communications transmission.

“CELLULAR OR WIRELESS COMMUNICATIONS SUPPORT STRUCTURE” shall mean a building or structure accessory to but necessary for the proper functioning of the cellular or wireless communications antenna or tower.

“CELLULAR OR WIRELESS COMMUNICATIONS SYSTEM” shall mean plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennae or towers, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer cellular or wireless communications services.

“CELLULAR OR WIRELESS COMMUNICATIONS TOWER” shall mean any freestanding structure used to support a cellular or wireless communications antenna.

“CELLULAR OR WIRELESS COMMUNICATIONS TOWER, HEIGHT OF” shall mean the height from the base of the structure to its top; including any antenna located thereon.

“CHANGEABLE COPY” Shall mean a sign that is designed so that characters, letters, or illustrations can be changed or rearranged without altering the face or the surface of the sign. This shall also include the changing of copy on billboards.

“CONSTRUCTION SIGNS” A sign of a temporary nature which describes or advertises the development of the site on which it is located.

“COUNCIL” The City Council of Mt. Healthy.

“CHILD DAY-CARE” As defined in the Ohio Revised Code, “Child Day Care” means administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the 24-hour day, in a place or residence other than a child’s home.

“CHILD DAY-CARE CENTER” As defined in the Ohio Revised Code, “Child Day-Care Center” means any place licensed or allowed as such by the State of Ohio in which child day-care is provided, with or without compensation, for 13 or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child day-care is provided, with or

without compensation, for seven to 12 children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted.

“TYPE A FAMILY DAY-CARE HOME” AND “TYPE A HOME” As defined in the Ohio Revised Code, “Type A Family Day-Care Home” and “Type A Home” means a permanent residence of the administrator, licensed or allowed as such by the State of Ohio, in which child day-care is provided for seven to 12 children at one time or a permanent residence of the administrator in which child day-care is provided for four to 12 children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. “Type A Family Day-Care Home” does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings.

“TYPE B FAMILY DAY-CARE HOME” AND “TYPE B HOME” As defined in the Ohio Revised Code, “Type B Family Day-Care Home” and “Type B Home” means a permanent residence of the provider, licensed or allowed as such by the State of Ohio, in which child day-care or child day-care services are provided for one to six children at one time and in which no more than three children may be under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the Type B home shall be counted. “Type B Family Day-Care Home” does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings.

“CLINIC” A place used for the care, diagnosis and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are not provided with board or room or kept overnight on the premises.

“CONDITIONAL USE” A use permitted within a district other than a principally permitted use, requiring a conditional use permit and approval of the Council.

“CONDITIONAL USE PERMIT” A permit issued by the Building Official upon approval by the Council to allow a use other than a principally permitted use to be established within the district.

“CONDOMINIUM” A building or group of buildings in which units are individually owned but the structure, common areas and facilities are owned on a proportional, undivided basis by all of the owners.

“DEVELOPED PROPERTY” All real property or a portion thereof that is improved with buildings, paved parking or storage areas, or that is actively and directly used for agriculture, lumbering, mining, recreation or similar activities. “Buffering” and similar open space shall not be included in the developed portion of the property except where such areas are required as setbacks or buffers.

“DEVELOPMENT PLAN” A plan for the development and use of a specific parcel or tract of real estate, illustrated by a plat showing the boundaries of such parcel or tract; the location, size, height, and use of all structures; the location of all storm sewer and drainage facilities; all vehicular and pedestrian ways and parking areas, both public and private; and all landscaped areas to be erected and maintained thereon; and further explained by such specifications, conditions, and limitations, as may be imprinted on the plat, or contained in the amendment to the zoning code incorporating the development plan as an integral part of the zoning regulations applicable to the real estate.

“DISTRICT” A section or sections of the city for which the regulations governing the use of buildings and premises, the height of the buildings, size of yards, and the area of lots are uniform.

“DOMESTIC ADVERTISING SIGN” A sign advertising the sale of household goods previously used by an individual or his family, when such sign is located at the place of residence of the individual or family.

“DWELLING” Any building or structure including a manufactured home or modular home, as defined herein, when fixed to a permanent foundation, which is wholly or partly used or intended to be used for living or sleeping by one or more human occupants.

“DWELLING UNIT” Space, within a dwelling, comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for one cooking facility, and bathing and toilet facilities, all used by only one family and its household employees.

“DWELLING, SINGLE FAMILY” A dwelling consisting of a single dwelling unit only, separated from other dwelling units by open space.

“DWELLING, TWO-FAMILY” A dwelling consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

“DWELLING, MULTI-FAMILY” A dwelling consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls.

“FACTORY BUILT HOUSING” Factory-Built Housing means a factory-built structure designed for long-term residential use, the components of which are essentially constructed or assembled prior to its delivery to and installation upon a site. For the purposes of this Ordinance, “Factory-built housing” shall include the following:

1. **Manufactured Home.** A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards.
2. **Modular Home.** Factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the state, modular homes shall be subject to the same standards as site-built homes.

3. Mobile Home. Any non-self-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to utilities, whether resting on wheels, jacks, blocks, or other temporary foundation and used or so constructed as to permit its being used as a conveyance upon the public streets and highways, and not in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974.

“FAMILY” A person or a group of persons whether or not related to each other by birth or marriage, living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a boardinghouse, lodging house, group care home, or hotel, as herein defined.

“FLAGS” Official flags of government jurisdictions, including flags which are emblems of on premises religious, charitable, public and non-profit organizations.

“FLOOR AREA OF A NON-RESIDENTIAL BUILDING” The floor area of the specified use excluding stairs, washrooms, elevator shafts, maintenance shafts and room storage spaces, display windows, and fitting rooms, and similar areas.

“FREE SPEECH SIGN” A sign, which contains a message related to a matter of public interest, including but not limited to a candidate for office or a ballot issue, but containing no commercial message. Its size shall not exceed 16 square feet.

“FREESTANDING SIGN” A sign that is not attached to a building and is permanently affixed by means of a foundation which meets the building code either directly to the ground or to a support structure in the ground.

“FRONTAGE” All property that adjoins a street or place.

“GARAGE, PRIVATE” An accessory building housing motor-driven vehicles.

“GARAGE SALE” The sale of personal property which is conducted on premises within a residential district upon which is located a dwelling.

“GARAGE, STORAGE” Any building or premises used for the housing only of motor-driven vehicles pursuant to previous arrangements and not to transients, and at which automobile fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

“GRADE” For buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.

(A) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the centers of all walls adjoining the street

(B) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

(C) Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street.

“GOVERNMENTAL SIGN” Any sign established by a tax-supported agency in the public street.

“GROUP CARE HOME” shall mean any community residential facility which provides residential care and rehabilitative or habilitative services.

“GROUP CARE HOME, CATEGORY I” Any state, federal or locally approved dwelling or place used as a foster home for children or adults or as a home for the care or rehabilitation of dependent or pre-delinquent children, the physically ill or infirm, abused or battered children, or adults, the physically handicapped or disabled, those with developmental disabilities, or similar groups whose residents do not require constant supervision or treatment. “Group Care Homes, Category I,” is designed to provide living accommodations as a primary use, where medical or psychiatric care is provided therein no more than on an occasional basis. The term does not include a nursing home, boarding home, or Group Care Home, Category II.

“GROUP CARE HOME, CATEGORY II” Any state, federal, or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional and psychiatric institutions; and residential rehabilitation centers for alcohol and drug users. Detoxification shall be expressly prohibited in residential rehabilitation centers.

“HOTEL” A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boardinghouse or lodging house.

“ILLUMINATED SIGN” Shall mean any sign illuminated in any manner by an artificial light source.

“INSTITUTION” A building occupied by a non-profit corporation or a non-profit establishment for public use.

“LODGING HOUSE” A building where lodging only is provided for compensation to three or more but not more than 12 persons.

“LOT” A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance and the open spaces required by this Ordinance and having its principal frontage upon a street or place.

“LOT, CORNER” A lot abutting upon two or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of less than 135 degrees.

“LOT, DEPTH OF” The mean horizontal distance between the front and rear lot lines.

“LOT, DOUBLE FRONTAGE” A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

“LOT OF RECORD” A lot which is a part of a subdivision, the map of which has been recorded in the office of the Recorder of Hamilton County; or a parcel of land, the deed to which was of record on or prior to the effective date of this Resolution. For the purpose of these regulations, any preliminary plan of a subdivision which has been approved by official action of the Regional Planning Commission of Hamilton County or a Planning Commission of the City of Mt. Healthy thereof, on or after January 1, 1960, shall have the same status as if the subdivision plan was officially recorded in the office of the Recorder of Hamilton County.

“LOT, WIDTH OF” The distance between straight lines connecting front and rear lot lines at each of the lot measured across the rear of the required front yard, provided however, that width between side lot lines at their foremost points shall not be less than 80 percent of the required lot width except in the case of lots on a circular portion of the street, where the 80 percent requirement shall not apply.

“MAJOR PUBLIC ENTRANCE” Any entrance to a nonresidential principal structure which is designed and intended for regular access during business hours by the general public on an unrestricted basis. Entrances designed or used primarily for emergency, delivery, or employee’s access or for other restricted purposes shall not be considered major public entrances.

“MOBILE HOME PARK” Any site, or tract of land under single ownership, upon which two or more mobile homes or manufactured homes used for habitation are parked, either free of charge or for revenue purposes; including any roadway, buildings, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

“NONCONFORMING USE” Any building or land lawfully occupied by a use on June 6, 1961, or any amendment or supplement thereto, which does not conform to the use regulations of the district in which it is situated.

“PARKING LOT” A parcel of land devoted to parking spaces for motorized vehicles.

“PARKING SPACE” A permanently paved surface area of asphalt, concrete or other approved material, other than a public right-of-way, used for the parking of automobiles. **(Amended 11/94 94-1123)**

“PERSONAL WIRELESS SERVICES” means commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services, including cellular services.

“PLACE” An open unoccupied space at least 30 feet wide, other than a street or alley, permanently reserved as the principal means of access to abutting property.

“POLITICAL ADVERTISING SIGNS” Any sign which promotes, identifies, announces, opposes, or otherwise offers for public consideration any political candidate or issue, partisan, or nonaggression.

“PROJECTION SIGN” Any sign that extends at an angle from a building wall and is supported by the building wall.

“REAL ESTATE SIGNS” A sign advertising for sale, lease or rent the parcel of real estate on which the sign is located. “Sold” signs shall be considered advertising signs.

“SETBACK” The minimum linear distance between a sign, building or structure and the right-of-way line of a dedicated street, alley, or place either improved or unimproved.

“SIGN” Any representation by words or graphics, including their supporting structure, which is intended to produce thought or action, and which is located so as to be open to the outdoor public view. The method of construction or production of a sign has no effect on its status under this chapter. Words or pictures produced by painting, carpentry, engraving, vacuum forming, stenciling, lighting, still or moving picture projection, or any other means may constitute a sign under this chapter.

“SIGN AREA” The entire surface area of any and all sides of a sign bearing a message, either in words or graphics. When a sign is created by the attachment or painting of lettering on a wall or other structure, and there is not distinct border around the message, the message area shall be the smallest rectangle which could be drawn to enclose the message. The supporting structure of the sign shall not be included in the sign area unless lights, words, or graphics are displayed on the support structure.

“STABLE, PRIVATE.” A stable with a capacity of not more than two animals.

“STORING, STORED, STORE.” Means the stationary placement of any vehicle for a continuous period over 72 hours.

“STORY” That portion of a building, other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

“STORY, HALF” A space under a sloping roof which has the line of intersection of roof decking and wall face not more than 3 feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use.

“STREET” All property dedicated or intended for public or private street, highway, freeway, or roadway purposes or subject to public easements therefore.

“STREET LINE” A dividing line between a lot, tract, or parcel of land and a contiguous street.

“STRUCTURE” means that which is constructed on or under the ground or attached or connected thereto, including but not limited to: buildings, barriers, bridges, bulkheads, chimneys, fences, garages, outdoor seating facilities, parking areas, platforms, pools, poles, streets, tanks, tents, towers, sheds, signs walls and walks; and excluding trailers and other vehicles whether on wheels or other supports.

“STRUCTURAL ALTERATIONS” Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any increase in the area or cubical contents of the building.

“TEMPORARY SIGN” Any sign which is designed to be portable and can be moved by external means. Motorized, self-propelled, fully operable, licensed vehicles on which a sign is painted or securely attached shall not be considered signs.

“THRIFT SHOP” Means a shop operated by charitable organization which sells donated new and used merchandise only. All such merchandise shall be displayed and/or stored in an enclosed building.

“VARIABLE MESSAGE SIGNS” Variable message signs are defined as signs or parts of signs whose message or graphic is displayed in a series of electric lights, movable parts, or other image producing devices, and whose message or graphic changes in form, color, intensity or any other manner more than once in 24 successive hours.

“VARIANCE” A variance is a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of the regulations would result in unnecessary and undue hardship.

“VEHICLE” Any self-powered unit moving on wheels or runners and used as a means of transport.

“YARD” An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of the rear yard, the mean horizontal distance between the lot line and the main building shall be used.

1. “YARD, FRONT” A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the projection of the usual steps or entranceway. For the purpose of this definition, porches with roofs of a permanent nature shall be considered as part of the main building. Awnings, lattice work, and coverings of a similar nature shall not be considered as permanent coverings. On corner lots the front yard shall be defined as that yard which extends across the frontage with the least dimension.
2. “YARD, REAR” A yard extending across the rear of a lot between the side lines and being the minimum horizontal distance between the rear lot line and main building or any projection thereof, other than steps, unenclosed balconies, or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street on which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be the opposite end of the lot from the front yard.

3. “YARD, SIDE” A yard between the main building and the side line of the lot, and extending from the front yard or front lot line to the rear yard.

“ZONING DISTRICTS” Those zoning districts as defined and located in the current zoning code in the city. (Sec. 155.01 et. Seq.) (Ord. 81-664, passed 2-17-81; Am. Ord. 82-727, passed 10-5-82; Am.Ord. 83-741, passed 4-5-83; Am. Ord. 86-809, passed 12-16-86)

“ZONING PERMIT” A document issued by the Building Official authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in accordance with this Ordinance.

Sec. 155.004 DISTRICTS AND BOUNDARIES THEREOF

- (A) In order to classify, regulate, and restrict the location of trades, industries, residences, recreation, and other land uses, and the location of buildings designed for specified uses; to regulate and limit the height, number of stories, and size of buildings and other structures hereafter erected or altered; and to regulate and limit the percentages of lot area which may be occupied, setback building lines, size of yards and other open spaces within and surrounding such buildings, and the density of population, the city is divided into twelve (12) classes of “Districts.” All such regulations are uniform for each class, kind of building, structure, or use throughout each class of district, and said districts shall be know as:

“A” Residence District

“B” Residence District

“C” Residence District

“D” Residence District

“DD” Planned Multiple Residence District

“E” Retail Business District

“E-1” Existing Retail Business District

“EE” Planned Business District

“F” Light Industrial District

“FF” Planned Light Industrial District

“G” Heavy Industrial District

“H” Parks, Playgrounds, and Recreational Areas

- (B) The boundaries of these districts are indicated on the Official Zoning Map of the city, which is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map of the city, and all the notations, references, and other matters shown thereon shall be as much part of this chapter as if the notations, references, and other matters set forth by said map were all fully described herein. The Official Zoning Map is properly attested and is on file in the Office of the Clerk of Council.
- (C) Whenever any street, alley, or other public way is vacated by official action of the Council, the zoning districts adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, and all areas included in the vacation shall then be subject to all regulations of the extended districts.
- (D) Legal descriptions of district boundaries, when made part of an adopted ordinance of the City, shall define such boundaries. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys or streams shall be constructed to follow such center lines;
  - (2) Boundaries indicated as approximately following platted lot lines shall be constructed as following such lot lines;
  - (3) Boundaries indicated as approximately following city limits shall be constructed as following such city limits;
  - (4) Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 3 above shall be so constructed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
  - (5) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by this Ordinance, the Board of Zoning Appeals shall interpret the district boundaries.

Sec. 155.005 GENERAL PROVISIONS

- (A) No person shall erect, construct, alter, repair, or maintain any building or structure or use any land in violation of any zoning ordinance or regulation enacted pursuant to sections 713.06 to 713.12, inclusive, of the Revised Code, or Section 3 of Article XVIII, Ohio Constitution. In the event of any violation of this Ordinance, or imminent treat thereof, the municipal corporation, or the owner of any contiguous or neighboring property who would be especially damaged by such violation, in addition to any other remedies provided by law, may institute a suit injunction to prevent or terminate such violation.
- (B) Interpretation: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted to promote the public health, safety and the general welfare. Whenever the requirements of any other lawfully adopted

- rules, regulations, or ordinances the most restrictive, or that imposing the higher standards, shall govern.
- (C) Separability: Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.
  - (D) All City Ordinances in conflict with this Zoning Ordinance or inconsistent with the provisions of this Zoning Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.
  - (E) Effective Date: This Ordinance shall become effective from and after the date of its approval and adoption, as provided by law.
  - (F) It shall be illegal to sell, lease, or grant an easement with respect to any land, building, or structure if, by virtue of such sale, lease, or grant, any land, building, or structure shall be in violation of any use, height, area, or parking regulation prescribed by this zoning code. No land, building, or structure which is not a valid nonconforming use prior to a sale, lease, or grant of easement with respect to any land, building, or structure shall, by virtue of such sale, lease, or grant, be deemed to be a nonconforming use.
  - (G) When a demolition permit is issued, the applicant must estimate the time of site restoration for safety, how dust and air born emissions will be controlled, and when new construction will be expected. The Building Official may require the owner or developer to grade, seed and straw the property if the estimated commencement of construction is not within a reasonable period of time.
  - (H) HOME OCCUPATION: Any occupation or profession carried on by a member of the family, residing in the same dwelling unit in connection with which there is used no sign other than a name plate not more than 4 square feet in area, or no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises; no person is employed other than a member of the family residing in the same dwelling unit and no equipment is used except such as is permissible for purely domestic or household purposes.
  - (I) SIMILAR USE: The zoning districts in this ordinance define land use categories based on current terms and technology. The word use is interchangeable with land use. A major tenet of zoning is to group similar compatible uses in areas that will minimize conflict of noise, traffic, lighting, and other land use impacts. This grouping can also encourage greater economic vitality of land use because the similar land uses will supplement each other's activity or intended value to the community. However, over time the land use categories that are defined today may change because of technological advances and new land use categories will likely arise. In order to recognize these new land uses the ordinance has provided a decision process to interpret new land uses and permit them in a

Planned Unit Development or Overlay Development review, when the Planning Commission determines that a new use is a similar use to those permitted in a specific zoning district. A similar use as determined by the Planning Commission may be permitted in a district which does not now define that use.

“A” RESIDENCE DISTRICT REGULATIONS

Sec. 155.010 USE REGULATIONS

- (A) Permitted Uses. A building or premises shall be used only for the following purposes:
- (1) Agriculture, including greenhouses;
  - (2) Single-family dwellings, excluding factory built housing as defined in Section 155.003 Factory Built Housing;(Amended 11/94 94-1123)
  - (3) Churches and other places of worship, Sunday School buildings and parish houses;
  - (4) Public elementary and high schools, or private schools with a curriculum the same as ordinarily given in public elementary and high schools, and having no rooms regularly used for housing and sleeping rooms;
  - (5) Publicly owned or operated properties;
  - (6) Public and private forests and wildlife reservations or similar conservation projects, including the usual buildings therefore;
  - (7) Cemeteries, including mausoleums; provided that mausoleums shall be distant at least 200 feet from every street line and the adjoining lots in residence districts, and provided further that any new cemetery shall contain an area of 20 acres or more;
  - (8) Golf courses, except miniature courses and practice driving tees operated for commercial purposes; including such buildings, structures and uses as are necessary for their operation, except those the chief activity of which is a service customarily carried on as a business;
  - (9) Municipal recreation buildings, community buildings and community firehouses, including such structures and uses as are necessary for their operation, except those the chief activity of which is a service customarily carried on as a business;
  - (10) Hospitals of 100 beds or more, and institutions of an educational, religious, charitable or philanthropic nature, provided, however, that such buildings shall not be located upon sites, containing an area of less than five acres, may occupy not over 10 percent of the total area of the lot, that the buildings shall be setback from all required yard lines a distance of not less than 2 feet for each foot of building height;

- (11) The keeping of small animals, provided, however, that buildings housing animals be at least 100 feet from adjacent property lines and that the lot or tract of land have an area of not less than ten acres.
  
- (B) Accessory buildings and uses customarily incident to any of the above users, including:
  - (1) Quarters for servants employed on the premises;
  - (2) A private garage;
  - (3) A private stable;
  - (4) Home occupations and the keeping of not more than two roomers or boarders;
  - (5) The keeping of animals and fowl as pets or for domestic use.
  - (6) Roadside stands, offering for sale only agricultural products which are produced upon the premises, including one sign advertising such products not exceeding 12 square feet in area per side, maximum of two sides, which stands and signs shall be removed during any season for the period when they are not in use;
  - (7) Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
  - (8) Type “B” Family Day-Care Home, as defined in this Ordinance.
  - (9) Garage Sales. Wherein personal property may be sold from a residential district, provided that:
    - a.) No property shall be offered for sale which has not been owned and used by the occupant of the premises.
    - b.) Not more than two garage sales shall be conducted on the premises in any calendar year.
    - c.) No garage sales shall be conducted for longer than three consecutive days in duration.
    - d.) Garage sales may be conducted during daylight hours only.
    - e.) No garage sale shall be conducted within the City of Mt. Healthy without the issuance of a garage sale permit. **(Amended 11/94 94-1123)**
    - f.) Any person(s) or group desiring to have a garage sale shall make application to the City Clerk. Such application shall state the name of the person(s) or group who is having the sale, the address of the person(s) or group, the location of the

sale, and the dates of the sale. Upon submission of the application the person(s) or group shall be issued a permit that must be in a conspicuous place on the premises on which the sale is being held. **(Amended 11/94 94-1123)**

g.). The City Clerk shall charge and collect a fee of five dollars for the second garage sale permit. **(Amended 11/94 94-1123)**

(C) Conditionally Permitted Uses. The following additional uses may be permitted subject to securing a Conditional Use Permit as required in Section 155.126.

(1) Type “A” Family Day-Care Home, as defined in this Ordinance, subject additional standards and restrictions as described in Section 153.127.

(2) Group Care Homes, Category I, as defined in this Ordinance, for five or less residents, or six to ten residents, subject to additional standards and restrictions as described in Section 155.128.

(3) Historic Properties, as described in Section 155.129.

(4) Cellular or Wireless Communication System as described herein:

a.) Purpose and Intent - Cellular or Wireless Communications Systems as restricted in Section 155.123 (R) may be allowed by conditional use permit in the residential district where such use is not prohibited or restricted by conditions adopted by ordinance on specific developments. The intent is to allow cellular communications systems that will minimally impact the surrounding residential area, to be located within the property owned by the Mt. Healthy School District, the public right-of-way as well as other properties owned by the City of Mt. Healthy.

b.) Development Standards - The City shall not accept requests for a conditional use permit for cellular or wireless communication systems that do not substantially meet the following development standard.

1.) The cellular or wireless communications tower and supporting structures that is proposed shall be the least aesthetically intrusive facility to the neighborhood and function. Monopole installations are recommended. It is further required that all cellular or wireless communications support structures are architecturally compatible with the architecture of the adjacent buildings and structures.

2.) The tower cellular or wireless communications and supporting structure shall be close proximity to or affected by an existed or imminent commercial office, or nonprofit facility, including churches and schools, or adjacent to highways or multiple family residential buildings having more than three dwelling units.

- 3.) For reasons of aesthetics and public safety such facilities shall be effectively screened on each side which adjoins premises in any residential zone district.
- 4.) Screening may consist of a solid masonry wall or a decorative fence, as defined in Section 155.121(A)(2) b.1., six feet in height, with a screen of hardy evergreen shrubbery, or natural or existing screen not less than six feet in height or as approved by the Planning Commission. The use of razor or barbed wire shall be prohibited. Spaces between any screening device and adjacent property lines shall be buffered by use of landscape plant material including, but not limited to, grass, hardy shrubs, evergreen ground cover, etc. All screening devices and landscapes material shall be maintained in good condition.
- 5.) An application may be disapproved unless the applicant demonstrates that technically suitable and feasible sites are not available in a non-residential district, and that the site is located in the least restrictive district.
- 6.) All equipment shall be within a completely enclosed building, and there shall be no nuisances caused by the operation of the cellular or wireless communication system.

(D) “Prohibited Uses. Any uses, the chief activity of which are customarily carried on as a business, are prohibited. Mobile homes are prohibited.” **(Amended 10/90 90-954)**

Sec. 155.011 HEIGHT REGULATIONS

No buildings shall exceed 2.5 stories or 35 feet in height, except as hereinafter provided.

Sec. 155.012 AREA REGULATIONS

(A) Front yard.

- (1) There shall be a front yard having a depth of not less than 50 feet, provided, however, no alignment setback or front yard depth shall be required to exceed the average of the minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within the same block and within 100 feet.
- (2) Where lots have a double frontage, the required front yard shall be provided on both streets.
- (3) On corner lots, there shall be a front yard on one street side of the corner lot, and a side yard on the other street side not less than double the side yard requirement. No accessory building shall project or be placed beyond the setback line on either street.

Sec. 155.012 (continued)

***AREA REGULATIONS***

- (B) Side yard. Except as hereinafter provided in Sec.155.123, there shall be a side yard on each side of a building which yard shall have a width of not less than 15 feet.
- (C) Rear yard. Except as hereinafter provided in Sec. 155.123, there shall be a rear yard having a depth of not less than 35 feet.

Sec. 155.013 INTENSITY OF USE.

Except as hereinafter provided in Sec.155.124, every lot or tract of land shall have a minimum width of 80 feet at the building line and an area of not less than 20,000 square feet, and a maximum density of one dwelling unit per 20,000 square feet of area, where said area does not include public right-of-way. Except as provided by 155.130, or when authorized through the approval of a conditional use not more than one building, not including accessory buildings, shall be located on a single lot.

“B” RESIDENCE DISTRICT REGULATIONS

Sec. 155.020 USE REGULATIONS

- (A) Permitted Uses. A building or premises shall be used only for the following purposes.
  - (1) All permitted uses and conditionally permitted uses allowed in “A” residence district. **(Amended 11/94 94-1123)**
  - (2) Two family dwellings.
- (B) Accessory Buildings and Uses. Customarily incident to any of the above uses; are allowed.
- (C) Conditionally Permitted Uses. The following additional uses may be permitted subject to securing a Conditional Use Permit as required in Section 155.126.
  - (1) Type “A” Family Day-Care Home, as defined in this Ordinance, subject to additional standards and restrictions as described in Section 153.127.
  - (2) Group Care Homes, Category I, as defined in this Ordinance, for five or less residents, or six to ten residents, subject to additional standards and restrictions as described in Section 155.128.
  - (3) Historic Properties as described in 155.129.
  - (4) Cellular or Wireless Communication System as described in the “A” Residential Districts 155.010(C).
- (D) “Prohibited Uses. Any uses, the chief activity of which are service customarily carried on as a business, are prohibited. Mobile homes are prohibited.” **(Amended 10/90 90-954)**

Sec. 155.021 HEIGHT REGULATIONS

The height regulations are the same as those in the “A” residence districts.

Sec. 155.022 AREA REGULATIONS.

(A) Front yard.

- (1) There shall be a front yard having a depth of not less than 35 feet, provided, however, no alignment setback or front yard depth shall be required to exceed the average of the minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within 100 feet.
- (2) Where lots have a double frontage, the required front yard shall be provided on both streets.
- (3) On corner lots, there shall be a front yard on one street side of the corner lot, and a side yard on the other street side yard requirement. No accessory building shall project or be placed beyond the setback line on either street.

(B) Side yard.

Except as hereinafter provided in Sec. 155.123 there shall be a side yard on each side of a building, which yard shall have a width of not less than 8 feet.

(C) Rear yard.

Except as hereinafter provided in Sec. 155.123 there shall be a rear yard having a depth of not less than 30 feet.

Sec. 155.023 INTENSITY OF USE.

Except as hereinafter provided in Sec 512.123 every lot or tract of land shall have a minimum width of 60 feet at the building line and an area of not less than 10,000 square feet, and a maximum density of one dwelling unit per 10,000 square feet of area, where said area does not include public right-of-way. Except as provided by 155.130 or when authorized through the approval of a Conditional Use, not more than one building, not including accessory buildings, shall be located on a single lot.

“C” RESIDENCE DISTRICT REGULATIONS

Sec. 155.030 USE REGULATIONS.

- (A) Permitted Uses. The use regulations for Permitted Uses and Conditionally Permitted Uses are the same as those in the “B” residence districts.
- (B) Accessory buildings and uses customarily incident to any of the above uses are allowed.
- (C) Prohibited Uses. Any uses, the chief activity of which are customarily carried on as a business, are prohibited

Sec. 155.031 HEIGHT REGULATIONS.

***“C” RESIDENCE DISTRICT***

The height regulations are the same as those in the “A” residence districts.

Sec. 155.032 AREA REGULATIONS.

- (A) Front yard.
  - (1) There shall be a front yard having a depth of not less than 30 feet, provided, however, no alignment setback or front yard depth shall be required to exceed the average of the minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within the same block and within 100 feet.
  - (2) Where lots have a double frontage, the required front yard shall be provided on both streets.
  - (3) On a corner lot, there shall be a front yard on one street side of a corner lot, and a side yard on the other street side not less than double the side yard requirement. No accessory building shall project or be placed beyond the setback line on either street.
- (B) Side yard. Except as hereinafter provided in Sec. 155.123, there shall be a side yard on each side of a building, which yard shall have a width of not less than 5 feet.
- (C) Rear yard. Except as hereinafter provided in Sec. 155.123, there shall be a rear yard having a depth of not less than 30 feet.

Sec. 155.033 INTENSITY OF USE.

Except as hereinafter provided in Sec. 155.123, every lot or tract of land shall have a minimum width of 50 feet at the building line and an area of not less than 6,000 square feet, and a maximum density of one dwelling unit per 6,000 square feet of area, where said area does not include public right-of-way. Except as provided by 155.130 or when authorized through the approval of a Conditional Use, not more than one building not including accessory buildings, shall be located on a single lot. (Ord. 234-A, passed 6-6-61).

“D” RESIDENCE DISTRICT REGULATIONS

Sec. 155.040 USE REGULATIONS.

- (A) Permitted Uses. A building or premises shall be used only for the following purposes:
  - (1) Any permitted use in the “C” residence districts;
  - (2) Multiple dwellings;

- (3) Boarding and lodging houses;
  - (4) Hospitals and clinics, excepting animal hospitals and clinics;
  - (5) Educational institutions and private schools;
  - (6) Fraternities, sororities, dormitories, lodges, and private clubs, except those the chief activity of which is a service customarily carried on as a business.
  - (7) Type “B” Family Day-Care Homes, as defined in this Ordinance.
- (B) Accessory buildings and uses customarily incident to any of the above uses are allowed, including:
- (1) Storage garages, where the lot is occupied by a multiple dwelling, hospital or institutional building. (Ord. 234-A, passed 6-6-61)
- (C) Conditionally Permitted Uses. The following additional uses may be permitted subject to securing a Conditional Use Permit as required in Section 155.126.
- (1) Group Care Homes, Category I, as defined in this Ordinance, subject to additional standards and restrictions described in Section 155.128.
  - (2) Type “A” Family Day-Care Homes, as defined in this Ordinance, subject to additional standards and restrictions as described in Section 153.127.
  - (3) Child Day-Care Centers, as defined in this Ordinance, subject to additional standards and restrictions as described in Section 155.127.
  - (4) Offices, subject to additional standards and restrictions as described herein.
    - a.) Purpose and Intent - Offices, as restricted in Paragraph 155.123(C) may be allowed by Conditional Use Permit in the “D” Multi-Family District where such use is not prohibited or restricted by conditions adopted by ordinance or specific developments. The intent is to allow businesses with minimal pedestrian or vehicular traffic and those which otherwise have low impact on nearby residential uses.
    - b.) Development Standards - The City shall not approve requests for a Conditional Use Permit for offices that do not substantially meet the following development standards:
      - 1.) Developments shall be located on streets having a significant amount of through traffic or on a corner lot.

- 2.) Developments shall be in close proximity to, or affected by, an existing or imminent commercial, office or non-profit facility, including churches and schools, or adjacent to multiple family residential buildings having more than three dwelling units.
  - 3.) Developments shall preserve the architecture of existing buildings where practical and appropriate and shall in all cases have a residential appearance.
  - 4.) The development shall not have an adverse impact, either by size or location, on single family residential districts in the immediate vicinity.
  - 5.) The conduct of business shall cease from 10:00 p.m. to 7:00 a.m. and all lighting including sign lighting shall cease during the same time period, except that minimal security lighting may be provided.
  - 6.) Lighting shall be down-directed and shall not extend into any adjacent residential property.
  - 7.) Parking shall be provided as required by Article 155.120 of this Ordinance. Parking in the required front yard area shall be limited to a maximum of one parking space, with the balance of the required parking spaces confined to the rear and side yards or in approved off-site locations.
  - 8.) No drive-up windows shall be permitted.
- c.) Office Restrictions - Offices that may be permitted by Conditional Use Permit in the “D” Multi-Family District shall be restricted to include only:
- 1.) Those businesses where no product is stored or available for sale, rent, returned for service or exchange on the premises, except where sale, rent or exchange of such product constitutes less than 5 percent of gross revenue for the business. The sale of produce delivered from or picked up at other locations is permitted.
  - 2.) Services shall not include the production or repair of any goods or products on-site except as an incidental use to a permitted business, and such repair or production shall not exceed 5 percent of gross revenue.
  - 3.) There shall be no service performed upon the client except those related to a state-regulated medical or counseling profession.
  - 4.) All conduct of business, goods, and equipment shall be within a completely enclosed building, and there shall be no emission of noxious odor, vibration or nuisances caused by the conduct of such business.

- 5.) Conditionally Permitted office uses shall include, but not limited to: architect, dentist, doctor, engineer, insurance agent, lawyer, minister of religion, and real estate agent or broker.
  - 6.) The following uses are specifically prohibited: barber shops, beauty shops, banks, mortgage companies, and financial institutions.
- (5) Parking lots, subject to additional standards and restrictions as described herein.
- a.) Purpose and Intent - Parking lots serving adjacent and nearby commercial or industrial uses may, in certain instances and when developed with the following development standards, allow a higher utilization of commercial and industrial districts without adversely effecting the permitted uses in the “D” District.
  - b.) Development Standards - Parking lots, including municipal parking lots, parking lots serving commercial or industrial establishments, or private parking lots, may be allowed by means of a Conditional Use Permit when such parking lots substantially meet the following development standards:
    - 1.) The use of parking lots shall be limited to the parking of cars, motorcycles, and small trucks.
    - 2.) There shall be no storage or servicing of vehicles, merchandise, or equipment, whether or not enclosed, and there shall be no loading or off-loading of merchandise or equipment on such parking lots.
    - 3.) All use of the parking lot shall cease between the hours of 10:00 p.m. and 7:00 a.m.
    - 4.) All lighting shall be down-directed and shall not extend into any adjacent residential district. Such lighting shall cease between 10:00 p.m. and 7:00 a.m., except that minimal security lighting may be provided.
    - 5.) Parking shall be provided as required by Article 155.120 of this Ordinance. **(Amended 11/94 94-1123)**
    - 6.) Parking structures shall meet the following standards:
      - (a) Structures, whether above or below grade, shall meet the same front, rear, and side setbacks as is specified for a main building in the “D” District, except that the rear and side setbacks may, through the approval of the Conditional Use Permit, be reduced to 5 feet where such setback adjoins an “E” or “E-1” District or less restrictive district.

- (b) The height of parking structures shall not exceed 15 feet above grade, except that parking structures may be increased to a maximum height of 30 feet above grade when the setbacks facing or abutting a residential district are increased one foot for each 2 feet of height above 15 feet.
  - (c) All sides of the structure shall have architectural treatment, dense landscaping, or a combination thereof that sufficiently screens the structural members from view and shall be compatible with surrounding buildings.
  - (d) Exit ramps from parking structures shall not exceed a 5 percent grade below horizontal for a distance of at least 20 feet from a sidewalk or street.
- (6) Cellular or Wireless Communications Systems as described in the “A” Residential Districts 155.010(C).
- D) “Prohibited Uses. Any uses, except as provided in this ordinance, the chief activity of which are customarily carried on as a business, are prohibited. Mobile homes are prohibited.”  
**(Amended 10/90 90-954)**
- E) Enclosure. All storage of goods, material, trash containers and equipment, not including vehicles used off-site, shall be kept inside a building or area screened by a 6-foot solid fence or wall. A suitable buffer of dense evergreen landscaping may be substituted for the fence or wall when approved by the Planning Commission.

Sec. 155.041 HEIGHT REGULATIONS.

No building shall exceed three stories or 45 feet in height, except as hereinafter provided in Sec. 155.122. (Ord. 234-A, passed 6-6-61)

Sec. 155.042 AREA REGULATIONS.

- (A) Front yard: The front yard regulations are the same as those in the “C” residence districts.
- (B) Side yard:
  - (1) The side yard regulations for buildings not exceeding 2.5 stories in height are the same as those in the “C” residence districts.
  - (2) Except as hereinafter provide in Sec. 155.123, there shall be a side yard on each side of three-story building which yard shall have a width of not less than 10 feet.

(C) Rear yard:

- (1) The rear yard regulations for buildings not exceeding 2.5 stories in height are the same as those in the “B” residence districts.
- (2) Except as hereinafter provided in Sec. 155.123, a three-story building have a rear yard of not less than 40 feet in depth. (Ord. 234-A, passed 6-6-61)

Sec. 155.28 INTENSITY OF USE.

- (A) Except as hereinafter provided in Section 155.123, every lot or tract of land shall have a minimum width of 50 feet at the building line, a minimum area of 5,000 square feet, and a maximum density of one single family dwelling per 5,000 square feet of area, where said area does not include public right-of-way. Except as provided by 155.130 or when authorized through the approval of a Conditional Use, not more than one building not including accessory buildings shall be located on a single lot.
- (B) Every lot or tract of land on which there is erected a two-family dwelling or a multiple dwelling shall have a minimum width of 50 feet at the building line and an area of not less than 4,000 square feet of land devoted exclusively to residential use per dwelling unit, not including public right-of-way, except that the area regulation shall not apply to dormitories, fraternities, or sororities where no cooking is done in individual rooms or apartments.
- (C) Where a lot or tract of land have less width or area than herein required and was of record on June 6, 1961, that lot or tract of land may be used only for single-family dwelling purposes, or for any other non-dwelling use permitted in Sec. 155.040 through 155.043, inclusive. (Ord. 234-A, passed 6-6-61)

“DD” PLANNED MULTIPLE RESIDENCE DISTRICT

Sec. 155.050 USE REGULATIONS.

Any use permitted in the “D” Residence District may be permitted in the “DD” Planned Multiple Residence District, provided that the district shall be laid out and developed as a unit according to an approved development plan as defined in Sec. 155.003 in order that the specific use or uses may be properly integrated with the surrounding area. (Ord.588-A, passed 3-20-79)

Sec. 155.051 PROCEDURE.

The owner or owners of a tract of land comprising an area of two acres or more, or adjoining a similarly or less restricted district, may submit a plan for the use and development of such tract for the purposes of and meeting the requirements set forth in Sec. 155.050 through 155.058. The development plan shall show the details defined in Sec. 155.003 in order to indicate the type and the character of the proposed development and the treatment of the tract, including screening and

Sec. 155.051 (continued)

***“DD” RESIDENCE DISTRICT***

landscaping, in relation to abutting land uses for a harmonious relationship with the surrounding property and the protection thereof. (Ord. 588-A, passed 3-20-79)

Sec. 155.052 HEIGHT REGULATIONS. “DD” PLANNED MULTIPLE RESIDENCE DISTRICT

No building shall exceed three stories or 45 feet in height. (Ord. 588-A, 3-20-79)

Sec. 155.053 AREA REGULATIONS.

- (A) No building shall be closer than 30 feet to any front or rear lot line, or closer than 15 feet in the case of a one or two story building, or closer than 30 feet in the case of a three story building, to any side lot line.
- (B) The lot area per apartment shall not be less than 4,000 square feet for an apartment of two bedrooms or more; 3,000 square feet for a one bedroom or an efficiency apartment.
- (C) Where part or all of the off-street parking spaces required for a multi-family dwelling are provided within the principal building or buildings, the minimum lot area per dwelling unit specified in this section may be reduced by a maximum of 20 percent in accordance with the following formula:  $a / b \times 20\%$  where “a” equals the number of spaces provided within the building, and “b” equals the number of spaces required for the multi-family dwelling. For residential parking requirements see section 155.120(A)(2).
- (D) In a case where the topography or other physical features of the tract or its relation to surrounding property may make complete compliance with the yard requirements as prescribed in this section unnecessary or undesirable, the City Planning Commission may modify such requirements to the extent warranted by such physical conditions, provided the surrounding property and the public welfare are adequately protected. (Ord. 588-A, passed 3-20-79).

Sec. 155.054 PARKING REQUIREMENTS.

Off street parking spaces shall be provided on the basis of at least one space for each efficiency apartment, 1-1/4 spaces for each one bedroom apartment, and 1-1/2 spaces for each apartment of two bedrooms or more. (Ord. 588-A, passed 3-20-79).

Sec. 155.055 GENERAL REQUIREMENTS.

- (A) The size and location of the tract in relation to surrounding property shall be such that the proposed development, including landscaping and screening and other adjustments to the abutting land uses, can be made to harmonize with the neighborhood. The proposed plan shall not be approved unless the City Planning Commission specifically makes a finding that the development will be harmoniously related to the overall neighborhood.

Sec. 155.055 (continued)

***“DD” PLANNED MULTIPLE RESIDENCE DISTRICT***

- (B) In furthering this objective, the location and arrangement of buildings, parking structures and areas, walks, lighting, and appurtenant facilities shall be adjusted to the surrounding land uses, and any part of the site not used for buildings or other structures, or for parking, loading, or access ways, shall be landscaped with grass, trees, and shrubs, or pedestrian walks.
- (C) Reasonable additional requirements as to landscaping, lighting, screening, access ways, storm drainage, and building setbacks may be imposed by the City Planning Commission or the Council for the protection of adjacent property. (Ord. 588-A, passed 3-20-79).

Sec. 155.056 DELAY IN CONSTRUCTION.

In the event that construction of the development in accordance with the approved plan is not begun within one year after the date of approval by the Council becomes effective, the plan shall no longer be valid, and no permit shall be issued for construction unless and until a new plan is submitted and approved by the City Planning Commission and Council in the same manner as the previous plan. However, on recommendation of the City Planning Commission, the Council may extend the period of approval of the approved plan for one additional year without the submission of a new plan. In the event that construction is not begun as prescribed in this section, the application of the “DD” Planned Multiple Residence District to the property shall be void, and the zoning classification thereof shall revert to the district in which it was classified before the approved plan (Ord. 588-A, passed 3-20-79).

Sec. 155.057 VIOLATION OF PLAN.

The development plan approved in accordance with Sec. 155.050 through 155.058 shall be an integral part of the zoning code, and any departure from the plan or any modification thereof, except when specifically approved in accordance with Sec. 155.058, shall be a violation of the zoning code, and shall be subject to the provisions and penalties prescribed therefore in Sec. 155.999. (Ord. 588-A, passed 3-20-79).

Sec. 155.058 GENERAL DEVELOPMENT PLAN PROVISIONS.

- (A) In any Planned District, for purposes of flexibility, the plan for the use and development of the tract may be illustrated by a plat showing the areas within which buildings, structures, and parking spaces may be located, and the use and maximum height of buildings, rather than the exact location, shape, size, height, and arrangement thereof, and the amendment of this zoning code may be adopted on the basis of such initial plan. However, the plan must be otherwise in compliance with the development plan, as defined in Sec. 155.003, with respect to the location of vehicular and pedestrian access, landscaping, and other specifications, conditions, and limitations. No building permit shall be issued for actual construction until and unless a final development plan, as defined in Sec. 155.003, shall have been reviewed and approved by the City Planning Commission, with the determination that the plan is consistent with the intent of this zoning code, and that property adjacent to the area will not be adversely affected.

- (B) If the final development plan is found to comply with the foregoing conditions and with the specifications of Sec.155.003 and the appropriate planned district regulations, the plan shall be approved and incorporated as an amendment to the zoning code as an integral part of the zoning regulations applicable to the real estate. Every such development plan shall comply with the following procedures and provisions.
- (1) The owner of the real estate shall execute a deed of acceptance of the development plan and the amendment, and shall attach the same to the amendment following approval of the final development plan by the City Planning Commission.
  - (2) Following adoption of the amendment and approval of the final development plan, the Clerk of Council shall cause such amendment to be recorded in the land records applicable to the real estate in the office of the Recorder of Hamilton County.
  - (3) The City Planning Commission may approve variations from the development plan not in violation of any of the standards and requirements prescribed in this section, provided that the variations remain completely in harmony with the general purpose and intent of the development plan and of this zoning code.
  - (4) Any application for a substantial variation from the development plan shall be treated as an amendment to this zoning code, and shall be governed by the provisions of law and this zoning code applicable thereto. (Ord. 588-A.passed 3-20-79).

“E” and “E-1” RETAIL BUSINESS DISTRICT REGULATIONS

Sec. 155.060 USE REGULATIONS

- (A) Permitted Uses.
- (1) All permitted uses in the “D” District.
  - (2) Retail and wholesale sales and service of new goods, provided that no more than 1,000 cubic feet of wholesale storage or warehousing is permitted. Included in this permitted category are banks and financial institutions, offices, hotels, places of public assembly, restaurants, bowling alleys, and car washes.
  - (3) Hospitals, nursing homes, and similar facilities for the treatment of the aged or infirm, and institutions of an educational, religious or philanthropic nature.
  - (4) Automotive service stations as defined in Section 155.003.
  - (5) Antique shops and thrift shops as defined in this Ordinance.

- (6) Child Care Centers and Type “A” Family Child Care Homes as defined in this Ordinance.
  - (7) Group Care Home, Category I, defined in this Ordinance, for up to five residents.
  - (8) Uses customarily incidental to any of the above uses.
  - (9) Similar enterprises and establishments of the same general classification, which, in the opinion of the Planning Commission, as evidenced by a resolution of record, are not more intense or obnoxious to the welfare of the neighborhood than the uses listed above.
- (B) Conditionally Permitted Uses. The following additional uses may be permitted subject to securing a Conditional Use Permit as required in Section 155.126.
- (1) Automotive repair, as defined in this Ordinance.
  - (2) The sale or purchase of used goods.
  - (3) Group Care Homes, Category I, as defined in this Ordinance, for six to ten or 11 to 15 residents.
  - (4) Group Care Homes, Category II, as defined in this Ordinance, for five or less residents.
  - (5) Cellular or Wireless Communication Systems in E-1 Retail Business Districts as described herein:
    - a.) Purpose and Intent – Cellular or Wireless Communication System as restricted in Section 155.060(B) may be allowed by Conditional Use permit in the E-1 Retail Business District where such use is not prohibited or restricted by conditions adopted by ordinance on specific developments. The intent is to allow Cellular or Wireless Communication Systems that will minimally impact the surrounding Retail Business District.
    - b.) Development Standard - The City shall not accept requests for a Conditional Use permit for Cellular Communication Systems that do not substantially meet the following development standards.
      - 1.) The Cellular or Wireless Communications tower and supporting structure(s) shall preserve the architecture of existing buildings where practical and appropriate.

- 2.) The Cellular or Wireless Communications tower shall be no taller than the maximum height of any building in “E-1” retail business district as regulated by Section 155.061 plus 15 feet.
- 3.) For reasons of aesthetics and public safety such facilities shall be effectively screened on each side. Screening may consist of a solid masonry wall or a decorative fence, as defined in Section 155.121(A)(2) b. 1., six feet in height, with a screen of hardy evergreen shrubbery, or natural or existing screen not less than six feet in height or as approved by the Planning Commission. The use of razor or barbed wire shall be prohibited. Spaces between any screening devices and landscape material shall be maintained in good condition.
- 4.) An application may be disapproved unless the applicant demonstrates that technically suitable and feasible sites are not available in an “F” light industrial district.
- 5.) All equipment shall be within a completely enclosed building and there shall be no nuisances caused by the operation of the Cellular or Wireless Communication System.

(C) Prohibited Uses. The following uses are prohibited or restricted as described herein.

- (1) Any use prohibited in the “F” Light Industrial Districts;
- (2) Animal hospitals and structures where small animals are boarded if within 200 feet of any residence district;
- (3) Automobile body and fender repairing, except where incidental to an approved automotive repair facility, as defined in this Ordinance;
- (4) Automobile wrecking or salvage;
- (5) Bakeries employing more than 15 persons on the premises;
- (6) Blacksmith or horse-shoeing shops;
- (7) Bottling works, brewing or distilling of liquors;
- (8) Building materials storage yards;
- (9) Carting, express, hauling, or storage yards;
- (10) Contractor’s plant or storage yards;

- (11) Coal, coke, or wood yards;
  - (12) Crematories, except in a cemetery;
  - (13) Dyeing and cleaning works, employing more than 15 persons on the premises or using a cleaning fluid that has a petroleum base;
  - (14) Laundries, employing more than 15 persons on the premises;
  - (15) Livery stables or riding academies;
  - (16) Lumber yards or planning mills;
  - (17) Metal working or welding shops;
  - (18) Milk distributing stations, other than retail business conducted on the premises;
  - (19) Mobile Home Parks and Mobile Homes. **(Amended 10/90 90-954)**
  - (20) Stone or monumental works, employing more than five persons on the premises;
  - (21) Storage, bailing, or treatment of junk, iron, rags, bottles, or scrap paper;
  - (22) Storage warehouses;
  - (23) Cellular or Wireless Communication Systems in E Zone District.
  - (24) Any kind of manufacture or treatment other than manufacture or treatment of products clearly incidental to the conduct of a retail business conducted on the premises. (Ord. 234-A, passed 6-6-61)
- (D) All servicing or production shall be inside a completely enclosed building.
- (E) Enclosure. All storage of goods, material, trash containers and equipment, not including vehicles used off-site, shall be kept inside a building or area screened by a 6-foot solid fence or wall. A suitable buffer of dense evergreen landscaping may be substituted for the fence or wall when approved by the Planning Commission. (removed after off-site, where ***such storage area adjoins a residential district***, and removed ***Building Official*** and added Planning Commission)

Sec. 155.061 HEIGHT REGULATIONS

No building shall exceed three stories or 45 feet in height, except as hereinafter provided in Sec. 155.123 (Ord. 234-A, passed 6-6-61) **(Amended 11/94 94-1123)**. This height may be exceeded by approval through the Overlay Development Plan provision (Section 155.130)

Sec. 155.062 AREA REGULATIONS

***“E” and “E-1” RETAIL BUSINESS DISTRICT***

- (A) Front yard. The front yard regulations for “E” Retail Business District are the same as those in the “D” Residence District. In “E-1” Retail Business District, no front yard shall be required.
- (B) Side yard. The side yard regulations for dwellings are the same as those in the “D” Residence Districts. In all other cases a side yard is not required except on the side of a lot adjoining residence districts, in which case there shall be a side yard of not less than five feet.
- (C) Rear yard. The rear yard regulations for dwellings are the same as in the “D” Residence Districts. In all other cases, a rear yard is not required except where a lot abuts upon “B”, “C”, or “D” Residence Districts, in which case there shall be a rear yard of not less than 15 feet. (Ord. 234-A, passed 6-6-61).

Sec. 155.063 INTENSITY OF USE.

- (A) The intensity of use regulations are the same as those in the “D” Residence Districts.
- (B) Development Plan. Developments involving more than one lot of record as of the effective date of this ordinance or more than one building on the same development site shall require approval of a development plan. The development plan shall be approved by the Planning Commission. The plan shall include detailed specifications on building location, circulation and parking, lighting, storm water drainage and detention, sediment control public utilities, and other such information as required to conduct a plan review. The Planning Commission may make reasonable additional requirements as to landscaping, lighting, signing, screening, access ways, and building setbacks to protect adjacent property.

“EE” PLANNED BUSINESS DISTRICT REGULATIONS

Sec. 155.070 USE REGULATIONS

Any use permitted in the “E” Retail Business District with the exception of Cell Towers, may be permitted in the “EE” Planned Business District provided the District shall be laid out and developed as a unit according to an approved development plan as defined in Sec.155.002 in order to provide for business and retail shopping facilities properly integrated with the surrounding area and at appropriate locations for service. (Ord. 80-646, passed 6-3-80)

Sec. 155.071 PROCEDURE

The owner or owners of a tract of land may submit a plan for the use and development of such tract for the purposes of and meeting the requirement set forth in this section. The development plan shall show the details defined in Sec. 155.003 in order to indicate the type and character of the proposed development and the treatment of the tract, including screening and landscaping, in relation to abutting land uses for a harmonious relationship with the surrounding property and the protection thereof. (Ord. 80-646, passed 6-3-80).

Sec. 155.072 HEIGHT AND AREA REQUIREMENTS *“EE” PLANNED BUSINESS DISTRICT REGULATIONS*

- (A) No building shall exceed three stories or 45 feet in height.
- (B) No building shall be closer than 35 feet to any other boundary line of the tract that abuts any more restricted district.
- (C) The aggregate ground area occupied by all buildings shall not exceed 25% of the entire area of tract.
- (D) In a case where the topography or other physical features of the tract or its relation to surrounding property may make complete compliance with the yard requirements as prescribed in this section unnecessary or undesirable, the City Planning Commission may modify such requirements to the extent warranted by such physical conditions, provided the surrounding property and the public welfare are adequately protected. (Ord. 80-646, passed 6-3-80).

Sec. 155.073 PARKING AND LOADING REQUIREMENTS

Off-street parking and loading spaces shall be provided as required by Section 155.120. (Ord. 80-646, passed 6-3-80).

Sec. 155.074 GENERAL REQUIREMENTS.

- (A) The size and location of the tract in relation to surrounding property shall be such that the proposed development, including landscaping and screening and other adjustments to the abutting land uses, can be made to harmonize with the neighborhood. The proposed plan shall not be approved unless the City Planning Commission specifically makes a finding that the development will be harmoniously related to the overall neighborhood.
- (B) Adequate provision shall be made for traffic circulation into and out of the development, in addition to the provision for through traffic movements on the access street or streets. To this end, the means of location of all ingress and egress and the provisions for traffic movement and circulation, including additional traffic lanes where needed, shall be subjected to approval of the City Engineer. The installation of additional lanes for deceleration or turning movements may be required, and traffic controls, as needed, may be imposed to provide for safe and efficient traffic circulation by and within the development.
- (C) Service drives or other areas shall be provided for off-street loading, in such a way that trucks will not block the passage of other vehicles or impede circulation on any other public or private drive or street.
- (D) All drives, parking areas, loading areas, and walks shall be paved with hard surface material meeting the approval of the City Engineer.
- (E) The location and arrangement of buildings, parking areas, walks, access ways, lighting, appurtenant facilities shall be adjusted to the surrounding land uses. Any part of the area not

Sec. 155.074 (continued)

***“EE” PLANNED BUSINESS DISTRICT***

used for building or other structures or for parking, loading, or access ways shall be landscaped with grass, trees, and shrubs, or pedestrian’s walks.

- (F) All mechanical equipment for heating, cooling, air conditioning, or similar purposes which may create either noise or fumes, if not within the main building, shall be located at least 100 feet from all property lines within or adjacent to a residence district.
- (G) Reasonable additional requirements as to landscaping, lighting, signing, screening, access-ways and building setbacks may be imposed by the City Planning Commission for the protection of adjacent property. (Ord. 80-646, passed 6-3-80 Cross-reference: Sign Code, see Ch. 94.

Sec. 155.075 DELAY IN CONSTRUCTION

In the event that construction of the development in accordance with the approved plan is not begun within one year after the date of approval by the Council becomes effective, the plan shall no longer be valid, and no permit shall be issued for construction unless and until a new plan is submitted and approved by the City Planning Commission and Council in the same manner as the previous plan. However, on recommendation of the City Planning Commission, the Council may extend the period of approval of the approved plan for one additional year without the submission of a new plan. In the event that construction is not begun as prescribed in this section, the application of the “EE” Planned Business District to the property shall be void, and the zoning classification thereof shall revert to the district in which it was classified before the approved plan. (Ord. 80-646, passed 6-3-80).

Sec. 155.076 VIOLATION OF PLAN

The development plan approved in accordance with this section and Sec. 155.058 shall be an integral part of the zoning code and any departure from this plan or any modification thereof, except when specifically approved in accordance with Sec.155.058, shall be a violation of the zoning code and shall be subject to the provisions and penalties prescribed therefore in Sec. 155.999. (Ord. 80-646, passed 6-3-80).

**SUMMARY OF ZONING DISTRICT REGULATIONS**

District	Primary Use	Height Story/ft	Front Yard	Side Yard	Rear Yard	Lot Width	Min. Area	Density
A	Residential Single Family	2.5/35	50	15	35	80	20,000	1- Dwelling Unit/ 20,000
B	Residential One or Two Family	2.5/35	35	8	30	60	10,000	1- Dwelling Unit/ 10,000
C	Residential One or Two Family	2.5/35	30	5	30	50	6,000	1-Dwelling Unit/ 6,000
D	Residential Multi-Family	3/35	30	*	*	50	4,000*	1- Dwelling Unit/ 4,000
E – E1	Business	3/45	E – 30 E1 – 0	*	*	50	5,000*	*
DD	Planned Multi-Family	3/45	30	*	*	*	2 Ac.	1-Dwelling Unit/ 4,000*
EE	Planned Business	3/45	*	*	*	*	*	25% of Tract Area

\* See Text

The “OPD” Overlay Planned Development can be used as an overlay regulation in one zone or combining zoning districts (see Section 155.130).

**“F” LIGHT INDUSTRIAL DISTRICT REGULATIONS**

**Sec. 155.080 USE REGULATIONS**

(A) Permitted Uses.

- (1) All permitted uses in E-1 and E-Zone unless prohibited in paragraph (c) of this section. (Amended 11/94 94-1123).
- (2) Automotive repair.
- (3) The purchase or sale of used goods.
- (4) Group Care Home, Category I, as defined in this Ordinance, for up to five residents.
- (5) Animal hospitals and structures where small animals are boarded except that buildings and pens shall not be within 100 feet of any residence district.
- (6) Automotive body repairing and painting.

- (7) Bakeries
- (8) Blacksmith or horse-shoeing shops.
- (9) Bottling works, brewing or distilling of liquors.
- (10) Building materials storage yards.
- (11) Carting, express, hauling, or storage yards.
- (12) Contractor’s plant or storage yards.
- (13) Coal, coke, or wood yards.
- (14) Crematories.
- (15) Dyeing and cleaning works.
- (16) Laundries.
- (17) Livery stables or riding academies.
- (18) Lumber yards or planning mills.
- (19) Metal working or welding shops.
- (20) Milk distributing stations.
- (21) Printing and publishing businesses.
- (22) Stone or monumental works.
- (23) Storage, bailing, or treatment of junk, iron, rags, bottles, or scrap paper.
- (24) Storage warehouses.
- (25) Wholesale warehouses or businesses.
- (26) Uses customarily incidental to any of the above uses.
- (27) Cellular or Wireless Communication Systems as regulated by Section 155.123(R).
- (28) Similar enterprises and establishments of the same general classification which, in the opinion of the Planning Commission as evidenced by a resolution of record, are not more intense or obnoxious to the welfare of the neighborhood than the uses listed above.

- (B) Conditionally Permitted Uses. The following additional uses may be permitted subject to securing a Conditional Use Permit as required in Section 155.126.
- (1) Group Care Home, Category I, as defined in this Ordinance, for six to ten residents or 11 to 15 residents.
  - (2) Group Care Home, Category II, defined in this Ordinance for five or less residents, six to ten residents, or 11 to 15 residents.
- (C) Prohibited Uses. The following uses are prohibited or restricted as described herein.
- (1) Abattoirs and slaughterhouses, except for poultry incidental to a retail store.
  - (2) Acetylene gas manufacture or storage.
  - (3) Acid manufacture or wholesale storage.
  - (4) Ammonia manufacture or wholesale storage.
  - (5) Asbestos manufacture.
  - (6) Asphalt manufacture or refining.
  - (7) Automobile wrecking or salvage, except where the premises upon which such activities are conducted are wholly enclosed within a building or by a wooden fence not less than 8 feet in height and in which the opening or cracks are less than 15 percent of the total area.
  - (8) Babbitt metal manufacture.
  - (9) Bag cleaning.
  - (10) Blast furnaces or cupolas.
  - (11) Bleaching powder or chlorine manufacture.
  - (12) Boiler works.
  - (13) Brick, tile, pottery, or terra cotta manufacture other than the manufacture of handcraft products only.
  - (14) Bronze powder manufacture.
  - (15) Carbon, lampblack or graphite manufacture.

- (16) Celluloid, or pryroxylin manufacture, explosive or flammable cellulose or pryroxylin products manufacture.
- (17) Cement, lime, gypsum or plaster of paris manufacture.
- (18) Coal yards of more than 50 ton capacity, except where the coal is stored in dust-proof containers and the dust controlled by means of effective devices.
- (19) Coke ovens.
- (20) Cooperage works.
- (21) Corrosion of aluminum, copper, iron, tin, lead or zinc.
- (22) Creosote manufacture or treatment.
- (23) Disinfectant, insecticide or poison manufacture.
- (24) Distillation of bones, coal or wood.
- (25) Dyestuff manufacture.
- (26) Electroplating, except where incidental to a permitted use.
- (27) Emery cloth or sandpaper manufacture.
- (28) Enameling, japanning, or lacquering, except where incidental to a permitted use.
- (29) Excelsior or fiber manufacture.
- (30) Explosive or fireworks manufacture or storage.
- (31) Fat rendering, tallow, grease, or lard refining or the manufacture of candles from fats.
- (32) Felt manufacture, except where the dust is controlled by means of effective devices.
- (33) Fertilizer manufacture.
- (34) Flour milling.
- (35) Forage plants.
- (36) Garbage, offal, or dead animal reduction or dumping.

- (37) Gas manufacture or storage.
- (38) Glue, size, or gelatin manufacture.
- (39) Ice plant or ice storage houses of more than five tons daily capacity.
- (40) Iron, steel, brass, or copper foundries or fabrication plants.
- (41) Junk, iron, or rags storage or baling, except where no power-driven devices are employed and where the premises upon which such activities are conducted are wholly enclosed within a building or by a wooden fence not less than 8 feet in height and in which the openings or cracks are less than 15 percent of the total area.
- (42) Match manufacture.
- (43) Mobile Home Parks.
- (44) Nitrating processes or potash refining.
- (45) Oil cloth or linoleum manufacture.
- (46) Oiled rubber goods manufacture.
- (47) Paint, oil, shellac, size, enamel, turpentine, or varnish manufacture.
- (48) Paper manufacture.
- (49) Petroleum or its products, refining or wholesale storage.
- (50) Printing ink manufacture.
- (51) Pulp manufacture.
- (52) Radium extraction.
- (53) Rock crushing.
- (54) Rolling mills.
- (55) Rubber or gutta-percha manufacture or treatment.
- (56) Salt works.
- (57) Sand blasting or cutting, except where the dust is controlled by means of effective devices.

- (58) Sewage disposal plants, except those publicly owned and operated.
- (59) Shoe polish manufacture.
- (60) Smelting or reduction of ores or metallurgical products.
- (61) Soap, soda ash, caustic soda or washing compound manufacture.
- (62) Starch, dextrin or glucose manufacture.
- (63) Stock yards.
- (64) Stone mill or quarry.
- (65) Sugar refining
- (66) Tanning, curing or storage of rawhides or skins.
- (67) Tar distillation or manufacture.
- (68) Tar or asphalt roofing or waterproofing manufacture.
- (69) Vinegar manufacture.
- (70) Yeast plants.
- (71) And in general those uses which may be obnoxious or offensive by reason of the emission of odor, dust, smoke, gas or noise. (Ord.234-A, passed 6-6-61).
- (72) Mobile Home Parks and Mobile Homes. **(Amended 10/90 90-954)**
- (73) Single and Multi-Family Residential Use. **(Amended 11/94 94-1123)**

Sec. 155.081 HEIGHT REGULATIONS

No building shall exceed five stories or 50 feet in height, except as hereinafter provided in Sec. 155.123, and where a building is located on a lot abutting or adjoining a residence district, or a publicly owned area, other than alley or street, it shall not exceed three stories or 45 feet in height unless it is setback one foot from all required yard lines for each 2 feet of additional height above 45 feet. (Ord. 234-A, passed 6-6-61) **(Amended 11/94 94-1123)**

Sec. 155.082 AREA REGULATIONS

***“F” LIGHT INDUSTRIAL DISTRICT***

- (A) Front yard.
  - (1) Where all the frontage on one side of the street between two intersecting streets is located in the “F” Light Industrial District, no front yard shall be required. Where the frontage on one side of the street between two intersecting streets is located partly in the “F” Light Industrial District and a residence or business district, the front yard requirements of the residence or business district shall apply to the “F” Light Industrial District.
  - (2) On corner lots there shall be a front yard on one street side of a corner lot, and a side yard on the other street side not less than double the side yard requirement.
- (B) All servicing or production when conducted adjacent to a residential district, shall be screened by a 6 foot solid fence or wall. A suitable buffer of dense evergreen landscaping may be substituted for the fence or wall when approved by the Building Official.
- (C) Enclosure. All storage of goods, materials, trash containers and equipment, not including vehicles used off-site, shall be kept inside a building or area screened by a 6 foot solid fence or wall. A suitable buffer of dense evergreen landscaping may be substituted for the fence or wall when approved by the Planning Commission. (removed after off-site, ***where such storage area adjoins a residential district***, and removed ***Building Official*** and added Planning Commission)

Sec.155.083 SIDE YARD, REAR YARD, AND INTENSITY OF USE.

The side yard, rear yard, and intensity of use regulations are the same as those in the “E” Retail Business Districts (Ord. 234-A, passed 6-6-61).

“FF” PLANNED LIGHT INDUSTRIAL DISTRICT REGULATIONS

Sec. 155.090 USE REGULATIONS

Any use permitted in the “F” Light Industrial District may be permitted in the “FF” Planned Light Industrial District, provided the District shall be laid out and developed as a unit according to an approved development plan as defined in Sec.155.003 in order that the specific use or uses may be properly integrated with the surrounding area. (Ord. 80-646, passed 6-3-80). Cellular or Wireless Communication Systems may be permitted subject to securing a conditional use permit as required in Section 155.126.

Sec. 155.091 PROCEDURE

The owner or owners of a tract of land may submit a plan for the use and development of such tract for the purposes of, and meeting the requirements set forth in, this section. The development plan shall show the details defined in Sec. 155.003 in order to indicate the type and character of the

proposed development and the treatment of the tract, including screening and landscaping, in relation to abutting land uses for a harmonious relationship with the surrounding property and the protection thereof. The development plan shall be accompanied by a description of the proposed operation in sufficient detail to indicate the effect of the operations with respect to traffic congestion, noise, glare, air or water pollution, and fire or safety hazards. (Ord. 80-646, passed 6-3-80; Am. Ord. 84-770, passed).

Sec. 155.092 HEIGHT AND AREA REQUIREMENTS

- (A) No building shall exceed five stories or 50 feet in height.
- (B) No part of any building or structure shall be closer than 100 feet to any Residence District boundary or closer than 50 feet to any other boundary line of the tract, other than the boundary of an existing Industrial District, or to any street line.
- (C) The aggregate ground area occupied by all buildings shall not exceed 35 percent of the entire area of the tract.
- (D) In a case where the topography or other physical features of the tract or its relation to surrounding property make complete compliance with the yard requirements, as prescribed in this section, unnecessary, or undesirable, the City Planning Commission may modify such requirements to the extent warranted by such physical conditions, provided the surrounding property and the public welfare are adequately protected. (Ord.80-646, passed 6-3-80).

Sec. 155.093 PARKING AND LOADING REQUIREMENTS

Off-street parking and loading spaces shall be provided as required by Section 155.120. (Ord. 80-646, passed 6-3-80).

Sec. 155.094 GENERAL REQUIREMENTS

To accomplish the objectives of this district, the following requirements are prescribed:

- (A) Ingress and egress to the development and the location and arrangement of buildings, parking areas, walks, lighting, and appurtenant facilities shall be adjusted to the surrounding land uses. No part of any parking and loading areas and access drives thereto shall be located within 50 feet of any Residence District, and no parking or loading area shall be closer than 50 feet to any street line. All drives, parking areas, loading areas, and walks shall be paved with hard surface material, and any part of the site not used for buildings or other structures, or for parking, loading, or access ways shall be landscaped with grass, trees, and shrubs.

Sec. 155.094 (continued)

***“FF” PLANNED LIGHT INDUSTRIAL DISTRICT***

- (B) No open storage of materials or equipment shall be permitted on the tract.
- (C) All signs must conform to the City Sign Code.
- (D) Provisions shall be made, subject to approval of the County Sanitary Engineer, for satisfactory disposal of all liquid and solid waste concomitant with the development.
- (E) Reasonable additional requirements as to landscaping, lighting, screening, fencing, access ways and building setbacks may be imposed by the City Planning Commission for the protection of adjacent property. (Ord. 8-646, passed 6-3-80; Am Ord. 84-770, passed).

Cross-reference: Sign Code, see Ch.94

Sec. 155.095 DELAY IN CONSTRUCTION

In the event that construction of the development in accordance with the approved plan is not begun within one year after the date of approval by the Council becomes effective, the plan shall no longer be valid, and no permit shall be issued for construction unless and until a new plan is submitted and approved by the City Planning Commission and Council in the same manner as the previous plan. However, on recommendation of the City Planning Commission, the Council may extend the period of approval of the approved plan for one additional year without the submission of a new plan. In the event that construction is not begun as prescribed in this section, the application of the “FF” Planned Light Industrial District to the property shall be void, and the zoning classification thereof shall revert to the district in which it was classified before the approved plan. (Ord. 80-646, passed 6-3-80).

Sec. 155.096 VIOLATION OF PLAN

The development plan approved in accordance with this section shall be integral part of the zoning code, and any departure from the plan or any modification thereof, except when specifically approved in accordance with Sec. 155.058, shall be a violation of the zoning code, and shall be subject to the provisions and penalties prescribed therefore in Sec. 155.999. (Ord. 80-646, passed 6-3-80).

“G” HEAVY INDUSTRIAL DISTRICT REGULATIONS

Sec.155.100 USE REGULATIONS

- (A) A building or premises may be used for any purpose except the following:
  - (1) Uses in conflict with any resolution or ordinance of Mt. Healthy or law of the State of Ohio regulating nuisances;

- (2) Dwellings, except those for watchmen or operators whose continual presence is necessary on the premises, and those on farms of three acres or more;
- (B) No zoning certificates shall be issued for any of the following allowed uses until and unless a development plan shall be approved by the Planning Commission. The Plan shall include detailed specifications on building location, circulation and parking, lighting, storm water drainage and detention, sediment control, public utilities, and other such information as required to conduct a plan review. The best practical means known for the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, vibration or similar nuisance shall be employed. The Planning Commission may make reasonable additional requirements as to landscaping, lighting, signing, screening, access-ways, building setbacks and pollution controls to project adjacent property;
- (1) Abattoirs and slaughterhouses or stockyards;
  - (2) Acid manufacture or wholesale storage;
  - (3) Cement, lime, gypsum, or plaster of paris manufacture;
  - (4) Distillation of bones, coal or wood;
  - (5) Explosive manufacture or storage;
  - (6) Fat rendering, tallow grease, lard refining, or the manufacture of candles from fats;
  - (7) Fertilizer manufacture;
  - (8) Garbage, offal, or dead animal reduction or dumping;
  - (9) Gas manufacture;
  - (10) Glue manufacture;
  - (11) Petroleum or petroleum products refining;
  - (12) Smelting or reduction of ores or metallurgical products.
  - (13) Adult entertainment may be permitted only in this district, only after a public hearing has been held by the Planning Commission and the use proposed is not closer than 1,000 feet from a residential district or public use such as a school or church. The activity must be totally enclosed and the signage cannot contain any adult messages or images. Plans must be submitted to the Planning Commission, showing how the use will be contained.

Sec. 155.101 HEIGHT REGULATIONS

**“G” HEAVY INDUSTRIAL DISTRICT**

The height regulations are the same as those in the “F” Light Industrial Districts. (Ord. 234-A, passed 6-6-61).

Sec. 155.102 AREA REGULATIONS

The area regulations are the same as those in the “F” Light Industrial Districts. (Ord. 234-A, passed 6-6-61.).

“H” PARKS, PLAYGROUNDS, AND RECREATIONAL AREAS

Sec. 155.110 USE REGULATIONS

- (A) A building or premises shall be used only for the following purposes:
- (1) Any use permitted in the “D” Residence Districts;
  - (2) Bathing beaches and bath houses, but an approval of the location and treatment of these uses must be obtained from the county health department before a zoning certificate can be issued therefore;
  - (3) Boat docks, private and commercial;
  - (4) The selling or leasing of fishing equipment and bait;
  - (5) Accessory buildings and uses customarily incident to any of the above uses, including the sale of food and refreshments. (Ord. 234-A, passed 6-6-61.)
- (B) Conditionally Permitted Uses. The following additional uses may be permitted subject to securing a Conditional Use Permit as required in Section 155.126.
- (1) Type “A” Family Day-Care Home, as defined in this Ordinance, subject to additional standards and restrictions as described in Section 155.127.
  - (2) Child Day-Care Centers, as defined in this Ordinance, subject to additional standards and restrictions as described in Section 155.127.
  - (3) Group Care Homes, Category I, as defined in this Ordinance, subject to additional standards and restrictions as described in Section 155.128.
  - (4) Parking lots and parking structures, as defined in the Ordinance, subject to additional standards and restrictions as described in Section 155.040(C)(5).
  - (5) Cellular or Wireless Communications Systems as described in the “A” Residential District 155.010(C).

Sec. 155.111 HEIGHT REGULATIONS

**“G” HEAVY INDUSTRIAL DISTRICT**

The height regulations are the same as those in the “A” Residence Districts. (Ord.234-A, passed 6-6-61).

Sec. 155.112 AREA REGULATIONS

All of the area regulations, including front, side, and rear yards, and the intensity of use, are the same as those in the “D” Residence Districts. (Ord. 234-A, passed 6-6-61)

GENERAL REGULATIONS

Sec. 155.120 OFF-STREET PARKING AND LOADING REGULATIONS.

(A) Residential.

- (1) Detached Single Family Residences shall require two parking spaces, which may be in tandem when the occupant of the residence has exclusive control over both spaces.
- (2) All other residential uses shall require one parking place for each efficiency or single bedroom unit, and one and one-half parking space for each two bedroom unit or more.
- (3) Developments of more than four dwelling units shall provide sufficient paved areas for ingress and egress to the required parking spaces such that no maneuvering in a reverse direction on a public street, not including an alley, will be required. Parking areas and drives for such developments shall be set back at least ten feet from all lines abutting a public street and the area in the setback shall be landscaped. Landscaping within 25 feet of the intersection of two streets, alleys, driveways, places, or any combination thereof, shall not exceed 30 inches in height.
- (4) Except as otherwise provided for in this ordinance, no ingress/egress driveway in any residential zoned district shall exceed 20 feet in width in front yards. Where more than one driveway is desired or required, they shall be at least 70 feet apart. **(Amended 1/92 92-1003).**

(B) Whenever a structure is erected, converted, or reconstructed:

- (1) For a commercial, office, or industrial purpose, there shall be provided parking spaces, on the lot or within 300 feet thereof, the ratio of not less than one parking space for each 400 square feet of floor space in all buildings used for commercial purposes, provided that parking spaces shall not be required on interior lots, which are of record on the effective date of this Ordinance, less than 50 feet in width which do not back on an alley. For an industrial purpose, there shall be provided parking spaces as directed by the Planning Commission.

- (2) For a theater or place of assembly other than a church, there shall be on the lot, or within 300 feet thereof, a space for off-street parking which contains an area adequate to accommodate one automobile for every four seats in the theater or place of assembly. (Ord. 234-A, passed 6-6-61)
  - (3) Commercial, office, and industrial uses shall provide sufficient paved areas for ingress and egress to the required parking spaces such that no maneuvering in a reverse direction on a public street, not including an alley, will be required. Parking areas, drives, and loading areas for such developments shall be set back at least 5 feet from all lines abutting a public street, not including an alley, and the area in the setback shall be landscaped. Landscaping within 25 feet of the intersection of two streets, alleys, driveways, places, or any combination thereof, shall not exceed 30 inches in height.
  - (4) Loading spaces per space shall not be required, but where provided shall be of sufficient size, shape, and location such that there is no hindrance to the use of required parking spaces or the ingress and egress thereto. Loading or unloading, including the parking of vehicles, stacking or movement of material or goods, or the use of loading equipment, shall not be permitted in a public right-of-way, including a street, alley, or place. No maneuvering in a reverse direction in connection with loading or unloading shall be permitted on a public street or place, but such maneuvering may be allowed in an alley.
- (C) All required parking spaces shall be a minimum of 9 feet wide and 18 feet long, except that spaces inside a building or parking structure may be reduced to 8.5 feet width. For commercial, office, and industrial uses and residential developments with more than four dwelling units, parking spaces shall have ingress and egress by means of a paved on-site drive that is a minimum of 24 feet in width for traffic in two directions or 12 feet for traffic in one direction.
- (D) Handicapped parking spaces shall be provided according to the following table:

<u>Parking Spaces Provided</u>	<u>Handicapped Spaced Required (Minimum)</u>
0-5	0
6-25	1
26-50	2
51-75	3
76-100	4
101-500	4 Plus one handicapped space
	for each 100 spaces provided Over 100
501-1000	Two percent of total spaces provided plus one
	handicapped space for each 100 spaces over 1,000.

Handicapped parking spaces shall be a minimum of 12 feet wide and 20 feet long, and shall be clearly designed by signs.

**NOTE:** Section 155.120(D) shall effect only those uses not regulated by the Ohio Basic Building Code.

- (E) All areas used for parking, driveways, and loading spaces shall be improved with pavement installed over a proper base. The specifications of the pavement and base shall be according to published standards for such improvements as specified by the Building Official.
- (F) Tandem parking spaces with a maximum of two cars each and a length of 36 feet may be allowed by the Planning Commission in conjunction with the approval of a development plan.

Sec.155.121 FENCES.

- (A) Residential Districts. Fences are allowed in “A”, “B”, “C”, “D”, and “DD” Districts subject to the following requirements:
  - (1) Fences must be made from durable materials permanently and securely anchored into place. Where applicable type of fence is installed the finish side shall face abutting properties. Example: privacy fence, picket fence.
  - (2) Front Yard
    - a.) There shall be no fences erected within the front yard limits. On corner lots, there shall be no fences in the front yard or the side yard facing to a street.
    - b.) Exception. A decorative fence, as described herein, shall be permitted in the front yard or a side yard facing a street subject to the following restrictions:
      - 1.) A decorative fence shall be limited to the commonly referred to as split rail, wrought iron, or decorative metal, wood picket fence, but shall excluded chain link wire fences or permitted decorative fences less than 30 percent open to light and air. **(Amended 2/93 93-1051)**
      - 2.) Such fences shall not exceed a maximum height of four feet, except as required 155.121.A.4. Fences on the top of retaining walls shall be measured from the grade on the higher side of the wall.
  - (3) Rear and Side Yards. Except as provided in A2 above, fences in rear yards and in side yards shall not exceed a maximum height of 6 feet from finished grade.
  - (4) Height at Intersections. Fences within 30 feet of the intersection of two streets or alleys shall not exceed a maximum height of 30 inches, and in no case shall a fence reduce the visibility of traffic movement.
  - (5) Prohibited Fences. Prohibited for use as fences shall be barbed wire, razor or concertina wire, or an electrified wire materials.

- (6) Tennis Court Fencing. Fencing for tennis courts in the rear yard area may exceed the height of 6 feet provided that said fencing is set back at least 10 feet from the rear and side property lines, the fencing is not higher than 12 feet, and the fencing above the height of 6 feet is open so as not to restrict light or ventilation.
  - (7) Solid Fences (privacy fences). Solid fences may be permitted as a special conditional use, in residential districts, by the Planning Commission as per Section 155.126 (H), provided that the fences are treated with weather preservations or are painted and maintained and built in such a fashion that the finished side faces all abutting properties. All work shall be subject to the final approval of the building inspector. No solid fences shall be permitted in front yards or exceed six feet in height.
    - a.) Exception. Solid fences constructed with a minimum setback of 10 feet from the rear or side property lines and are less than 10 feet in length shall not require a special permit. **(Amended 2/93 93-1051).**
- (B) Commercial Districts. Fences are allowed in “E”, “E-1”, “EE”, “F”, “FF”, “G”, and “H” Districts subject to the following requirements.
- (1) Fences must be made from durable materials permanently and securely anchored into place. Where applicable type of fence is installed the finish side shall face abutting properties. Example: privacy fence, picket fence.
  - (2) Front Yard. Fences in the front yard limits shall not exceed a maximum height of four feet from finished grade. Where a front yard is not required, fences shall not exceed a maximum height of 6 feet from finished grade.
  - (3) Rear and Side Yards. Fences in the rear and side yard limits shall not exceed a maximum height of 6 feet from finished grade. Where a rear or side yard is not required, fences shall not exceed a maximum height of 8 feet.
  - (4) Fencing of Recreational Uses. Fencing for tennis courts, baseball fields, soccer fields, driving ranges, and similar outdoor recreational uses may be erected to a maximum height of 15 feet, provided that said fencing above the height of 7 feet is open so as not to restrict light or ventilation.
  - (5) Conditionally Permitted Fencing. The following type of fencing may be permitted subject to securing a Conditional Use Permit as required in Section 155.126.
    - a.) Barbed wire fencing, provided that no part of the barbed wire shall be less than 6 feet above finished grade.

- (6) Prohibited Fences. Prohibited for use as fences shall be razor or concertina wire or any electrified wire materials, or other fences deemed hazardous to public safety by the Building Official.

Sec. 155.122 NONCONFORMING USES.

- (A) Nonconforming uses, lots and structures are declared by this ordinance to be incompatible in the districts involved. 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 ordinance 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 prohibited generally in the district involved.

To avoid undue hardship, nothing in this ordinance 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 ordinance and upon which building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation, demolition, or removal shall be deemed to be actual construction provided that work shall be carried on diligently.

- (B) Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lots 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 district, provided that yard dimensions and requirements other than these applying to area or width, or both of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Zoning Appeals.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and 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 ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

On nonconforming lots in districts, which do not permit single-family dwellings, structures may be erected with setbacks reduced by 20 percent of what is required in such districts, provided that all other requirements of this code shall apply.

- (C) Nonconforming Uses of Land (or Land with Minor Structures only). Where at the time of passage of this ordinance, lawful use of land exists which would not be permitted by the replacement cost exceeding \$1,000.00, the use may be continued so long as it remains
  - (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this ordinance;
  - (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
  - (3) If any such nonconforming use of land ceases for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located;
  - (4) No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.
  
- (D) Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendments of this ordinance that could not be built under the terms of this ordinance by reason of restriction on area, lot coverage, height, yards, its location on the lot, 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 which 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 structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance;
  - (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
  
- (E) Nonconforming Uses of Structures or of Structures and Premises in Combination. If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of

this ordinance, the lawful 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 ordinance in the 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 which were manifestly arranged or designed for such use at the time of adoption of amendment of this ordinance, but no such use shall be extended to occupy any land outside such building;
- (3) If no structural alterations are made, any nonconforming use of a structure, or structure and premises may as a variance be changed to another nonconforming use provided that the Board of Zoning Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with the provisions of this ordinance;
- (4) Any structure, or structure and land in combination, in or on which nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
- (5) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for two years (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;
- (6) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

Destruction for the purpose of this subsection is defined as damage to the extent of more than 50 percent (or other figure) of the replacement cost at the time of destruction.

- (F) **Repairs and Maintenance.** On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to extent not exceeding 10 percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this ordinance shall 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.

- (G) Uses Under Variances and Conditional Use Permit Provisions Not nonconforming Uses. Any use which is permitted as a variance or a Conditional Use Permit in a district under the terms of this ordinance (other than a change through Board of Appeals action from a nonconforming use to another use not generally permitted district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

Sec. 155.123 ADDITIONAL USE, HEIGHT, AND AREA REGULATIONS AND EXCEPTIONS.

- (A) The district regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.
- (B) Public, semi-public, or public service buildings, hospitals (except as otherwise provided), institutions, or schools, when permitted in a district, may be erected to a height not exceeding 50 feet, and churches and temples may be erected to a height not exceeding 50 feet if the building is set back from each required yard line at least one foot for each one foot of additional building height above the height line otherwise provided in the district in which the building is built.
- (C) Single-family dwellings in the “A”, “B”, and “C” Residence Districts may be increased in height by not more than 10 feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than 10 feet, but then shall not exceed three stories in height.
- (D) Church spires, domes, flagpoles, aerials, private radio transmitters and towers, cellular or wireless communication towers, telephone transmitters and towers, television transmitters and towers, windmills, chimneys, cooling towers, elevator bulkheads, fire towers, belfries, monuments stacks, derricks, conveyors, stage towers and scenery lofts, tanks, water towers, silos, farm buildings, or necessary mechanical appurtenances may be erected to any lawful and safe height as regulated in this zoning ordinance.
- (E) Any lot of record effective June 6, 1961, may be used for any single-family dwelling irrespective of the width or area of the lot; the width of the side yard of any such lot need not exceed 10 percent of the width of the lot; the depth of the rear yard of any such lot need not

exceed 20 percent of the depth of the lot; provided, that in no instance shall the minimum dimensions of the side and rear yards be less than three feet and ten feet respectively.

- (F) Buildings on through lots and extending through from street to street may waive the requirements for a rear yard by furnishing an equivalent open space in lieu of such required rear yard.
- (G) In computing the depth of rear yard or the width of a side yard where the rear yard or the side yard opens on an alley, one-half of the alley width may be included as a portion of the rear or side yard, as the case may be.
- (H) Accessory buildings and structures in residential districts, which are not part of the main building, shall be built in the rear yard and not less than 3 feet from the rear and side lot lines. An accessory building which is not a part of the main building shall not occupy more than 30 percent of the rear yard and exceed 1,200 square feet. The accessory building shall not be larger than the principal structure and the height of the accessory building shall not exceed the height of the principle structure. **(Amended 2/90 90-918)**
- (I) Accessory buildings which are to be used for storage purposes only may be erected on a lot prior to the construction of the main building, but no accessory building shall be used for dwelling purposes except by servants employed on the premises as provided in the “A” Residence Districts.
- (J) PORTABLE STORAGE UNITS.
  - (a) For the purpose of this section, the term “Portable Storage Unit” shall mean any portable enclosed unit of durable construction or material, not to exceed eight feet wide by eight feet tall by sixteen feet long, designed for permanent or temporary storage, which can be transported by vehicle and left on-site.
  - (b) Portable Storage Units may be permitted as a temporary use in any residential zoning district any, business zoning district, or any industrial zoning district within the City as follows:
    - (1) Temporary use for construction sites until the project has been completed; or
    - (2) When the occupant of a property is relocating, a portable storage unit shall be located on a paved surface on the property for a period not to exceed seven consecutive days or fourteen total days in any 180 day period; or
    - (3) When necessary to facilitate general temporary uses not described above, a portable storage unit shall be located on a paved surface on the property for a period not to exceed seven consecutive days or fourteen total days in any 180 day period.

- (4) The placement of any Portable Storage Unit shall be in such a manner as not to create a public nuisance.
- (c) Any use permitted in this section shall require a permit to be issued by the Department of Building and Planning. This permit fee shall be twenty-five dollars (\$25.00) and it shall be good for seven consecutive days or fourteen total days in any 180 day period or as indicated above.
- (K) Every part of a required yard shall be open to the sky unobstructed, except for accessory buildings in a rear yard, and except for the ordinary projections of skylights, sills, belt courses, cornices, and ornamental features projecting not to exceed 30 inches in “A” Residence or “B” Residence Districts, and not to exceed 12 inches in all other districts.
- (L) Terraces, uncovered porches, platforms and ornamental features, which do not extend more than 3 feet above the floor level of the ground (first) story, may project into a required yard, provided these projections are a distant of at least 2 feet from the adjacent side lot line.
- (M) Open or lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers projecting into a yard not more than 5 feet, and the ordinary projections of chimney and flues are permitted.
- (N) For the purpose of the yard requirements, a two-family or multiple dwelling shall be considered as one building occupying a single lot.
- (O) An open non-enclosed or screened porch, or paved terrace may project into a front yard for a distance not exceeding 10 feet.
- (P) In the residence of “E” retail business districts, when 40 percent or more of the frontage on the same side of the street within the same block, but not exceeding 200 feet in distance, is improved with buildings that have observed a front yard line having a variation in depth of not more than 6 feet, no building shall project beyond the average front yard so established, but this regulation shall not be interpreted to require a front yard of more than 50 feet nor to permit a front yard of less than 10 feet. (Ord. 234-A, passed 6-6-61)\
- (Q) GRADING: When the natural grade of a lot is proposed to be raised or lowered more than 2 feet at any point from existing grade, an application for such proposed grade change shall be filed with the building official. When the grading plan is approved as a recognized part permit or other formal; review process of the City of Mt. Healthy, a separate application for a grad change shall not be required. The application shall include plans showing the proposed changes, a legal description of the property, and any other information or fees the City may require. If the grading plan is found to be in harmony with the public health, safety, and general welfare of the surrounding area the building official shall authorize its approval.

If the grading plan is denied as not in harmony with the public health, safety, and general welfare of the surrounding area, said decision may be appealed in a hearing before the time and place of the hearing. The City shall set filing requirements and fees as needed to make such appeal. The decision of the Board of Zoning Appeals shall be final.

(R) **DISH-TYPE SIGNAL RECEIVING STATIONS.**

Dish-type signal receiving stations (hereinafter referred to as stations) shall be subject to the following regulations.

(A) No installation or erection of a station shall commence before a building permit is obtained for same.

(B) Stations shall not be located in the “front yard” or “side yard” as defined in Sec. 155.003.

(C) If stations are located in the “rear yard” as defined in Sec. 155.003, then they shall be considered as an “accessory structure” as defined in Sec. 155.003 and shall be subject to applicable setback requirements. (Ord. 84-771, passed 8-7-84)

NOTE: Sec. 97.03 has been transferred to 155.122(Q)

(S) **CELLULAR OR WIRELESS COMMUNICATION SYSTEMS**

(A) Intent. In recognition of the quasi-public nature of cellular and/or wireless personal communication systems, it is the purpose of these regulations as set out herein in Section 155.52(R), and known as “Cellular or Wireless Communication Systems; to:

- (1) Accommodate the need for cellular or wireless communications towers and facilities for the provision of personal wireless services while regulating their location and number in the City;
- (2) Minimize adverse visual effects of cellular or wireless communications towers and support structures through proper siting, design and screening;
- (3) Avoid potential damage to adjacent properties from cellular or wireless communications towers and support structure failure; and
- (4) Encourage the joint use of any new and existing cellular or wireless communications towers and support structures to reduce the number of such structures needed in the future.

(B) Use Regulations

The following use regulations shall apply to cellular or wireless communication antennas and towers:

- (1) A cellular or wireless communications antenna that is mounted to an existing communications tower (whether said tower is for cellular or wireless purposes or not), smoke stack, water tower or other tall structure, or is a proposed newly constructed cellular or wireless communications antenna or tower that is more than 1000 feet from the nearest existing cellular or wireless communications antenna or tower, shall be permitted as of right in “F” zoning districts. Cellular or wireless communications antenna may also be located on the top of buildings which are not less than fifty (50) feet in height. Any cellular or wireless communications antenna that is mounted to an existing structure as indicated above shall be painted a color which matches, or is compatible with, the structure on which it is located as approved by the Building Official.
  
- (2) A cellular or wireless communications antenna that is not mounted on an existing structure, or is a proposed newly constructed cellular or wireless communications antenna or tower that is less than (1000) feet from an existing cellular or wireless communications antenna or tower, is permitted in “F” zoning district, with the following condition:
  - a.) The cellular or wireless communications company shall be required to demonstrate, using the latest technological evidence, that the antenna or tower must be placed where it is proposed in order to satisfy its necessary function in the company’s grid system.
  
  - b.) If the communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby technically suitable tall structures within the City’s permitted or conditionally permitted districts, asked for permission to install the cellular communications antenna on those structures, and was denied for reasons other than economic ones which are deemed commercially reasonable. “Tall structures” shall include, but not be limited to: smoke stacks, water towers, buildings over fifty (50) feet in height, antenna support structures or other cellular or wireless communication companies, other communication towers and roadway lighting poles or utility poles. The City may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.
  
- (3) All other uses accessory to the cellular or wireless communications antenna and towers including, but not limited to business offices, maintenance depots, and materials and vehicle storage, are prohibited from the cellular or wireless communications site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located.

- (4) Cellular or wireless communications sites shall not be located any closer to any residential zoning district than as follows:
  - a.) For every one foot of vertical height above grade, the base of the tower shall set back one foot of horizontal distance from a residential district.
  - b.) If the communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby technically suitable tall structures within the City's permitted or conditionally permitted districts, asked for permission to install the cellular communications antenna on those structures, and was denied for reasons other than economic ones which are deemed commercially reasonable. "Tall structures" shall include, but not be limited to: smoke stacks water towers, buildings over fifty (50) feet in height, antenna support structures or other cellular or wireless communication companies, other communication towers and roadway lighting poles or utility poles. The City may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.

(C) Standards of Approval of All Cellular or Wireless Communications Antennas and Towers

(1) Antenna/Tower Height

The applicant shall demonstrate that the antenna/tower is the minimum height required to function satisfactorily. No antenna that is taller than the minimum height shall be approved.

(2) Setbacks from the Tower Anchors

If a new cellular or wireless communications tower is to be constructed, the minimum distance between any guy wire anchors and the property line shall be the greater of the following"

- a.) Forty(40) percent of the tower height;
- b.) The minimum setback in the underlying zoning district; or
- c.) Fifty (50) feet.

(3) Cellular or Wireless Communications Tower Safety

The applicant shall demonstrate that the proposed cellular or wireless communications tower and its antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris. Furthermore, all cellular or wireless communications towers shall be fitted with anti-climbing devices as approved by the manufactures.

(4) Fencing

A fence shall be required around the cellular or wireless communications tower and its support structure(s), unless the antenna is mounted on an existing structure. The fence shall be minimum of eight (8) feet in height and shall be erected to prevent access to non-authorized personnel.

(5) Landscaping

The following landscaping shall be required to screen as much of the support structures as possible, the fence surrounding the cellular or wireless communications tower, support structure(s) and any other ground level features and, in general, soften the appearance of the cellular or wireless communications site. The City may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside of an existing structure, landscaping shall not be required. Any freestanding cellular or wireless communications tower shall incorporate landscaping which includes trees, shrubs, and other landscaping vegetation that is subject to review and is acceptable to the Chief Building Official. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

(6) Limiting the Number of Cellular or Wireless Communications Towers

In order to reduce the number of antenna support structures needed in the City in the future, the proposed cellular or wireless communications company shall be urged to accommodate other uses, including other cellular or wireless communications companies, and the local police, fire, and ambulance departments.

(7) Licensing

The communications company must demonstrate to the City that it is licensed by the Federal Communications Commissions (FCC).

(8) Required Parking

If the cellular or wireless communications site is fully automated, adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Code.

(9) Appearance

Cellular or wireless communications towers under 200 feet in height shall be painted silver, gray or have a galvanized finish retained in order to reduce visual impact. Cellular or wireless communications towers shall meet all Federal Aviation Administration (FAA) regulations. No cellular or wireless communications towers may be artificially lighted except when required by the FAA. Furthermore, no cellular or wireless communication tower or antenna shall contain any signage containing a commercial message.

(10) Site Plan Required

A full site plan shall be required for all proposed cellular or wireless communications sites, at a scale of 1 inch to 100 feet (1" = 100') indicating, as a minimum, the following:

- a.) The total area of the site.
- b.) The existing zoning of the property in question and of all adjacent properties.
- c.) All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned.
- d.) Existing topography with a maximum of five (5) foot contours intervals.
- e.) The proposed finished grade of the development shown by contours not exceeding five (5) foot intervals.
- f.) The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all cellular or wireless communications support structures including dimensions, heights, and where applicable, the gross floor area of the buildings.

- g.) The locations and dimensions of all curb cuts, driving lanes, off-street parking and loading areas including the number of spaces, grades, surfacing materials, drainage plans and illumination of the facility.
- h.) All existing and proposed sidewalks and open areas on the site.
- i.) The location of all proposed fences, screening and walls.
- j.) The location of all existing and proposed streets.
- k.) All existing and proposed utilities including types and grades.
- l.) The schedule of any phasing of the project.
- m.) A written statement by the cellular or wireless communications company as to the visual and aesthetic impacts of the proposed cellular communications tower on all adjacent residential zoning districts.
- n.) Any other information as may be required by the Planning Commission to determine the conformance with this Zoning Code. Upon submission of a complete application for site plan review to the Building Official, the plan shall be reviewed to determine if it meets the purpose and requirements as established in this Section, of the zoning district where the proposed cellular or wireless communication site is located and of any other applicable Section of the Zoning Code.

(D) Maintenance

Any owner of property used as a cellular or wireless communications site shall maintain such property and all structures in good condition and free from trash, outdoor storage, weeds and other debris. Any cellular or wireless communications tower that has discontinued its service for a period of twelve (12) continuous months or more shall be removed, along with all accessory structures related thereto. Discontinued shall mean that the structure has not been properly maintained, has been abandoned, become obsolete, is unused or has ceased the daily activities or operations which had occurred.

Sec. 155.124 BOARD OF ZONING APPEALS

(A) Intent. A Board of Zoning Appeals is hereby established to assist in the administration of this Zoning Ordinance, and in particular, to decide and interpret provisions which require impartial adjustments of conflicting interests and to grant variances from the strict letter of this Ordinance in instances of unnecessary hardship. The Board is herein established to achieve, among others, the following purposes:

- (1) To provide a method for alleviating unnecessary hardship by allowing a reasonable use for individual parcels of property which, because of unusual or unique circumstances, may be denied a reasonable use by literal application of the terms of this Ordinance;
- (2) To review or appeal any order, requirements, decision or determination made by a City administrative official regarding this Ordinance;
- (3) To ensure that decisions and the granting of variances shall sustain the constitutionality of this Ordinance.

(B) Membership.

(1) A Board of Zoning Appeals is hereby created. Such Board shall consist of five members, to be appointed by the Mayor (see below), all of whom shall be either residents of the City or operators of a business within the City. The terms of all members shall be of such lengths and so arranged that the term of one member shall expire each year. Each member shall serve until his successor is appointed and qualified. **(Amended 04/06 06-1483).**

(2) Members of the Board shall be removable for nonperformance of duty, misconduct in office or other cause, by the Mayor, upon written charges having been filed with the Mayor and after a public hearing has been held regarding such charges. A copy of the charges shall be served upon the member at least ten days prior to the hearings, either personally, by registered mail or by leaving the same at his usual place of residence. The member shall be given opportunity to be heard and answer such charges. Vacancies shall be filled by the Mayor and shall be for the unexpired term.

(C) Officers and Duties; General Powers. The Board of Zoning Appeals shall elect from among its members, a Chairman and a Vice Chairman. The Board shall adopt rules and regulations not inconsistent with this Zoning Ordinance, as may be necessary to carry into effect the duties, powers and responsibilities conferred herein. The powers, duties and responsibilities of the Board shall be:

- (1) To hear appeals and decide any issues involving the application of impartial considerations and judgments in regard to decisions made by any administrative officer on matters relating to this Ordinance, for relief from any order, requirement, decision or determination, including the refusal, granting or revocation of permits;

- (2) To hear and decide all matters specifically referred to it for decisions in other sections of this Ordinance.
  
- (D) Stay of Proceedings. An appeal of an administrative decision shall stay all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board after the Notice of Appeal has been filed with him that, by reasons of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order granted by the Board, or by a court of record, on application or notice to the Building Official on due cause shown.
  
- (E) Meetings and Hearings
  - (1) The Board shall hear and decide appeals de novo and shall review on appeal any order, requirement, decision or determination made by a Building Official in the enforcement or application of this Zoning Ordinance. Within its powers, the Board may reverse or affirm, wholly or in part, or modify any such order, requirement, decision or determination as, in its opinion, ought to be made under the circumstances and to that end it shall have all the powers of the officer from whose decision the appeal is taken.
  
  - (2) All hearings conducted by the Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by duly authorized agent. The Board shall have the power to subpoena and require the attendance of witnesses, to administer oaths, to compel testimony and to produce reports, findings and other evidence pertinent to any issues referred to it for decision.
  
- (F) Procedure on Appeal.
  - (1) Commercial: Appeals to the Board of Zoning Appeals may be taken by any person or legal entity aggrieved. Such appeals shall be taken within 60 days after administrative decision by filing with the Board of Notice of Appeal specifying the grounds thereof. A filing fee shall accompany the Notice of Appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board shall fix a reasonable time for the hearing of the appeal, which hearing shall be held within 60 days of the filing of the appeal, unless extended by agreement of the parties. Notice by first class mail shall be sent to the parties in interest at least 10 days before the meeting date. Notification requirements of the public open meeting law shall be met. Upon the hearing, any party may appear in person or by representative. The Board shall act within 30 days from the date of the final hearing or extensions thereof, unless an extension of time is mutually agreed upon.  
**(Amended 11/94 94- 1123).**

- (2) Residential: Appeals to the Board of Zoning Appeals may be taken by any person aggrieved. Such appeals shall be taken within 30 days after the decision by filing with the officer from whom the appeal is taken and with the Board a variance petition specifying the grounds thereof. A filing fee of \$35 shall accompany the variance petition for all Residential Appeals. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board shall fix a reasonable time for the hearing of the appeal, which hearing shall be held within 60 days of the filing of the appeal, unless extended by mutual agreement of the parties in interest, unless waived, and decided the same within reasonable time after it has been submitted. Upon the hearing, any party may appear in person or by attorney. **(Amended 11/94 94-1123).**
- (G) Quorum and Vote.
- (1) Three members shall constitute a quorum for action by the Board of Zoning Appeals. The Board shall act by resolution, in which a majority concur and every variation granted or denied, shall be presented, and specifying the reason for granting or denying the variation.
- (2) A member of the Board shall not be qualified to vote if he has not attended the hearing, or if he has a direct or indirect interest in the issue appealed.
- (H) Record of Decisions. The Board of Zoning Appeals is authorized to engage the services of a Secretary, and shall provide a detailed report of all its proceedings, setting forth its reason for decisions, or his failure to vote. Immediately following the Board's decision, such record including conditions prescribed by the Board shall be filed and posted for two weeks in the offices of the Safety Service Director. The report shall be open to public inspection and copies shall be mailed forthwith to each interested party noted therein.
- (I) Notice to Council, Planning Commission and Building Officials. Upon issuance by the Board of Zoning Appeals of any ruling, determination or order, the Secretary of the Board shall send within three days of the date of such ruling, determination or order, a copy thereof to the Clerk of Council and to the Secretary of the Planning Commission who shall present such report at the next regular meeting. A copy of such ruling shall be sent to the Building Official for his files and verification before any permit can be issued. **(Amended 11/94 94-1123).**
- (J) Appeals to Courts. A person aggrieved by a decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Hamilton County within 60 days of the decision. Such appeals may be either on questions of law, on questions of fact, or on questions of law and fact.

Sec. 155.125 VARIANCES.

- (A) Definition and Intent. A variance is a relaxation of the terms of the Zoning Code where such variance, will not be contrary to the public interest and where, owing to conditions peculiar to the property, a literal enforcement of the code would result in unnecessary and undue hardship.
- (B) Required Approval. Variances shall require approval of Board of Zoning Appeals and shall be subject to requirements and standards specified in this code. In order to preserve the character of the neighborhood and to otherwise promote and effectuate the purposes of this Zoning Ordinance, additional restrictions may be deemed necessary and may be imposed by the Board of Appeals incident to the approval of an application.
- (C) Reasons for Granting Variances. The Board of Zoning Appeals may authorize a variance from strict application of these regulations, by reasons of exceptional lot narrowness, shallowness, shape topographic conditions or other extraordinary situations in order to relieve undue hardship. The variance shall not substantially impair the public good nor the intent of these regulations. No variance shall be granted unless the Board finds that all of the following conditions exist:
- (1) The granting of the variance shall be necessary to relieve hardship and preserve the applicant's right to the reasonable and legitimate use of his property; the request shall not be granted merely for the convenience of the applicant.
  - (2) The requested variance shall not constitute a change in land use resulting in the establishment of a use not normally permitted in the applicable zoning district.
  - (3) The special circumstances or conditions applying to the building or land in question, which may include the historic nature of the building or land, are peculiar to such lot or property, and do not generally, apply to other land or buildings in the vicinity.
  - (4) The special conditions or circumstances which form a basis for the variance application shall not result from the actions of the applicant.
  - (5) Nonconforming use of neighboring lands, structures or buildings in the same zoning district, and permitted or nonconforming use of lands, structures or buildings in other zoning districts shall not be considered grounds for the issuance of a variance.
  - (6) The application for a variance shall not be based exclusively upon a desire to increase the value or income potential of the parcel of land or any structures or uses thereupon.
- (D) Application Procedures and Requirements for Variances. When applying for a variance, the applicant shall state and substantiate his claim that the conditions listed above in (c) exist, and shall submit such statement with his application to the Board of Zoning Appeals.

- (1) An application for a variance shall be made by the property owner, or authorized agent thereof, or by the City Council or Planning Commission, acting on their own motion, on a form provided for such purposes, and shall be accompanied by the following:
    - a.) A site plan and other drawings to scale, showing existing and proposed use of the site, all pertinent natural and man-made features, and adjacent land use and buildings.
    - b.) A list of names and mailing addresses of all owners of property within 300 feet of any part of the property in question. The City may expand the notification area if it deems necessary.
    - c.) A letter requesting a variance and providing the following:
      - 1.) A statement of need for the proposed variance, its location and magnitude.
      - 2.) A summary report identifying and evaluating the consequences and effects of the proposed variance on the surrounding properties and neighborhood at large.
      - 3.) A statement indicating how the negative effects, if any, of the proposed variance will be mitigated.
    - d.) A legal description of the property, signed by a Registered Engineer or Surveyor.
    - e.) An application fee and multiple copies of the proposed site plan as required by the Building Official.
- (E) Approval of Board of Zoning Appeals.

- (1) Non Residential or More than Three Family Residential:

Variance Petitions to the Board of Zoning Appeals may be taken by any person or legal entity aggrieved. Such variance requests shall be taken within 60 days after administrative decision by filing with the Board of Variance Petition specifying the grounds thereof and all other submissions as detailed in the section. A filing fee shall accompany the Variance Petition. The officer from whom the Variance is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action variance from was taken. The Board shall fix a reasonable time for the hearing of the variance, which hearing shall be held within 60 days of the filing of the Variance Petition, unless extended by agreement of the parties. Notice by first

class mail shall be sent to the parties in interest as described in paragraph (1) below. Notification requirements of the public open meeting law shall be outlined in paragraph (2) below. Upon the hearing, any party may appear in person or by representative. The Board shall act within 30 days from the date of the final hearing or extensions thereof, unless an extension of time is mutually agreed upon. A notice surcharge will be charged to the applicant for costs incurred as a result of notification expenses. This fee must be paid before the hearing occurs.

(2) Residential Less Than Four Family:

Any person aggrieved may take a Variance Petition to the Board of Zoning Appeals. Such Variance Petitions shall be taken within 30 days after the decision by filing with the officer from whom the variance is taken and with the Board a variance petition specifying the grounds thereof. A filing fee shall accompany the variance petition for all Residential Variance Petitions. The officer from whom the petition is taken shall forthwith transmit to the Board all papers constituting the record upon which the action from was taken. The Board shall fix a reasonable time for the hearing of the variance, which hearing shall be held within 60 days of the filing of the appeal, unless extended by mutual agreement of the parties in interest, unless waived, and decided the same within reasonable time after it has been submitted. Notice of the hearing by first class mail will be mailed to adjoining property owners within 10 days of the hearing or as directed by the Board. Upon the hearing, any party may appear in person or by attorney.

- 1.) A notice of the hearing shall be mailed by first class mail to all property owners within 300 feet of any part of the property in question. Owners of property not within City limits but within 300' of the property in question also shall be notified. Notice shall be sent to the addresses of owners as they appear on the County Auditor's current tax list or the Treasurer's mailing list. The notice shall specify the date, place and time of the hearing, and shall contain a statement as to the nature and location of the proposed variance. Such notification shall be mailed no less than 20 days before the hearing.
- 2.) The notification of the hearing shall also be made by means of publication in a newspaper of general circulation in the City, adequately describing the nature of the proposed variance, once a week for two consecutive weeks, the first of such publications to take place not less than 30 days prior to the public hearing.
- 3.) Within 30 days following the public hearing, the Board of Zoning Appeals shall make a written report to approve or deny the request, citing, as applicable, the reason(s) for approval or denial as they relate to the six conditions described in Paragraph C above. The Board may approve the variance with such additional requirements and conditions with regard to construction, maintenance and operation as it deems necessary to protect adjacent uses and the public interest.

- (F) Period of Validity of a Variance. In any case where an approved variance has not been used within one year of the date on which it was granted, such variance shall expire unless an extension of the above time period for a maximum of one additional year has been authorized by the Board of Zoning Appeals.
- (G) Expansion and/or Conversion. Approved variances shall be considered conforming uses or buildings, as applicable. Such buildings may be expanded or rebuilt or redesigned without a public hearing provided that no additional property is acquired to accommodate the expansion and that such expansion, rebuilding or design conforms to other pertinent provisions of this chapter and the terms of the variance.
- (H) Previous Application. An application for a variance on property for which all or any part has been previously denied, or an application which was withdrawn subsequent to a public hearing, within the four-month period first preceding the date of the meeting for which the proposed application would be scheduled, for the same, similar, or a more intensive use or setback, shall not be accepted. In addition, a period of eight months from the date of a second denial must elapse before an application may be filed for the same, similar, or a more intensive use or setback. Any application for a variance for which there has been previously filed an application for a Conditional Use Permit or a reclassification for the same, similar, or a more intensive use or setback, where such application has been denied or withdrawn subsequent to a public hearing, shall not be accepted until the above time limits have elapsed.

Sec. 155.126 CONDITIONALLY PERMITTED USES.

- (A) Definition and Intent. Conditionally permitted uses are those uses described or referred to herein which have a particular impact on the surrounding area that cannot be predetermined and controlled by general regulations. In order to ensure that these uses in their proposed location will be compatible with surrounding development, their establishment shall not be a matter of right, but may be permitted after review and approval as hereinafter provided.
- (B) Required Approval. Conditionally Permitted Uses shall require approval of Council and shall be subject to the requirements and standards specified in this chapter. In order to preserve the character of the neighborhood and to otherwise promote and effectuate the purposes of this Zoning Ordinance, additional restrictions may be deemed necessary and may be imposed by Council incident to the approval of an application.
- (C) Application Procedures and Requirements for Conditional Use Permits. The Planning Commission shall make recommendations thereon to Council.
  - (1) An application for a Conditional Use Permit shall be made by the property owner, or authorized agent thereof, or by the City Council or Planning Commission, acting

on their own motion, to the Planning Commission on a form provided for such purposes, and shall be accompanied by the following:

- a.) A site plan and other drawings to scale, showing existing and proposed use of the site, all pertinent natural and man-made features, and adjacent land use and buildings.
  - b.) A list of names and mailing addresses of all the owners of property within 300 feet of any part of the property in question. The City may expand the notification area if it deems necessary.
  - c.) A letter requesting a Conditional Use Permit and providing the following:
    - 1.) A statement of need for the proposed Conditional Use Permit, its location and magnitude.
    - 2.) A summary report identifying and evaluating the consequences and effects of the proposed Conditional Use Permit on the surrounding properties and the neighborhood at large.
    - 3.) A statement indicating how the negative effects of the proposed use will be mitigated.
  - d.) A legal description of the property, signed by a Registered Engineer or Surveyor.
  - e.) An application fee and multiple copies of the proposed site plan as required by the Building Official.
- (2) Approval by Planning Commission. The Planning Commission shall conduct a public hearing within 60 days after the submission of all material for the application for a Conditional Use Permit. After submittal, the application shall remain available for public inspection. Notification of the public hearing shall be by the following means:
- a.) A notice of the hearing shall be mailed by first class mail to all property owners within 300 feet of any part of the property in question. Owners of property not within City limits but within 300' of the property in question also shall be notified. Notice shall be sent to the addresses of owners as they appear on the County Auditor's current tax list or the treasurer's mailing list. The notice shall specify the date, place and time of the hearing, and shall contain a statement as to the nature and location of the proposed use. Such notification shall be mailed no less than 20 days before the hearing.
  - b.) The notification of the hearing shall also be made by means of publication in a newspaper of general circulation in the City, adequately describing the

nature of the proposed conditional use, once a week for two consecutive weeks on the same day of the week, the first of such publications to take place not less than 30 days prior to the public hearing.

c.) Following the public hearing, during its regular business meeting, the Planning Commission shall decide to recommend approval or denial to the Council, and within 30 days after the public hearing shall provide such decision to the Council, along with a written recommendation on each of the following:

- 1.) The location of the conditional use and its suitability, in terms of its natural features, for the proposed use.
- 2.) A finding on whether the proposed use will have a negative effect on or will conflict with surrounding areas. To this end, the Planning Commission may recommend such additional requirements and conditions with regard to construction, maintenance and operation as it deems necessary to protect adjacent uses and the public interest.

(3) Council Approval.

a.) Within 45 days following the receipt of the written recommendation by the Planning Commission, Council shall conduct its public hearing for the Conditional Use Permit. Notification of the public hearing shall be by the same means as described in Paragraph 155.126(C) (2) a). and b.).

b.) Within 30 days following the Council's public hearing, Council shall approve or disapprove the application for a Conditional Use Permit. No Conditional Use Permit which violates, differs from, or departs from the plan or report submitted by the Planning Commission shall take effect unless passed or approved by not less than three-fourths of the membership of the Council. No Conditional Use Permit which is in accordance with the recommendation, plan, or report submitted by the Planning Commission shall be deemed to pass or take effect without the concurrence of at least a majority of the members elected to the Council.

(D). Conditional Use Permit. Following Council's approval, a Conditional Use Permit shall be issued to the applicant by the Building Official.

(E) Period of Validity of Conditional Use Permit

(1) In any case where an approved Conditional Use Permit has not been used within one year of the date on which it was granted, that permit shall expire unless an extension of the above time period has been authorized by the Planning Commission.

- (2) A Conditional Use Permit shall be void without further action if the use approved by the Conditional Use Permit ceases for a period of one continuous year.
- (3) Approval by the Planning Commission. The Planning Commission shall conduct a hearing within 30 days after the submission of all material for the application for a special Conditional Use Permit. Following the hearing, during its regular business meeting, the Planning Commission shall decide to approve or deny the applicant's request. If the applicant has met all of the criteria set out in paragraph (1) above, then the application shall be approved. If the applicant is unable to meet all of the criteria set out in paragraph (1) above, then the planning commission shall approve or deny the application based upon the Planning Commission's determination of whether or not the proposed use would have a negative effect on, or will conflict with the surrounding areas. The Planning Commission shall notify applicant of the decision within 30 days after the decision is made. **(Amended 2/93 93-1052).**

Sec. 155.127 CHILD DAY-CARE FACILITIES.

- (A) Purpose and Intent. Child care is a community service, and as such is accorded certain privileges not granted to most other commercial enterprises. It is the intent of this chapter to allow child care services in residential settings when surroundings uses will not be adversely affected by such allowance.
- (B) Development Standards. Type "A" family day-care homes and child care centers, whether operated on a full or part-time basis, may be allowed by means of a Conditional Use Permit in certain residential districts as enumerated in this Ordinance. The City shall not approve a request for a Conditional Use Permit for either Type "A" family day-care home or a child day-care center, as applicable, that does not substantially meet the following development standards:
  - (1) Type "A" Family Day-Care Home.
    - a.) Type "A" family day-care homes normally should not be allowed on a dead-end or cul-de-sac street, except where the proposed home is close enough to a school, place of employment, or other similar destination or a point of origin such that new vehicular traffic generated by the day-care home will be kept to a minimum.
    - b.) The additional traffic generated by the proposed day-care home will not result in an unsafe situation for vehicle or pedestrian traffic.
    - c.) The family day-care home will retain its residential appearance and no signs will be permitted except those signs that would be allowed on a residence in the applicable district.

(2) Child Day-Care Centers.

- a.) Child day-care centers normally should be allowed only on streets where substantial through-traffic already exists, or where the proposed day-care center is close enough to a school, place of employment or other similar destination or a point of origin such that new vehicular traffic generated by the day-care center will be kept to minimum.
- b.) The additional traffic and ingress and easement movements will not result in an unsafe situation for vehicle or pedestrian traffic.
- c.) Parking shall be provided as required in Section 155.120.
- d.) The building shall retain a residential appearance, and signs shall be limited as required in Section 155.140 through 155.143.
- e.) Buffering and setbacks of the outdoor play area and the parking and drive areas shall be provided as needed in each case to shield property in adjacent residential districts, and the percentage of children allowed outdoors at any one time may be limited to 50 percent or less when conditions warrant.
- f.) There shall be no outdoor activities between the hours of 7:00p.m. and 8:00 a.m. Minimal outdoor security lighting is permitted and where such lighting is provided, it shall be shielded from property in adjacent residential districts.

(C) Child Day-Care Facilities shall be permitted as follows:

Zoning District	Type "B" Home 1-6	Type "A" Home 7-12	Day Care Center 13 +
A, B, C	<b>Permitted</b>	<b>Use Permit Required</b>	<b>Not Permitted</b>
D, DD, H			
E, E-1, EE, F, FF	<b>Use</b>		
G	<b>Not Permitted</b>		

- (A) Purpose and Intent. It is the purpose of this section of this Ordinance to regulate the location, operation, and maintenance of group care homes in order to promote the public health, safety and welfare. It is the intent of this section to provide for the assimilation of group care homes in stable and suitable neighborhoods so that the living environments of their residents are conducive to their rehabilitation.
- (B) Development Standards. No group care home shall be established, operated or maintained on any premises unless authorized by the issuance of a Conditional Use Permit in accordance with the provisions of this Ordinance, except as provided in Paragraph C herein. In addition to said provisions, group care homes shall comply with the following development standards:
- (1) Evidence is presented that the proposed facility meets the certification, licensing, or approval requirements of the appropriate state or local agency.
  - (2) Evidence is presented that the proposed facility meets local fire safety requirements for the proposed use and level of occupancy.
  - (3) Evidence is presented that the proposed facility will not generate an unreasonable increase in traffic volume.
  - (4) Such facilities shall comply with the district regulations applicable to other properties in the zoning district in which they are located.
  - (5) No such facility may be located within 800 feet of another such facility.
  - (6) No signs shall be erected by such facility for purposes of identification except a permitted street address sign.
  - (7) The exterior of all such facilities shall not be altered in character but shall be compatible with other residential dwellings. However, any improvement required by code or necessitated by licensing requirements shall not be deemed incompatible.
  - (8) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, to include a structured procedure whereby their grievances may be filed and resolved.
  - (9) The applicant shall 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.

- (C) Exception Category I. Group Care Homes, Category I, as defined in this Ordinance with five or less residents shall be allowed as a permitted use in the “D”, “H”, “E”, “E-1”, “F” and “G” Districts when the Planning Commission determines the applicant, upon submittal of documentation, meets the development standards as described above in Paragraph B.
- (D) Zoning of Group Care Homes Category I and II. Group Care Homes as defined in this Ordinance shall be permitted as follows:

Zoning Districts	Category I			Category II		
	Residents*			Residents*		
	5 or less	6 to 10	11 or more, not to exceed 15	5 or less	6 to 10	11 or more, not to exceed 15
A, B, C	Use	Permit	Not	Permitted		
D, DD, H	Required				Not	Permitted
E, E1, EE	Permitted		Use	Permit		
F, FF, G	Use		Required			

\* Not including resident administrators

Definition. “Group Care Home” shall mean any community residential facility which provides residential care and rehabilitative or habilitative services.

There are two categories of Group Care Homes:

Group Care Homes, Category I: Any state, federal or locally approved dwelling or place used as a foster home for children or adults or as a home for the care or rehabilitation of dependent or pre-delinquent children, the physically ill or infirm, abused or battered children, or adults, the physically handicapped or disabled, those with developmental disabilities, or similar groups whose residents do not require constant supervision or treatment. “Group Care Homes, Category I,” is designed to provide living accommodations as a primary use, where medical or psychiatric care is provided therein no more than on an occasional basis. The term does not include a nursing home, boarding home, or Group Care Home, Category II.

Group Care Home, Category II: Any state, federal, or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu or institutional sentencing; a halfway house providing residence for persons leaving correctional and psychiatric institutions; and

residential rehabilitation centers for alcohol and drug users. Detoxification shall be expressly prohibited in residential rehabilitation centers.

Sec. 155.129 CONDITIONAL USE PERMIT FOR HISTORIC PROPERTY

- (A) Purpose and Intent. A Conditional Use Permit may be approved for historic properties when in accordance with this Article and subject to the requirements of 155.126.

The purpose and intent of this Article is:

- (1) To safeguard the heritage of the city by preserving sites and structures which reflect elements of the community's cultural, social, economic, political, or architectural history, and
- (2) To protect and improve the attractiveness of the community as a place to live, visit, and do business.
- (3) To provide an additional means for economic support for the rehabilitation, restoration, and maintenance of historic properties by allowing specific additional uses of the property,
- (4) To allow uses of historic properties that will compliment and support the character of the historic property, and
- (5) To allow additional uses of historic properties in residential districts where such uses will not have an adverse impact on surrounding properties.

- (B) Historic Property Qualifications. As part of their application for a Conditional Use Permit for historic property, applicants shall demonstrate that their property:

- (1) Is formally recognized by an appropriate state or federal agency as historically significant, or
- (2) Substantially meets at least one of the criteria and related standards under each of the following headings:

Historic Association  
Architectural Association  
Influence on Immediate Surroundings

The specific standards and criteria for each heading are as follows:

HEADING:

HISTORIC ASSOCIATION

Criterion 1.

Association with an important person.

Standard:

A person who was significant in national, State, or local history owned the structure, Was related to the owner of the structure, Stayed in the structure for a while, or did Something significant in the structure.

Criterion 2.

Association with an important event, Tradition, or development.

Standard:

The structure played or still plays a direct Role, either by its function or its location, In an event, tradition or development of national, State, or local importance.

Criterion 3.

Rarity.

Standard:

The structure is one of the last of its kind in the Local area.

Criterion 4.

Age of structure.

Standard:

The structure was built before 1925.

HEADING:

ARCHITECTURAL ASSOCIATION

Criterion 1.

Association with an architectural period of style.

Standard:

The structure has design elements which reflect a Particular architectural period or style or which Reflect a unique mix of periods or styles.

Criterion 2.

Association with a notable architect or builder.

Standard:

The structure was designed by an architect of National or regional note, or by one of the more Important students of this architect.

Criterion 3.

Association with important building or structural Techniques.

Standard:

The design of the structure employs early use of an Important building technique, or the design of the Structure employs a building or structural Technique that is no longer used.

Criterion 4. Richness of architectural detail.

Standard: Distinctive details, such as stained glass, tile roof, Ceramic tile ornamentation, carved stonework, Landscaping, built-in cabinets, ornamental Woodwork (exterior and interior), or similar Details, characterize the structure.

HEADING: INFLUENCE ON IMMEDIATE SURROUNDINGS.

Criterion 1. Role of structure in surrounding environment.

Standard: The structure stands out in a complimentary way Either because of its size or pivotal location, or The structure blends in as a part of a cluster of Similar or compatible buildings.

Criterion 2. Degree to which original design has been Modified, or other changes.

Standard: The structure has never been modified or Modifications which have been made do not Significantly alter the original design of the Structure.

- (C) Uses. Uses allowed by Conditional Use Permit for historic properties shall compliment and support the particular historic property under consideration. Allowed uses shall include:
- (1) Hotels and similar overnight accommodations wherein meal service, when provided, is to overnight guest only.
  - (2) Museums and similar cultural facilities.
  - (3) Art galleries.
  - (4) Offices as restricted by 155.040(C).
  - (5) Antique shops, as defined in this Ordinance.
  - (6) Multi-family dwellings.
  - (7) Restaurants provided the historic property or a portion thereof is within 400 feet of Hamilton Avenue or has frontage on Compton Road.

- (8) Craft shops, wherein only crafts common to the period when the structure was first built, or from an earlier period, are made or sold, subject to a maximum of five people producing such crafts at any one time.
  - (9) Similar enterprises and commercial establishments of the same general standard which, in the opinion of the Planning Commission as evidenced by a resolution of record, meet the purpose and intent of this Article.
- (D) Development Standards.
- (1) The Council, being guided by requirements cited in this Ordinance for similar uses, may impose such requirements on hours of operation, landscaping, lighting, and signage as it deems necessary to meet the purpose and intent of this Article.
  - (2) The qualifications of the site as a historic property as required in Paragraph B of this Article shall be and remain a condition of approval for a Conditional Use Permit for a historic property. Alteration, addition, modification, demolition, or reconstruction of the historic property shall void the Conditional Use Permit unless a review by the Planning Commission allows such changes.

Sec. 155.130 PLANNED UNIT DEVELOPMENT & OVERLAY PLANNED DEVELOPMENT

- (A) Purpose and Intent The Planned Unit Development (PUD) is a special development approval allowed in the “A”, “B”, “C” and “D” residential districts and the uses allowed in the PUD shall be the same as the underlying district. The OPD is permitted in one or all districts. A PUD or OPD is not a change in zoning district, however a zone change can be included in the process. The setbacks and other provisions of the zoning district shall remain in full force and effect except where specifically modified by the approved PUD or OPD. In order to ensure that the PUD or OPD will be compatible with surrounding development, the establishment shall not be a matter of right, but may be permitted after review and approval as hereafter provided.

The intent of the PUD & OPD is:

- (1) To promote the efficient use of land in residential districts (the OPD promotes the same intent, but in any district) and facilitate an economic arrangement of buildings, circulation systems, land use, and utilities.
- (2) To permit maximum design flexibility to develop or redevelop land consistent with the general health, safety, morals and public welfare of the City.
- (3) To encourage the most skillful planning in the arrangement of buildings, the preservation of open space, utilization of topography, and other site features, and to be compatible with surrounding uses.

- (4) The purpose of this regulation is to offer flexibility in development review and approval by the Planning Commission (and shall follow the same PUD review procedure described in Section 155.130). If the proposed Overlay development does not exceed the underlying zoning classification density, building mass or related requirements by ten percent (10%); excluding sign size and parking requirements, the review may be approved by the Planning Commission as long as they have received written review/recommendations from the Architectural Review Board (Section 155.132. If the proposed development exceeds any underlying zoning criteria by more than 10%, the approval review or denial shall be processed as a zone change as defined in Section 155.131. The boundary of the Overlay Planned District may encompass more than one zoning district or may propose a new zoning district classification (requiring a zone change procedure as defined in Section 155.131. This Overlay regulation is intended to permit mixed use development that is especially designed for small sites, infill development or redevelopment. The development shall be sensitive to the surrounding architectural character and conform to the design standards for color consistency, building material, pedestrian and open space provision, traffic and parking demands, detailed landscaping, screening and lighting that will not adversely effect adjacent property. The plan shall include public utility availability information, storm water detention or retention systems, and any other information required by the Planning Commission or City Council. If the underlying zoning is not changed the plan shall follow the procedures described in this section including a review by the Architectural Review Board.

(B) Development Standards.

- (1) Minimum Area. The minimum area within the PUD shall be equal to three times the minimum lot area specified in the applicable district; however, in no instance shall the PUD or OPD area be less than 25,000 square feet, excluding public right-of-way. At the time of application, a PUD site may be under contract by the applicant and the owner(s) must also sign the application. The site may have more than one lot or be further subdivided. A PUD site may be divided by a public or private street; otherwise every lot shall be contiguous. The minimum width of a PUD area shall be equal to the minimum lot width in the applicable district. Contiguous parcels of land that do not meet the minimum area or width requirements for a PUD may be added to and made a part of an approved PUD, further the same development standards and approval process shall be applied as in the first instance.
- (2) Density. The maximum number of allowed dwelling units shall not exceed the number of dwelling units resulting from the following formula: The gross area of the PUD, less all private and public right-of-way, divided by the minimum lot size of the applicable district, rounded to the nearest whole number.
- (3) Building and Fire Codes. Every building in a PUD or OPD shall be subject to applicable building and fire prevention codes in force in the City.

- (4) Streets. Streets and common ways, whether public or private, shall be constructed in accordance with the requirements set forth by the City Engineer.
  - (5) Units Per Building. The maximum number of dwelling units shall not exceed one per building in the “A” District and shall not exceed two dwelling units per building in the “B” and “C” Districts. There shall be a minimum of 10 feet between buildings. An OPD plan may provide mixed uses of office, retail, residential and up to 20 residential units per acre.
  - (6) Setbacks. The minimum front, side, and rear, yard setbacks of the applicable district shall apply to the corresponding perimeter setbacks of the PUD area. The setbacks internal to the development shall be governed by the approved PUD & OPD plan and conditions. When the OPD is proposed in the retail district the set-backs may be similar to existing buildings.
  - (7) Height. The maximum height limits are the same as in the applicable zoning district.
  - (8) Additional Standards. The PUD & OPD plan shall comply with such landscaping, lighting, and storm water management requirements of the City as needed for proper development. Off-site improvements that are needed as a direct result of the PUD or OPD shall be required.
- (C) Required Approval. A PUD & OPD shall require approval of the Planning Commission and shall be subject to the standards specified in this chapter. In order to preserve the character of the neighborhood and to otherwise promote and effectuate the purposes of the Zoning Ordinance, additional restrictions may be deemed necessary and may be imposed by the Commission incident to the approval of an application. The approval of a Conditional Use may be included in an approval for a PUD or OPD without a separate review.
- (D) Application Procedures for PUD & OPD
- (1) The plan for development must first be submitted to the City staff for evaluation in a preview meeting and may be prepared in a conceptual way (it shall include building form/placement, pedestrian and vehicular circulation, any needed grading concepts, landscaping, color and material schemes ((which shall be at least 50% brick or stone)) and sign size/placement). The applicant shall pay a fee of \$300.00 to the City for this preview meeting and staff analysis. The staff will give the owner a written statement of concerns or suggested modifications within two weeks after the preview meeting. If the plan is within the Historic District more detailed architectural plans and elevations will be necessary and will be forwarded to the “Architectural Review Board” for their recommendation. The Staff may require review of the conceptual or preliminary development plan by the Architectural Review Board in any circumstance. The Planning Commission shall receive formal application and fee for a PUD or OPD after the staff has prepared an evaluation of their preview meeting with the applicant. An application for a PUD or OPD shall be made by the property owner, or authorized agent thereof, to the Planning Commission on a form provided

for such purposes, and shall be accompanied by the plans and statements required by Paragraphs a. through m. as follows. However, an application for approval of the site plan only may be made and the submission of the information required by Paragraph m. deferred.

- a.) Existing or proposed boundary streets and access streets to the project.
- b.) The boundaries and topography of the entire site, including a tabulation of acreage.
- c.) Delineation of the development for the entire site. If only a portion of the site is to improve the current project, that portion shall be shown in detail on the plan.
- d.) The location and preliminary engineering drawings showing center-line profile and typical cross-sections for streets, the location of drives, and the location, the number and area of parking spaces.
- e.) Common facilities, such as swimming pools, service buildings, garages and trash collection stations.
- f.) The location of every building or structure, together with a plan or statement showing the number of stories, height, number of dwelling units and ground coverage of each building. The statement shall also show the total number of dwelling units and total ground coverage of all the buildings in the PUD.
- g.) Existing grade and proposed changes at contour intervals of no more than 5 feet. This plan shall also show landscaping and all existing trees of greater than 8 inches caliper and indicate any to be removed.
- h.) The system of storm water control both during and after construction.
- i.) A statement on the present and future ownership and control of the development delineating responsibilities of maintenance and upkeep of the buildings, streets, drives, parking areas, utilities, common areas and common facilities.
- j.) If the area to be developed is wholly or partly located in an area of moderate or higher landslide susceptibility, as evidenced by slopes exceeding 20 percent, soil maps of Hamilton County, other published information, or field observation, a preliminary site analysis prepared by a geotechnical engineer indicating measures that will be taken to prevent landslides and ensure soil stability will be required.
- k.) The impact of the proposed development on the surrounding neighborhood. This environmental assessment statement shall describe the abutting land uses and the existing site and the proposed development as they affect traffic, air, water and noise pollution, surface water and sewerage drainage, soil stability and visual quality in the vicinity.

- l.) Any adjacent property owned by the applicant and the uses planned for that property.
  - m.) Statements and illustrations of the elevations, design, and materials of buildings and their identification on the development plan.
  - n.) A list of names and mailing addresses of all property owners within 300 feet of any part of the property in question, together with a parcel map showing the location of such properties and their owners.
- (2) Approval by Planning Commission. The Planning Commission shall conduct a public hearing within 60 days after the submission of all material for the application for a PUD & OPD. After submittal, the application shall remain available for public inspection. Notification of the public hearing shall be by the following means:
- a.) A notice of the hearing shall be mailed by first class mail to all property owners within 300 feet of any part of the property in question. Owners of property not within City limits but within 300' of the property in question also shall be notified. Notice shall be sent to the addresses of owners as they appear on the County Auditor's current tax list or the Treasurer's mailing list. The notice shall specify the date, place and time of the hearing, and shall contain a statement as to the nature and location of the proposed use. Such notification shall be mailed no less than 20 days before the hearing.
  - b.) The notification of the hearing shall also be made by means of publication in a newspaper of general circulation in the City, adequately describing the nature of the proposed PUD & OPD, once a week for two consecutive weeks on the same day of the week, the first of such publications to take place not less than 30 days prior to the public hearing.
  - c.) Within 30 days following the public hearing, during the business meeting, the Planning Commission shall decide to approve or deny the PUD or OPD application. The Planning Commission shall prepare a written statement on each of the following:
    - 1.) The location of the PUD or OPD and its suitability for the district for which it is proposed.
    - 2.) A finding on whether the proposed use will have a negative effect on or will conflict with surrounding areas. To this end, the Planning Commission may:
      - (a) Limit development, including the number of dwelling units.

- (b) Require increased setbacks for parking or buildings, principal or accessory, beyond the minimum required in the applicable district.
  - (c) Determine that development, when soil conditions, topography, or drainage warrant, shall be modified or reduced to mitigate negative impacts.
  - (d) Specify the use of materials or designs to assure compatibility of the development with neighboring properties or require that the plan be reviewed by the Architectural Review Board (including but not limited to: landscaping, screening, alternative parking and architectural detail).
  - (e) Impose limitations on buildings dimensions, building location, open space, and size and location of parking lots so that ground coverage of buildings and impervious surfaces are no greater than normal for the neighborhood.
  - (f) Order the screening of the accessory uses, trash collection stations, heating fuel storage facilities and parking areas by walls, fences or landscaping to reduce visual impact on adjacent properties and to the development within the project itself.
  - (g) Order the staggering of building lanes and facades to achieve an appearance compatible with surrounding developments and terrain.
  - (h) Order the preservation of natural plant cover, major trees, existing surfaces, ravines, undergrowth, streams and other natural features.
  - (i) Order the use of ditch checks, riprap, pipes, and related measures to control erosion and surface water runoff both during and after construction.
  - (j) Limit sound or airborne nuisances detrimental to the surrounding area.
- (3) Deferred Plan Approval. When an applicant has deferred the submission of elevations, designs, and materials of specific buildings and obtained approval of a site improvement plan, the applicant shall obtain approval of the plans for specific buildings from the Planning Commission before applying for building permits for any building not approved in the site improvement plan. The applicant shall submit plans, including elevations, designs, materials and floor plans, to the Planning Commission. The Planning Commission shall notify any person requesting

notification of the filing of such plans and keep the plans available for inspection for 10 working days. Such person may submit comment of the plans. Such comments shall be in writing. Thereafter the Planning Commission shall prepare a written list of recommendations to be forwarded to the City Council for their review and public hearing as defined in Section 155.133.

(E) Required Permits, Covenants, and Expiration.

- (1) Building Permits. Following approval by the Planning Commission of a PUD plan, the applicant may apply for building permits, excavation and fill permits, sewer permits and such other permits as may be required by an applicable ordinance, code or regulation for any building, structure or other improvements as may have been approved in the plan. Upon receipt of such permits, the filing of all required covenants and the payment of all required fees, the applicant may commence construction.
- (2) Covenants. The City shall require covenants by the owner of the property in a form acceptable to the city solicitor to be recorded indicating that the open spaces, parking areas, walks and drives as shown on the plan will not be used for any other purpose. The owner shall further covenant that all streets, common areas, common utilities and other common facilities shall remain in common ownership by all owners of any interest in the land or buildings in the PUD other than a leasehold interest of less than five years. The covenants shall be recorded in the office of the County Recorder, Hamilton County, Ohio, by the city at the expense of the owner.
- (3) Expiration of Approval. The applicant or designee of the applicant shall have two years from the date after which no further appeals are allowed by law within which to file an application for a building permit, otherwise the approval shall expire. Prior to expiration one extension may be granted by the Planning Commission for up to one year.

(F) Variations from Approved Plans.

- (1) Structural Dimension Changes. The building official may approve without further hearing changes in the location of dimensions of structures in the PUD or OPD development plan or site improvement plan where such changes are consistent with the purposes of this section, provided no dimensions may be changed by more than 10 percent of the dimensions originally approved, or by more than a dimension of 10 feet, whichever is less.
- (2) Nonstructural Dimension Changes. The building official may approve without further hearing revised size and location of drainage ways, sewers, roadways, retaining walls or similar features as may be recommended by the agency or utility responsible for such matters where such revisions are necessary to carry out the purpose of this section.

- (3) Major Revisions. Any variation from a PUD or OPD plan other than those pursuant to Paragraphs 155.130 (F)(1) and (F)(2) shall be deemed to constitute a new and different development plan, requiring submission and approval of the earlier plan may, at the discretion of the Planning Commission be made part of the record to be reviewed in a consideration of the revised plan.
- (4) Alterations to an Existing PUD or OPD. After a certificate of occupancy has been issued for a PUD or OPD, all applications for permits for new structures, changes in use, exterior alterations or changes to site improvements shall be referred to the Planning Commission for review. The Planning Commission shall notify any person who has requested notification of such application. If the Planning Commission finds that the proposed work is, given the scope of the existing development, minor in character, consistent with the previously approved development plan, and not detrimental to the public health, safety or general welfare, the Planning Commission shall approve the application. Otherwise a new development plan shall be required and reviewed in the manner set forth herein. If the Planning Commission does not approve the proposed alteration, it could be presented to City Council within 20 days for their review and City Council could unanimously (3/4 or 6 of the 7 members of council) approve the alteration or send it back to the Planning Commission for further review and recommendations.

Sec. 155.131 ZONING PERMITS.

- (A) Except as provided in this Ordinance, no building shall hereafter be located, constructed, reconstructed, enlarged or structurally altered nor shall any work be started upon same until a zoning permit for same has been issued by the building inspector, which permit shall state that the proposed building and use comply with all the provisions of this Ordinance.
- (B) Except as provided in this Ordinance, no land shall be occupied or used and no building hereafter located, constructed, reconstructed, enlarged or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever until a zoning permit is issued by the building inspector, stating that the building and use comply with the provisions of this chapter. No change of use shall be made in any building or part thereof, now or hereafter located, constructed, reconstructed, enlarged or structurally altered without a zoning permit being issued therefore by the building inspector. Home occupations, as defined herein, shall not require zoning permits. No zoning permit shall be issued to make a change unless the changes are in conformity with the provisions of this chapter.
- (C) Nothing in this section shall prevent the continuance of a nonconforming use as herein before authorized unless discontinuance is necessary for the safety of life or property.
- (D) Zoning permits shall be applied for prior to or coincidentally with the application for a construction permit. A record of all zoning permits shall be kept on file in the office of the building inspector, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

- (E) A zoning permit shall be required for all nonconforming uses. Application for the zoning permit for the nonconforming uses shall be filed within 12 months from the effective date of this Ordinance.
- (F) The fee schedule for a zoning permit shall be as established by the mayor and council, provided, however, no fee shall be charged for a zoning where a building permit fee is paid to the Building Official or for nonconforming uses. Such zoning permit fees as are required in this section shall be paid to the Building Official, who shall deliver the same to the treasurer of city. (Ord. 234-A, passed 6-6-61)
- (G) Each application for a zoning permit shall be accompanied by a plat and plan in triplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon or used, the exact size and location on the lot of the buildings, structures and accessory buildings existing, and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building, the number of families or housekeeping units the building is designed to accommodate, and such other information with regard to the lot and neighboring lots as may be necessary for the enforcement of this chapter. One copy of such plats and plans shall be returned to the applicant when such plat and plans shall have been approved by the building inspector. All dimensions shown on these plats and plans relating to the location and size of the lot to be built upon shall be based on an actual survey. The lot and location of the building or structure thereon shall be staked out on the ground before construction is started. (Ord. 234-A, 6-6-61)

NOTE: Plats has been moved from 155.55 to 155.54(G).

Sec. 155.132 ARCHITECTURAL REVIEW BOARD (ARB)

- (A) Establishment. There is established an Architectural Review Board consisting of three members to be appointed by the Mayor.
- (B) Intent. The Architectural Review Board shall assist and advise the Planning Commission on the design, amenities, quality, relationships to natural features, existing buildings and all other aspects of the site development plan which relate to the appearance of an entire project, all of its parts and its surroundings. All standards, regulations and criteria, contained in this Zoning Ordinance, shall be considered by the Board in its review.
- (C) Terms and Qualifications. Each member shall be appointed for a term of two years. One member of the Architectural Review Board shall be a registered architect and the second member shall be a landscape architect, architect or a person skilled in the general field of aesthetics and design, and the third may be any member of the community.
- (D) Meetings. The Planning Commission shall determine and advise the Architectural Review Board on the schedule of meetings in order that applications can be process expeditiously.

- (E) Conflict of Interest. No person appointed to the Architectural Review Board shall participate in the review of , or give advise upon, any work in which he, his partner or professional associate or associates has any direct or indirect interest.
- (F) Compensation. Compensation shall be paid each member of the Architectural Review Board as is fixed by Council. With the submission of each application the Building and Zoning Official shall require a deposit to be made by the developer to cover a review expense in such amount as Council shall require.
- (G) Review procedures of application. After receipt of a complete submission of an application, the Planning Commission may refer all proposed site development and building plans filled with it to the Architectural Review Board for purposes of review and report.
  - 1.) Submission of Applications. All applications for building permits with accompanying drawings, renderings, data and material samples to be used, shall be submitted to the Building Official. After processing the same, he shall submit such applications as provide in this section.
  - 2.) Multi-family, Institutional, Business, Commercial and Industrial Buildings. The Architectural Review Board shall submit to the Secretary of the Commission, all applications for multi-family, institutional, business, commercial and industrial buildings for Commission review of the proposed use, parking, setbacks and yard requirements for conformance with the provisions of this Zoning Ordinance and any supplementary rules and regulations which have been adopted and published. This requirement shall affect both new construction and alterations or additions to existing buildings of these types.
  - 3.) Application Review. Upon receipt of the application, the Secretary of the Commission shall transmit a copy of such application of the Board for its review, report and recommendations. The Board shall, within thirty days for receiving such application, provide and furnish to the Commission its report upon its respective jurisdiction. Within sixty days after an application has been filed with the Secretary or such longer time as agreed upon by the developer and Commission, the Commission shall evaluate the development proposal and report of the Board, and shall make a finding either that the proposal complies with regulations, standards and criteria prescribed by this Ordinance applicable to the proposal, or a finding of any failure of such compliance and shall approve, disapprove or modify such proposal.
  - 4.) Approval. If the application for building permit is approved by the Commission as required in this section, the Director shall issue a building permit.
  - 5.) Failure to Act. If the Architectural Review Board fails to act within thirty days after it has received the application for a building permit from the Commission, the Commission shall consider the application as recommended for approval by the Board.
- (H) Report. Three copies of the report of the Architectural Review Board shall be prepared. One shall be filed with the Planning Commission for its use, one shall be filed with the Clerk of Council and shall be open to public inspection and one copy shall be retained by the Board.

The Board shall complete its report and recommendation within thirty days after referral of an application by the Commission.

- (I) Standards and Criteria. The following standards and criteria are established to guide the Architectural Review Board in its review of development proposals.
- 1.) Materials. Materials shall be appropriate for the use for the use of building, for weathering and for relationships to other materials including those used on adjacent buildings.
  - 2.) Colors and Textures. Colors and textures shall be appropriate for the size and scale of the building, weathering and for relationships to the site and adjacent buildings.
  - 3.) Architectural Details and Ornaments. Architectural details and ornaments shall be meaningful to the overall design and appropriate for the size and scale of the building and for weathering.
  - 4.) Mechanical Equipment. Mechanical equipment shall be considered as it affects rooftop appearance, sidewall openings, sound levels, smoke and other nuisance aspects. Also, mechanical equipment shall be considered as it relates overhead wires, gas and electric meter stations, and any other visible appurtenances.
  - 5.) Approaches, Drives and Parking Areas. Approaches, drives and parking areas shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriate considering factors such as safety, drainage and landscaping.
  - 6.) Landscaping. Landscaping shall be appropriate for the size and use of the area, and for its relationship to building, street, parking areas, walks and adjacent buildings.
  - 7.) Lighting. Lighting shall be considered for the appropriateness of nighttime illumination of the grounds, drives, walks, parking areas, the building and its affect upon surrounding areas.
  - 8.) Signs. Signs shall be considered for appropriateness of size, scale, shape, color and illumination in relation to building site.

Sec. 155.133 ZONING ORDINANCE AMENDMENTS.

- (A) Initiation.
- (1) Whenever the public necessity, convenience, general welfare, or good planning practice requires, the City Council may, by ordinance, after recommendation thereon by the Planning Commission and subject to the procedure provided in this section, amend, supplement, change modify or repeal the Ordinance regulations, the zoning district boundaries, or the zoning district classifications of property, now or hereafter established by this Zoning Ordinance or amendments thereof. It shall be the duty of the Planning Commission to review all such requests and submit recommendations thereon to the City Council.
  - (2) Text Amendment. The City Council or the Planning Commission, acting on their own motion, or any person may initiate an amendment, change, or addition to the text of

the Zoning Ordinance by submitting an application, plans, and required fees to the Planning Commission.

- (3) Zoning Map Amendment. Any property owner or authorized agent thereof with power of attorney may initiate an amendment, change, or supplement to the zoning district boundaries or the zoning district classification on their own property by submitting an application, plans, and required fees to the Planning Commission. In the case of multiple ownership of a parcel, only one of the owners of records shall be required to sign the application.

The City Council or the Planning Commission, acting on their own motion, also may initiate an amendment, change, or supplement to any zoning district boundary or any zoning district classification by submitting an application, plans, and fees to the Planning Commission.

- (B) Application Procedures for Rezoning. The Planning Commission shall make recommendations there on to Council.

- (1) An application for zoning amendment of property shall be made on a form provided for such purposes, and shall be accompanied by the following:
  - a.) A site plan and other drawings to scale, showing existing proposed use of the site, all pertinent natural and man-made features, and adjacent land use and buildings.
  - b.) A list of names and mailing addresses of all owners of property within 300 feet of any party of the property in question. The City may expand the notification area if it deems necessary.
  - c.) A letter requesting a zoning amendment and providing the following:
    - 1.) A statement of need for the zoning amendment, its location and magnitude.
    - 2.) A summary report identifying and evaluating the consequences and effects of the proposed zoning amendment on the surrounding properties and the city at large, referencing the Land Use Plan where applicable.
    - 3.) A statement indicating how the negative effects of the proposed use will be mitigated.
  - d.) A legal description of the property signed and sealed by a Registered Engineer or Surveyor.

- e.) An application fee and multiple copies of the proposed site plan as required by the Building Official.
- (2) Approval by Planning Commission. The Planning Commission shall conduct a public hearing within 60 days after the submission of all material for the application for a zoning amendment. After submittal, the application shall remain available for public inspection. The applicant may withdraw the application at any time, after which the City will not consider the application any further. Such applications will be labeled “withdrawn.”
- a.) A notice of the hearing shall be mailed by first class mail to all property owners within 300 feet of any part of the property in question. Owners of property not within City limits but within 300 feet of the property in question also shall be notified. Notice shall be sent to the owners addresses as they appear on the County Auditor’s current tax list or the Treasurer’s mailing list. The notice shall specify the date, place and time of the hearing, and shall contain a statement as to the nature and location of the proposed use. Such notification shall be mailed no less than 20 days before the hearing.
  - b.) The notification of the hearing shall also be made by means of publication in a newspaper of general circulation in the City, adequately describing the nature of the request, once a week for two consecutive weeks on the same day of the week, the first of such publications to take place not less than 30 days prior to the public hearing.
  - c.) Following the public hearing, during its regular business meeting, the Planning Commission shall decide to recommend approval or denial to the Council, and within 30 days after the public hearing shall provided such decision to the Council, along with a written recommendation on each of the following:
    - 1.) The location of the property and its suitability, in terms of its natural features, for the district and use for which it is proposed.
    - 2.) A finding on whether the proposed zoning amendment will have a negative effect on or will conflict with surrounding areas. To this end, the Planning Commission may recommend such additional requirements and conditions with regard to construction, maintenance and operation as it deems necessary to protect adjacent uses and the public interest.

(3) Council Approval.

- a.) Within 45 days following the receipt of the written recommendation by the Planning Commission, Council shall conduct its public hearing for the zoning amendment. Notification of the public hearing shall be by the same means as described in Paragraph 155.133(B) (2) a. and b.
- b.) Within 30 days following the Council's public hearing, Council shall approve or disapprove the application for a zoning amendment. No such zoning amendment which violates, differs from, or departs from the recommended plan or report submitted by the Planning Commission shall take effect unless passed or approved by not less than three-fourths of the membership of the Council. No zoning amendment which is in accordance with the recommendation, plan, or report submitted by the Planning Commission shall be deemed to pass or take effect without the concurrence of at least a majority of the members elected to the Council.

(B) Previous Application. No application for a zoning amendment on the same property for the same use, a similar use, or a less restrictive use, for which all or any part has been previously denied, or for which a previous application has been withdrawn subsequent to the public hearing, shall be accepted until at least four months have elapsed between the date of such denial or withdrawn and the date of the meeting for which the proposed application would be scheduled in the ordinary course. In addition, a period of eight months from the date of a second denial or any subsequent denial must elapse before an application may be filed for the same use, a similar use, or a more intensive use. No application for a zoning amendment for which there has been previously filed an application for a variance or a Conditional Use Permit for the same use, a similar use, or a more intensive use where such application has been denied or withdrawn subsequent to a public hearing shall be accepted until the above time limits have elapsed.

## SIGNS

### Sec.155.140 PURPOSE AND INTENT.

- (A) It is the intent of this section to establish reasonable regulations governing the size, character, and location of signs within the City, in the interest of the safety and general welfare of the citizens, business concerns, and other affected sectors of the community.
- (B) (1) To maximize the benefit to all, the following more specific objectives are reflected in the regulations and procedures contained within this section.
- (2) To minimize the possibility that sign size, location, or character will create hazards adversely affecting the public safety.
- (3) To establish sign limitations which allow a reasonable capability for advertisement, but which prevents the escalation of sign competition to levels which are nonproductive and create unnecessarily high entrepreneurial costs.
- (4) To provide sign regulations which are directly related to land use and therefore to the functional and economic need for signs of varying sizes, types, and locations.
- (5) To create a more aesthetically pleasing urban environment, without unreasonably limiting the right of individuals to employ signs in the legitimate use of their property.
- (6) To provide for the uniform elimination of all signs not in conformance with this section or a variance thereof yet allowing reasonable time for amortization and conversion of existing signs.
- (7) To facilitate the swift and effective enforcement and prosecution of this chapter, while preserving the right of the individual to due process. (Ord.81-664, passed 2-17-81; Am. Ord. 82-727, passed 10-5-82)
- (8) To permit the public right to express and display and receive religious, political, economic, social, philosophical and other First Amendment protected messages.

### Section 155.141 GENERAL PROVISIONS

- (A) These general provisions shall apply to all signs except where specifically provided otherwise in this Zoning Ordinance.
- (1) A sign may be erected, maintained or continued only if it is in full compliance with the provisions of this Ordinance, except that nonconforming signs may be maintained or continued pursuant to 155.143.
- (2) All signs shall be deemed accessory uses.

(3) Animated signs. No sign shall be permitted which incorporates or has the appearance of incorporating animation, moving parts, flashing lights, or changing colors.

Sign illumination shall not be permitted when any part of the illumination flashes on and off or displays changing degrees of intensity, or has the appearance of doing so.

(4) Unless otherwise provided herein, the location and construction of all signs shall meet the requirements of the Ohio Building Code and other applicable safety regulations.

(5) No sign shall be permitted on any lot within the city which is not developed except the following: real estate, construction, and political advertising signs, which may be established on any undeveloped lot. However, no advertising signs are permitted on any undeveloped lot. Free speech signs would be permitted as regulated by Section 155.141(B)(10)

(6) Except as provided in this Ordinance, no sign shall be allowed which directs attention to a business, commodity, service, or entertainment conducted, sold or offered.

(a) Only elsewhere than upon the premises where such sign is located or to which it is affixed; or

(b) As a minor and incidental activity upon the premises where the sign is located.

(7) No sign except public traffic signs shall be located within a vision clearance area as defined within this paragraph. A vision clearance area is a triangular area formed by the intersection of any combination of right-of-way, private roads, public roads, alleys or driveways and extending vertically from a height of 30 inches above grade to 10 feet above grade. The triangular area is formed with the apex at the intersection of the curb lines extended, with the sides of the triangle extending along the curb line 15 feet from the apex, and with a line connecting the ends of the sides to form the third side. No support structure for a sign may be located in a vision clearance area unless the combined total width is 12 inches or less and the combined total depth is 12 inches or less.

(8) No sign shall be erected, maintained or continued displaying flashing or intermittent lights, letters, and symbols; or lights, letters and symbols of changing degrees of intensity.

(9) No sign shall be erected, maintained or continued which is misleading, fraudulent, obscene, immoral or indecent.

(10) No sign, conforming or nonconforming, which constitutes a nuisance to surrounding properties or creates a traffic hazard because of light, glare, focus, noise, animation, flashing, intensity or illumination, or for any other reason shall be erected, maintained or continued in any Zone.

(11) No sign shall be erected, maintained or continued over or into any street, right-of-way, public way or alley right-of-way, unless specifically provided for within this Resolution.

(12) No sign shall be erected, maintained or continued which constricts the flow of air through any window or door.

(13) Except as otherwise provided for in this Ordinance, no sign, handbill, poster, advertisement or notice of any kind, whether political or otherwise, shall be fastened, placed or painted on or to any curbstone, utility service equipment, hydrant, bridge, culvert, drinking fountain, trash container, courtesy bench, rest station building, sidewalk, street, street sign that is in the public right-of-way or on public property.

(14) No radio, phonograph, tape recorder, whistle, bell, gong, siren, or other sound or noisemaking or transmitting device or instrument shall be allowed, permitted or continued in connection with any sign, nor may it be used separately for advertising purposes in any Zone or for attention gaining for commercial purposes.

(15) Except as provided in 155.141(B)(2) and 155.142(B)(4)(c) no signs or part thereof shall contain or consist of suspended banners, posters, pennants, ribbons, streamers, spinners, or other similar moving devices. Permanent durable canvas-like signs will be permitted if approved by the Architectural Review Board.

(a) Where the city has provided light poles in the Historic District and along Hamilton, Compton, Perry and Harrison Streets, the city may add event or occasion banners

(b) Information required on all permanently installed signs shall be stamped or engraved into a metal plate affixed thereto in legible letters, and shall include the date of erection, the name of the permittee, permit number and the voltage of any electrical apparatus used in connection therewith.

(c) All signs herein permitted shall be constructed and maintained in a reasonable, workmanlike manner. The owner of such signs, as well as the owner of the premises where such signs are located, shall maintain said signs free from dirt and other such debris. All lettering, illustrations, and other such artwork contained on said signs shall be constructed and maintained in a reasonable, workmanlike manner, free from faded, illegible, and incomplete designs.

(B) The following signs shall be allowed, within the specified limitations, permit in any zoning district, in addition to all other permitted signs:

(1) Governmental traffic-control and other governmental signs that are legally established under federal, state, and local laws, regulations and orders governing their use, including, but not limited to building address numbers, railroad crossing signs and legal notices and bulletin boards of a public entity or utility.

(2) Civic festival signs. All signs including decorations and decorative features placed on lampposts, and buildings, and used for public demonstrations, or for the promotion of civic welfare or charitable

enterprises, when authorized by the mayor for a stated period of time and which shall be removed within 24 hours after the expiration of such time and for which the consents of the owners of the lampposts, and other buildings and structures have been obtained. The city hereby held harmless of any damage resulting there from.

(3) Temporary Campaign Signs. Temporary campaign signs are permitted in all zoning districts without limitations as to location except that no such sign may be located on the street right-of-way or other public lands or easements nor in any location which would create a public hazard. The total message area of a temporary campaign sign on a developed property shall not exceed sixteen (16) square feet. All Temporary campaign signs shall be removed 10 days after the election.

(4) Real estate signs. Real estate signs are permitted in all zoning districts. In manufacturing and business districts, the maximum total message area and the maximum height for real estate signs shall be computed in the same manner as that for advertising signs. In residential districts, the total message area of real estate signs located on one lot may not exceed 10 square feet. Real estate signs in residential districts shall not be illuminated after 10:00 p.m. In no case shall real estate signs be located within the right-of-way of any public lands or easements nor in any location which would create a public hazard. Real estate signs larger than 10 square feet in area must meet the setback requirements of the district wherein located as if the sign were on a building.

(5) Construction signs. One construction sign up to 32 square feet in area shall be permitted at each permanent access to a residential development or commercial or industrial building which is actively under development. Construction signs shall be permitted 90 days prior to beginning of actual construction and ending with the completion of the building or development.

(6) Domestic advertising signs. Domestic advertising signs are permitted in any zoning district. The total message area of domestic advertising signs on a lot may not exceed 4 square feet per side, maximum of two sides. Domestic advertising signs must be located on the same lot as the goods which are offered for sale, and shall be displayed only when an allowed sale of such goods is in progress. Domestic advertising signs have no setback requirements, but may not be located within the right-of-way of any public street or on any public lands or easements.

(7) Occupation Signs. Signs less than 4 square feet in message area attached securely, flat against the building, which state only the name and occupation of the occupant, are permitted.

(8) Memorial Signs. Tablets not exceeding a total of 10 square feet such as memorial, name of building, date of erection, use of building, when built into the walls of the building and constructed of bronze, brass, marble, or stone, or other noncombustible material, are permitted.

(9) Flags, as defined herein, are permitted.

(10) First Amendment signs may be permitted one per street address and the size will be no larger than sixteen (16) square feet in area. It may not interfere with pedestrian movement or distract from vehicular management and movement. Persons with signs mounted or carried by them may stand on the property but not in the right-of-way in a way that impairs traffic or safety. The sign carried or worn may not exceed a size of three (3) feet by four (4) feet in area.

Sec. 155.142 SIGNS BY ZONING DISTRICT.

(A) Signs in Zoning Districts “A”, “B”, “C”, “D”, “DD”, “H” and in PUD or OPD planned areas the underlying district restrictions apply. The following signs are allowed subject to securing a permit in each case. Signs allowed in 155.142 (A) may be lighted until 10:00 p.m., and the source of which is not visible from off the premises.

(1) Signs for single or multi-family developments of less than three acres in total land area providing housing for six or more dwelling units and day-care centers and other commercial uses approved by the Conditional Use Permit are permitted, subject to one sign, not exceeding 12 square feet for single faced signs, or 8 square feet per side for two-faced signs. The maximum overall height shall not exceed four (4) feet and the minimum setback from public right-of-way shall be 2 feet.

(2) Non-Profit Organizations.

(a) Signs for religious institutions, swim clubs, tennis clubs, schools, parks, golf courses, public uses and similar non-profit organizations are allowed subject to one sign per street frontage, not exceeding a maximum of 30 square feet of total signage are per site. The sign(s) may be mounted to the wall of the building provided it does not project above the height of the wall to which it is attached nor project more than 12 inches from the wall surface, or the sign(s) may be freestanding, with a maximum overall height of 5 feet and setback from the public right-of-ways a minimum of 2 feet.

(b) In addition to the sign(s) permitted in 155.142 (A)(2)(a) above, such non-profit institutions may have one bulletin board sign, not exceeding twelve (12) square feet. Such bulletin board may be mounted to the wall of façade of the building provide it does not project above the height of the wall or façade to which it is attached nor project more than twelve (12) inches horizontally from the wall or façade surface, or such sign may be free standing with a maximum overall height of five (5) feet and setback from the public right-of-way a minimum of two (2) feet.

(3) Privately established vehicular and pedestrian traffic control signs are permitted when located entirely on the premises, are permanently affixed to a wall or support in a proper foundation, and have a maximum of 2 square feet per side, with a maximum of two sides per sign.

(a) Private traffic control signs shall not be illuminated.

(b) Private traffic control signs shall be setback a minimum of 5 feet from all property lines.

(c) Private traffic control signs may include, but not be limited to, messages such as “private drive,” “tenant parking only,” “use other door,” “in,” “out,” “reserved,” “parking,” and the like, but shall not contain any commercial message, business name, or logo.

(B) Advertising signs in Zoning Districts “E,” “E-1,” “EE,” “F,” “FF,” and “G”. The following signs are allowed subject to securing a permit in each case. Signs allowed in 155.142 (B) may be illuminated, the source of which is not visible from a residential district. The total message area of all advertising signs on the premises shall not exceed 1.5 square feet of sign for each linear foot of

building frontage or .25 square feet of signage for each linear foot of frontage on a public street, whichever is greater. The total message area of all advertising signs on the premises shall have a consistent size of 3 feet vertically and 5 feet horizontally; whether mounted perpendicular or flat on the building wall. They shall be professionally constructed and conform to Ohio Building Codes. No sign may be located closer than 5 feet from the edge of the building façade or property line separating the business establishments. They may only be externally lighted by directional lights that do not exceed 8 candle power for each sign face, nor can the light be intermittent or interfere with adjacent property or traffic. The color of these signs must be reviewed and approved by either the city staff or the Architectural Review Board.

(1) Wall signs. Signs may be mounted to or painted on the wall or façade of a building (if it is a painted sign the proposed design and colors shall be presented to the Architectural Review Board) provided no part of the signs project above the height of the wall or façade to which they are attached, nor project more than 12 inches horizontally from the wall or façade surface.

(a) The total area of all wall signs shall be counted toward the maximum amount of signage allowed on each site and shall not exceed 10 percent of the wall or façade to which they are attached.

(b) Such wall signs may encroach over the right-of-way not more than 12 inches when the position of the building necessitates such encroachment, under the following conditions:

(c) The lowest portion of the sign is not less than 10 feet above the sidewalk or street, as applicable;

(d) The safety of the public is not adversely affected; and

(e) Any such sign that encroaches into the right-of-way shall be removed or modified at the owner's expense when improvements to the right-of-way or changes in safety conditions require such removal or modification.

(2) Freestanding Signs. Freestanding signs are permitted only when the principle building has a setback of at least 10 feet from a public street, alley, or place.

(a) Only one freestanding sign is permitted for each development. For the purposes of this paragraph, all signage affixed to a single freestanding support shall be deemed to be one sign.

(b) Permanent freestanding signs may not project over the public right-of-way and may not exceed 25 feet in height above the ground level at the nearest sidewalk or street. The maximum amount of signage on any freestanding sign shall be counted toward the maximum amount of signage allowed on each site and shall not exceed 100 square feet per side, (80 square feet max. was suggested but not agreed to) with a maximum of two sides per sign.

(c) Freestanding signs or their support structures shall be set back from side and rear property lines a minimum of five feet, and set back from residential zoning district lines a minimum of 25 feet.

(d) In the case where the principal structure has a setback of more than 30 feet from the public right-of-way and where the structure has more than one occupant, each occupant may have a sign, identifying its name or nature of business placed on a common freestanding sign. Each such identification sign shall not exceed 20 square feet each side, with a maximum of two sides. Such additional signs may be in addition to the maximum amount of signage allowed in 155.142 (B)

(3) Variable Message. Variable message (VM) signs as defined herein are permitted subject to the following limitations:

(a) The VM sign area cannot exceed 25 percent of the allowable signage permitted on the site, nor can the VM sign area exceed 25 percent of the maximum size of any otherwise permitted sign.

(b) No message, graphic, display, or any part thereof shall be visible for less than six seconds. During such visible interval, the entire message, graphic, or display shall not be moving, flashing, scintillating, animating nor changing in color or light intensity, or visibly changing in any other manner.

(c) The display change interval, which is defined as the time period between when one message, graphic, or display becomes illegible and the next message graphic or display first reaches legibility, shall be three-tenths (.3) of a second or less.

(4) Additional Signs. The following types of signs are permitted in addition to the maximum amount of signage allowed in 155.142(B). All signs are subject to 155.141(A)(7).

(a) Driveway entrance signs, subject to the following limitations:

1. The maximum size shall not exceed 5 square feet per side, with a maximum of two sides per sign.

2. The maximum number of signs shall not exceed two signs per driveway nor more than four signs per development.

3. The signs shall be permanently affixed to a wall or support in a proper foundation and shall be set back a minimum of five feet from all property lines.

4. The message may include the business name and logo.

(b) Private Traffic Control Signs.

1. Private vehicular and pedestrian traffic control signs located entirely on premises are permitted, subject to a maximum of 4 square feet per side, with a maximum of two sides per sign.

2. Private traffic control signs shall be permanently affixed to a wall or support in a proper foundation.

3. Private traffic control signs shall be set back a minimum of 5 feet from all property lines.

4. Private traffic control signs may include, but not be limited to, messages such as “private drive,” “employee parking,” “use other door,” “in,” “out,” “reserved,” “parking,” and the like, but shall not include any advertising, business name, or business logo.

(c) Temporary Signs. Temporary advertising signs and banners are allowed, notwithstanding Paragraph 155.141 (A) (15), subject to a maximum size of 32 square feet per side, with a maximum of two sides, and a maximum height no greater than that of the principle building, and further subject to:

1. Temporary signs shall not be located in the right-of-way, and shall be set back a minimum of 5 feet from all property lines. The requirements of Paragraph 155.141(A)(7) be met.

2. Temporary signs shall not be permitted more than 60 days in any one calendar year, and there shall be not more than three temporary signs per development permitted at any one time.

3. Signs may be illuminated by a battery pack or connected directly to an electrical outlet which is on a building or served by underground wiring. No extension cords will be permitted. Flashing lights are prohibited.

(d) Window signs and Temporary Sidewalk Placard Signs. Signs that are inside an enclosed building and are displayed through transparent windows, walls, or doors so as to be open to the outdoor public view are permitted subject to the following: they shall not totally obstruct the view into the building so that safety officers may see into the building, temporary sidewalk placard signs will be located so as not to hinder pedestrian or vehicular traffic and shall be left outside only during operating business hours.

1. The total amount of signage on any transparent window or wall shall not exceed 50 percent of the area of the window or wall through which it is displayed.

2. The total amount of signage on any transparent door shall not exceed 10 percent of the area of the door through which it is displayed.

3. Notwithstanding Paragraph 155.142(B), signs permitted under Paragraph 155.142(B)(4)(d) shall not require a sign permit.

155.143 ADMINISTRATION AND ENFORCEMENT.

(A) Permits Required. Except as specifically provided otherwise in this Ordinance, all signs shall require a permit when first erected.

(1) All erection, construction, alteration, and maintenance of signs shall be in compliance with this Ordinance whether or not a permit is required for such change.

(a) A permit for a sign shall be issued by the Building Official. Plans shall be submitted in sufficient quantity and detail as required.

(b) A permit fee based on an established fee schedule approved by City Council shall be collected to defray administration costs. Public agencies and non-profit corporations shall be required to obtain a permit for a sign but the fee for said permit shall be waived.

(2) Permits for Conforming Signs.

(a) A permit shall be required for existing signs which are conforming and which are proposed to be moved, or the structure or electrical components of the sign are proposed to be altered.

(b) A change to only the copy of message of a conforming sign, wherein no other changes are proposed, shall not require a permit.

(3) Permits for Nonconforming Signs.

(a) All changes or alterations to legal nonconforming signs must meet the conditions set forth in Paragraph 155.143(B)(2)(a) through 155.143(B)(2)(d) and must obtain a permit, except that legal nonconforming signs that are specifically designed for changeable copy, such as message boards or billboards, shall not require a permit to change the copy or message. **(Amended 11/94 94-1123).**

(B) Nonconforming Signs and Signs for Nonconforming Uses.

(1) Signs which were legal prior to the effective date of this Ordinance and which became prohibited on the effective date of this Ordinance shall be deemed legal nonconforming signs.

(2) Legal nonconforming signs may continue only if all of the following conditions are met:

(a) The copy of the sign is not altered in any way except for signs that are specifically designed or changeable copy, such as message boards or billboards, and except for repainting or maintenance of existing copy.

(b) The sign is not altered structurally except as provided in 155.122(F), or the sign is not relocated, replaced, or enlarged.

(c) The sign is not part of an establishment which becomes vacant or discontinues its operation for a period of 30 consecutive days.

(d) The sign is not damaged to an extent greater than 50 percent of the estimated replacement value.

(3) Signs which are legal nonconforming signs that fail to meet requirements specified in 155.143(2) through 144.143(2)(d), inclusive shall be deemed unlawful and shall be removed or not

replaced, as applicable. Signs which are unlawful shall be removed within 30 days of notification by the Building Official.

(4) Signs Associated with Nonconforming Uses. The limitations on all signs associated with a legal nonconforming land use shall be the same as if the business or use where located in the most restrictive zoning district allowing such land use. Further, no new signs associated with nonconforming land uses may be erected, except replacements which are the same or smaller in size than the sign being replaced. In the event that a sign associated with a nonconforming land use is moved, its new location must conform to the setback requirements for a primary building in the district in which the nonconforming use is located.

(C) Abandoned Signs. Except as otherwise provided in this Ordinance, any sign including its supporting structure, that is located on property that becomes vacant or discontinues its operation and is unoccupied for a period of thirty (30) consecutive days or more, or any sign which pertains to a time, event or purpose which no longer applies shall be deemed to have been abandoned. An abandoned sign, together with its supporting structure, is prohibited and shall be removed by the owner of the sign or owner of the premises within 30 days of notification by the Building Official.

(D) Removal of Unlawful Signs.

(1) Any sign which violates the provisions of this Ordinance is a public and private nuisance, and the building official shall give 10 days notice by personal service or by registered or certified mail, to the owner or lessee of the land on which such sign is located, to correct such violation.

(2) If any sign in violation of this Ordinance has not been removed on or before the expiration of 60 days following the receipt of the notice by the owner or tenant of the land on which the sign is located, the building official or any of his duly authorized agents may enter the premises and remove, obliterate, or abate the sign. The cost of such removal, obliteration or abatement shall be then certified to the director of law for collection by civil action against the owner or lessee of the land on which the sign is located.

(3) Notice to the owner or tenant shall not be required prior to the removal of an unlawful sign which, in the opinion of the Building Official, creates an immediate or potential danger to persons or property due to structural deficiencies or inadequate maintenance, nor shall notice be required prior to the removal of a sign which, in the opinion of the Building Official, creates an immediate or potential danger to persons or property because of its location. (Ord. 81-664, passed 2-17-81; Am. Ord. 82-727, passed 10-5-82) Penalty, see Sec.155.99 (**Amended 11/94 94-1123**)

Sec. 155.150 ENFORCEMENT.

It shall be the duty of the City Building Official to enforce this chapter. (Ord. 234-A, passed 6-6-61)

Sec. 155.151 APPLICABLE PROVISIONS.

This chapter has been passed under the authority of Sec. 341.22 of the Revised Code of Ohio and embraces the provisions thereof regarding enforcement and penalties for violations. (Ord. 234-A, passed 6-6-61)

Sec. 155.999 PENALTY.

(A) It shall be illegal to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or structure or to use any land in violation of any regulation in or any provision of this chapter or any amendment thereto.

(B) Any person, firm or corporation violating any regulation, provision, amendment or supplement of this chapter, or failing to obey any lawful order of the city building inspector issued in pursuance thereof, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1000: Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense. (Ord. 234-A, passed 6-6-61)