

**CITY OF
NEW FRANKLIN
ZONING CODE**

REVISED NOVEMBER 6, 2013

Listing of Revisions

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ARTICLE 1

GENERAL PROVISIONS

100.01 TITLE

This Zoning Code shall be known and may be cited to as the “City of New Franklin Zoning Code.”

100.02 EFFECTIVE DATE

The provisions in this Zoning Code were originally adopted by Ordinance 08-O-03, passed MAY 20, 2009. Subsequent amendments to Ordinance 08-O-03 are reflected in legislative histories which are footnoted following the amended sections.

100.03 JURISDICTION

This Zoning Code shall be effective throughout the corporate boundaries of the City.

100.04 GENERAL PURPOSE

The provisions of this Zoning Code as most recently amended, shall be interpreted and applied to promote the public health, safety, comfort, convenience, prosperity, and general welfare pursuant to ORC Chapter 713.06 and the exercise of the police power authority pursuant to the home rule amendment of the Ohio Constitution in Article XVIII §3.

100.05 SEVERABILITY

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

100.06 CONFLICTS

- A. It is not intended that this Zoning Code permit that which is forbidden or prohibited by specific state or federal law related to the same subject matter, and vice versa. This limitation shall not preclude this Zoning Code from concurrent regulation of subject matter where the potential conflict is not precluded by state or federal law.
- B. It is not intended by this Zoning Code to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this Zoning Code imposes a greater restriction than are imposed or required by any easements, covenants, agreements, other ordinances, rules, regulations or permits, the provisions of this Zoning Code shall govern.
- C. In the event any of the requirements or regulatory provisions of these regulations are found to be inconsistent with one another, the more restrictive requirements shall be deemed in each case to be applicable.
- D. All City zoning ordinances in conflict with this Zoning Code or inconsistent with the provisions of this Zoning Code are hereby repealed to the extent necessary to give this Zoning Code full force and effect.

100.07 APPLICABILITY

- A. All new zoning applications shall meet the requirements of this Zoning Code. All land uses shall further comply with all applicable codes, standards and requirements as adopted by City Council and as administered by the various City departments.
- B. No person or persons may use, arrange to use, design to use, occupy, sell or authorize or permit the use of any land or structures or part thereof except in conformance with this Zoning Code.
- C. No person or persons may erect, construct, reconstruct, enlarge, convert, move, or structurally alter property, or construct public or private improvements, nor shall any building or land be used in a manner which does not comply with all of the provisions established by these regulations for the Districts in which the building or land is located.
- D. No person shall subdivide, re-subdivide, or otherwise reduce the dimension or area of a lot or yard existing at the time of passage of this Zoning Code below the minimum requirements set forth herein.
- E. No person shall record a major or minor subdivision in the office of the Recorder until it has been approved in the manner prescribed herein. In the event any such unapproved plat is recorded, it shall be considered invalid; and the City may institute proceedings to have the plat stricken from the County records.
- F. No person shall implement the design of any subdivision improvements, including grades of streets, type of pavement, drainage, sidewalks, sanitary sewers, storm sewers, detention or retention ponds, water distribution facilities, street lighting facilities, or electric, fiber, cable, or wireless communication and data transfer until such shall conform to the requirements and regulations of this Zoning Code and be approved in the manner prescribed herein.
- G. No person shall continue performance of any work in or about a structure or premises after revocation of a Conditional Use Permit.
- H. This Zoning Code shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue. However, all administrative procedures and penalties shall follow those set forth by this Zoning Code.
- I. This Zoning Code shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning, subdivision, or related regulations.

100.08 AUTHORIZED AGENT

An owner may authorize an agent to act on the owner's behalf in any application or request contained in this Zoning Code. Written proof of authority by the owner may be required by the City for any such application or request.

ARTICLE 2 ADMINISTRATION

200.01 ZONING ADMINISTRATOR

- A. Appointment. For the purposes of enforcing the provisions of this Zoning Code, the Mayor shall appoint the Zoning Administrator and/or such assistants as shall be deemed necessary. The City Council shall have the power to establish rates of compensation, and any other such conditions as specified by the City Council.
- B. Duties of the Zoning Administrator
- (1) The Zoning Administrator shall have the power to grant zoning permits and occupancy certificates, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Zoning Code.
 - (2) The Zoning Administrator shall review all plans and/or applications for any permits or certificates of occupancy in detail prior to approval or denial of such applications and/or plans.
 - (3) The Zoning Administrator shall approve proposed projects and determine zoning compliance for completed projects when compliant with this Zoning Code, or deny the same in the event of noncompliance.
 - (4) The Zoning Administrator shall not refuse to issue a permit when the applicant complies with conditions imposed by this Zoning Code despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.
 - (5) The Zoning Administrator shall record all nonconforming uses existing at the effective date of this Zoning Code.
 - (6) The Zoning Administrator shall be responsible for the inspection of all improvements to insure conformity with the approved plans and specifications as contained in the applicant's application and zoning permit approval.
 - (7) Under no circumstances is the Zoning Administrator permitted to make changes to this Zoning Code nor to vary the terms of this Zoning Code in carrying out his duties as Zoning Administrator.
 - (8) The Zoning Administrator shall not be authorized to revoke, alter or waive any requirements of the approved specifications or plans.
 - (9) The Zoning Administrator shall be responsible for the collection of designated fees for certificates, applications; permits and processes described by this Zoning Code, and shall ensure the preparation and conveyance of said applications with reports as necessary to the appropriate boards and/or commission, and City Council.
 - (10) The Zoning Administrator shall prepare and maintain all records necessary and appropriate for the administration and enforcement of the Zoning Code, including records of the

200.01B(11) – 200.03C

issuance/denial of all certificates of zoning compliance and zoning plan approval and receipt of complaints of violation of this Zoning Code and enforcement actions taken.

(11)The Zoning Administrator shall make determinations of violations of this Zoning Code and take all necessary steps to remedy any condition found in violation by ordering in writing the correction and/or the discontinuance (stop-work order) of illegal uses or illegal work in progress.

(12)Upon receipt of a recommendation from the Board of Zoning Appeals or the Property Maintenance Enforcement Board, the Zoning Administrator shall undertake abatement of violations, seek civil remedies, and/or seek criminal penalties as authorized by this Zoning Code.

200.02 PLANNING AND ZONING COMMISSION

A Planning and Zoning Commission is hereby created and shall have all the powers and duties prescribed by law, by City Charter and by this Zoning Code.

- A. Composition and Appointment. The Planning and Zoning Commission shall consist of five (5) members pursuant to Section 7.05 of the City Charter.
- B. Organization. The Commission shall elect a chairperson from its membership, shall appoint a Recording Secretary, and shall prescribe rules for the conduct of its affairs.
- C. Meetings. The Commission shall meet at the call of its chairperson and at such other time as it may determine. All meetings of the Commission shall be open to the public.
- D. Quorum and Voting. Three (3) members of the Commission shall constitute a quorum at all meetings. A concurring vote of 3 members shall be necessary to effect an order, take action, make decision, or act on any authorization.

200.03 BOARD OF ZONING APPEALS

A Board of Zoning Appeals is hereby created and shall have all the powers and duties prescribed by law, by City Charter and by this Zoning Code.

- A. Composition and Terms of Appointment
 - (1) The Board shall consist of five (5) members plus one alternate appointed by the Mayor and approved by City Council. Each member shall serve until his successor is appointed and qualified.
- B. Organization. The Board shall elect a chairperson from its membership, shall appoint a Recording Secretary, and shall prescribe rules for the conduct of its affairs.
- C. Meetings. The Board shall meet at the call of its chairperson and at such other time as it may determine.

- (1) All meetings of the Board shall be open to the public.
 - (2) The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be immediately filed in the Planning and Zoning Department and shall be a public record.
- D. Quorum and Voting. Three (3) members of the Board shall constitute a quorum at all meetings. A concurring vote of 3 members shall be necessary to effect an order, take action, make decisions, or act on any authorization.
- E. Powers and Duties. The Board of Zoning Appeals shall have the following powers and duties:
- (1) *Appeals*. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Zoning Code.
 - (2) *Variances*. To authorize, upon appeal, in specific cases, such variance from the terms of the zoning resolution as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of this Zoning Code will result in unnecessary hardship, and so that the spirit of this Zoning Code shall be observed and substantial justice done. In granting a variance, the Board may impose such conditions as it may deem necessary to protect the public health, safety, comfort, convenience, prosperity, and general welfare and in furtherance of the purposes and intent of this Zoning Code.
 - (3) *Conditional Uses*. To interpret and administer the Conditional Zoning Certificates section of this Zoning Code.

200.04 PUBLIC HEARINGS

The administrative hearing duties of the Board of Zoning Appeals and the Planning and Zoning Commission are undertaken through adjudicatory hearings, since they involve the rights of specific persons and whether such rights should be granted based on evidence presented at the hearing.

- A. When an application requiring a Public Hearing is deemed to be complete by the Zoning Administrator or a notice of appeal has been filed in proper form with the Zoning Administrator, the Secretary of the appropriate administrative board shall place the said request upon the calendar for Public Hearing.
- B. Notice of Public Hearings. At least ten (10) days prior to the date of a public hearing, the secretary of the administrative board shall cause the following notices to be provided to indicate the place, time, and subject of the hearing. The administrative board, at its discretion, may send out additional notices to publicize such hearings. In addition, the notice shall state that the public may examine or obtain copies of the relevant text, maps, plans, reports, and agenda relating to the hearing at the office of the Zoning Administrator.

200.04B(1) – 200.04C(4)

- (1) *Written Notice to Parties of Interest.* Written notice is to be served personally or mailed by first class U.S. Mail to the parties of interest. Such parties of interest shall include the applicant and all owners of property within and contiguous to, three (3) on each side of and three (3) directly across the street from the subject parcel. Owners and their addresses are to be determined from the County Auditor's current tax list. In addition, such parties of interest shall include any person who provides written request for any notice of public hearings. The failure of delivery of any such written notice shall not invalidate the decision made following the public hearing.
 - (2) *Publication.* Notice of the public hearing shall be published in at least one publication of a newspaper of general circulation in the City and as per City Charter Section 5.15.
- C. Format for the Hearing. The following procedure is advised for public hearings conducted by administrative boards in the City:
- (1) *Recording of All Hearings.* A complete record of the proceedings of a public hearing and all public input should be maintained by the Zoning Administrator in case the decision of the administrative board is appealed. The hearing should be tape-recorded. The applicant shall provide payment to the City if transcription is necessary or if a court stenographer is desired to be present to prepare a complete record.
 - (2) *Opening of the Hearing.* The chairperson opens the hearing.
 - (a) The chairperson should announce the subject and summarize the application.
 - (b) The applicant may be given a right to a continuance if only three (3) members of the administrative board are in attendance.
 - (c) The chairperson should summarize the hearing procedure and inform participants that *Robert's Rules of Order* shall cover parliamentary issues;
 - (d) If City legal counsel is not present, the Chairperson should announce that if the administrative board is in doubt as to how to proceed on a legal issue, it shall recess for an opinion by its own counsel.
 - (e) At this time, recognition of the required public notice publication should be made for the record.
 - (3) *Abstentions.* The chairperson should call for and recognize abstentions by any member in the event that there is a personal conflict of interest. The member should be made responsible for explaining the validity of the nature of the conflict of interest.
 - (4) *Ex-Parte Communications.* The chairperson should call for voting members of the administrative board to acknowledge any prior ex-parte (off-the-record) communications so that its substance may be contested during the public hearing.

- (a) The nature of any oral communication or a copy of any written communication should be placed in the record of the hearing.
 - (b) Where possible prior to a public hearing, a summary of the nature of an oral ex-parte communication or a copy of any written ex-parte communication should immediately be provided to the Zoning Administrator so that the communication can be timely placed in the applicant's case file for public inspection and distributed to parties required to receive notice by mail. Otherwise, such summaries or copies of ex-parte written materials should be included in the meeting agenda or made available at the hearing so that all parties can review them.
- (5) *Staff Report and Summary.* The chairperson should ask staff to present its report. Visual aids, such as flip charts, maps, or projected images should be employed to make or clarify critical points.
- (6) *Testimony of Witnesses.* The chairperson should seek testimony first from the applicant and those favoring the proposal and then from those opposing the proposal. At the end of each witness' testimony, the chairperson should seek questions from members of the administrative board regarding the presentation.
- (a) All testimony should be taken under oath. The Board chairperson, or acting chairperson may administer oaths to witnesses and the Board may compel the attendance of witnesses in all matters coming within the purview of the Board. All witnesses may be represented by legal counsel.
 - (b) All testimony, questions from the administrative board, and responses shall be directed through the chairperson.
 - (c) Presentation time shall be generally limited to three (3) to five (5) minutes for each individual.
 - (d) Testimony shall be taken in the form of reliable, probative, and substantial evidence from experts and non-experts. Where testimony involves technical matters, such as the effect of development on the value of property, the testimony should be based on demonstrably accurate evidence. Absent facts, mere expressions of concern and speculative comments or opinion rarely suffice as reliable, probative, and substantial evidence.
 - (e) Hearsay evidence should not be considered or admitted in an arbitrary manner. Factors bearing on arbitrariness include whether any party objected to the hearsay; whether both sides take advantage of liberalized evidentiary rules regarding hearsay; whether the hearsay carried a marginal level of reliability; and whether the administrative board blindly accepted the accuracy of the hearsay evidence.
 - (f) All testimony should be subject to cross examination and rebuttal.
 - (g) Members of the administrative board should probe views of witnesses to separate fact from opinion and lay opinion from expert opinion.

200.04C(7) – 200.06D

(7) *Conclusion of the Hearing.* Upon motion of a member of the administrative board, the chairperson may close or continue the hearing. The chairperson may recess such hearings from time to time, and, if the time and place of the continued hearing be publicly announced at the time of adjournment, no further notice shall be required.

D. Decision by the Administrative Board

(1) Within thirty (30) days of the conclusion of the public hearing, the administrative board shall deliberate upon the application prior to rendering a decision.

(2) Every decision of the administrative board shall be in writing.

E. Written Notice of Decision to Applicant. A copy of the decision of the administrative board shall be transmitted to the applicant and to the Zoning Administrator within five (5) days of the date such decision is made.

F. Effect of Decision. Such decisions shall be binding upon the Zoning Administrator and shall be incorporated with any terms and conditions of the same in the Zoning Certificate or Conditional Zoning Certificate to the applicant or appellant whenever a Certificate is authorized by the Board.

200.05 APPEALS

Decisions of the Board of Zoning Appeals and the Planning and Zoning Commission shall be final, except where action by New Franklin City Council is required under this Zoning Code. Appeals from final decisions of the Board of Zoning Appeals and the Planning and Zoning Commission may be taken to a court of record in accordance with the laws of the State of Ohio, by any proper and interested party, including the City of New Franklin.

200.06 PROPERTY MAINTENANCE ENFORCEMENT BOARD

A. Purpose. A Property Maintenance Enforcement Board is established to assist in the enforcement of property maintenance laws in the City and to ensure that the due process rights of property owners and residents are protected.

B. Membership. The Property Maintenance Enforcement Board shall consist of five (5) City residents appointed by the Mayor, subject to the approval of City Council. Each member shall serve for five (5) years or until a successor is appointed and qualified.

C. Jurisdiction To Hear Appeals. The Property Maintenance Enforcement Board shall hear appeals from property owners and residents as authorized by ordinances adopted by City Council. The Board shall hear appeals within 45 days after filing by the property owner or resident.

D. Notice Of Hearing Contents. A Notice of Hearing shall be required setting forth the date and time of the hearing. The Notice of Hearing shall be prepared by the Planning and Zoning Department and shall include the following information:

- (1) The name of the property owner as listed by the County Fiscal Office in the current property ownership records.
- (2) The name of the occupant of the property, if known by the Planning and Zoning Department, and if different from the property owner.
- (3) The address where the property maintenance violation has occurred.
- (4) The nature of the property maintenance violation that will be the subject of the hearing.
- (5) A statement that the purpose of the hearing is to give the property owner and the property occupant an opportunity to appear in person to present evidence and testimony as may be pertinent to the question of the property maintenance violation.
- (6) The date, time and location of the hearing.

E. Service Of Hearing Notice.

- (1) The Planning and Zoning Department shall, no later than twenty (20) days prior to the hearing, send the Notice of Hearing to the property owner, and to the property occupant if known and if different from the property owner, by certified mail, return receipt requested.
- (2) In the alternative, the Planning and Zoning Department may, no later than twenty (20) days prior to the hearing, personally serve the Notice of Hearing on the property owner and the property occupant if known and if different from the owner.
- (3) If service of the Notice of Hearing is not perfected by certified mail or personal service, the Planning and Zoning Department shall post the Notice of Hearing at the property where the property maintenance violation has occurred and at the address of property owner as listed by the County Fiscal Office in the current property ownership records. The Notice shall be affixed to the door or entrance of the property and shall be done no later than seven (7) days prior to the hearing date.

F. Hearing Procedure.

- (1) All hearings conducted by the Property Maintenance Enforcement Board shall be open to the public and on the record. Witnesses shall be sworn and subject to cross examination. Evidence may include, but shall not be limited to, inspection reports and photographs of the property prepared by the Planning and Zoning Department or any other City, County or State Official, and the history of any abatement activities to remedy the violation after the notice of violation was issued.
- (2) After all evidence has been presented, the hearing shall be concluded and the Property Maintenance Enforcement Board shall review the matter and render its decision in the public meeting and on the record.

200.06F(3) – 200.06H

- (3) At its discretion, and with the agreement of the parties, the Property Maintenance Enforcement Board may continue the hearing and reconvene at a later date to hear additional testimony and evidence and to render its decision.

- G. Notification Of Decision. The Planning and Zoning Department shall provide the property owner and the property occupant, if known and if different from the property owner, with a written notification of the decision by regular mail at the address set forth in subsection E herein.

- H. Appeal. An appeal from any decision of the Property Maintenance Enforcement Board shall be made to the Summit County Common Pleas Court pursuant to Ohio Revised Code Chapter 2506.

ARTICLE 3 APPLICATION PROCEDURES

300.01 ZONING CERTIFICATES

Before constructing, or altering any fence, sign, structure, or building, including accessory buildings and agricultural buildings, application shall be made for a Zoning Certificate. All applications for Zoning Certificates shall be submitted to the Zoning Administrator who may issue Zoning Certificates when it is determined that the application complies with all applicable provisions of this Zoning Code.

- A. Application Requirements. All Zoning Certificate applications shall include an application form prepared by the Zoning Administrator and a Plot Plan, or if required, a Site Plan or Development Plan, drawn to scale showing the exact dimensions and area of the lot to be built upon. A Plot Plan shall include:
- (1) The property owner's full name, address and phone number.
 - (2) The builder or remodeling contractor's full name, address and phone number.
 - (3) The exact location, including the street name, street number and parcel number.
 - (4) The intended use of the site, building, or structure, including accessory and agricultural structures.
 - (5) The use of fences to be erected including exact size, height, length, style, type and location. The repair or replacement of an existing fence shall not require an application for a certificate.
 - (6) The installation of signage including exact size, height, width, length, style, type and location.
 - (7) Written approval from the Summit County Health Department for all residential dwellings (except fences) in non-sewer service areas OR written approval from the Ohio Environmental Protection Agency for all multifamily residential (3-family dwellings or more), commercial, or industrial uses both within a designated sewer service area or in a non-sewer service area.
 - (8) A copy of a driveway opening permit issued by the Service Director if no access had been previously established to the site.
 - (9) The exact dimensions, height, and bulk of the use, building, or structure, including accessory and agricultural structures.
 - (10) The yard, open area, and parking space dimensions.
 - (11) The proposed number of sleeping rooms, dwelling units, occupants, employees, and other uses.
 - (12) Any other pertinent data as may be necessary to determine and provide for the enforcement of this Zoning Code.

300.01B – 300.03

- B. Determination of Completeness. Within five (5) business days after the receipt of an application and the specified fee, the Zoning Administrator shall make a determination of application completeness. The Zoning Administrator shall confer with the applicant to ensure understanding of the Zoning Administrator's interpretation of the applicable requirements of this Zoning Code, that the applicant has submitted all of the information intended to be submitted, and that the application represents precisely and completely what the applicant proposes to do.
 - (1) If a finding is made that the application is complete, the Zoning Administrator shall certify the determination of completeness on the application and the application shall then be processed.
 - (2) If the application is incomplete, the Zoning Administrator shall, within such five working-day period, send the applicant a notice the application is incomplete together with a brief written statement of the specific ways in which the application is deficient, including appropriate references to the applicable sections of this Zoning Code.
- C. Issuance of Zoning Certificate. Within thirty (30) days after the receipt of application or upon required authorization from an administrative board of this City or other legal authority, the Zoning Administrator shall issue a Zoning Certificate if the application complies with the requirements of this Zoning Code.
- D. Expiration of Zoning Certificate. The Zoning Certificate shall become void at the expiration of one year after the date of issuance unless construction is started. If no substantial amount of construction is started or the use changed pursuant to the Zoning Certificate within one (1) year of the date of permit, proper application for a new Zoning Certificate is required.
- E. Business Use Certificate. Before any occupancy or change of occupancy in any non-residential building, application shall be made to the Zoning Administrator for a Business Use Certificate.

300.02 SCHEDULE OF FEES, CHARGES, AND EXPENSES

- A. In order to be complete, all applications and requests for an interpretation, exception, variance or appeal shall be accompanied by a minimum fee as established by the New Franklin City Council by separate ordinance and shall not be refundable.
- B. In the event that any administrative board finds it is necessary to engage qualified consultants or to maintain a strict record of public hearing procedures, the applicant shall bear all direct and related costs. Examples include when planning, legal, or engineering special studies or expert testimony is required, or if the proposed use may cause the emission of dangerous or objectionable elements. Said reports shall be furnished to the administrative board as soon as it is practicable.

300.03 CONDITIONAL USE REVIEW

Any application for a Conditional Zoning Certificate for any conditionally permitted land use or structure under this Zoning Code shall be processed in accordance with the following procedures:

- A. Application Submitted to the Zoning Administrator. Any application for a Conditional Use Permit shall be made to the Zoning Administrator on a Conditional Use Application form prepared by the Zoning Administrator for that purpose. Upon a determination of completeness, the Zoning Administrator shall indicate the Board of Zoning Appeals file number on the application and forward the application to the Board of Zoning Appeals.
- B. Data Required With Conditional Use Application. In addition to the requirements of Section 300.01.A. (Application Requirements) and Section 300.02 (Schedule of Fees, Charges, and Expenses), the applicant shall submit:
- (1) Complete plans and specifications for all proposed development and construction, and where appropriate, reclamation.
 - (2) A statement supported by substantiating evidence regarding the requirements enumerated in Section 300.03.G below.
- C. Review and Decision by the Board of Zoning Appeals. The Board of Zoning Appeals shall review the proposed development as presented on the submitted plans and specifications in terms of the standards established in this Zoning Code pursuant to the procedure outlined in Section 200.04 (Public Hearings). Such review by the Board of Zoning Appeals shall be completed and made public within ninety-five (95) days of the date of submission.
- (1) *Basis of Determination.* The Board of Zoning Appeals shall establish that the general standards pertinent to each use indicated herein shall be satisfied by the completion and operation of the proposed development. The Board of Zoning Appeals may also impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Zoning Code will be observed.
 - (2) *Issuance of Conditional Zoning Certificates.* Only upon conclusion of hearing procedures relative to a particular application and adequate review and study may the Board of Zoning Appeals issue a Conditional Zoning Certificate.
- D. Revocation - Violation and Penalty. The breach of any condition, safeguard, or requirement shall automatically invalidate the certificate granted, and shall constitute a violation of this Zoning Code.
- E. Reapplication. No application for a Conditional Zoning Certificate which has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration as determined by the Board of Zoning Appeals. At the expiration of one (1) year from the date of the original application each reapplication shall be accompanied by a fee as set by the New Franklin City Council.
- F. Expiration of Approval. The Conditional Zoning Certificate shall become void at the expiration of one (1) year after date of issuance unless the use or construction on the structure or alteration thereof is substantially started.

300.03G – 300.04B(2)

- G. Standards for Approval of a Conditional Use. The Board of Zoning Appeals shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use on the proposed location:
- (1) Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan of current adoption;
 - (2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
 - (3) Will not be hazardous or disturbing to existing or future neighboring uses;
 - (4) Will not be detrimental to property in the immediate vicinity or to the community as a whole;
 - (5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
 - (6) Will be in compliance with Federal, State, County, and City regulations;
 - (7) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

300.04 VARIANCE REVIEW

Any application for a Variance for any land use or structure permitted under this Zoning Code shall be processed in accordance with the following procedures:

- A. Application Submitted to the Zoning Administrator. Any application for a Variance shall be submitted to the Zoning Administrator on a Variance Application form prepared by the Zoning Administrator for that purpose. Upon a determination of completeness, the Zoning Administrator shall indicate the Board of Zoning Appeals file number on the application and forward the application to the Board of Zoning Appeals.
- B. Data Required With Variance Application. In addition to the requirements of Section 300.01.A. (Application Requirements) and Section 300.02 (Schedule of Fees, Charges, and Expenses), the applicant shall submit:
- (1) A statement which refers to the specified provision of the Zoning Code involved sets forth the interpretation that is claimed, the details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be.
 - (2) A statement addressing the standards enumerated in Section 300.03.G.

- C. Review and Decision by the BZA. The Board of Zoning Appeals shall review the proposed variance as presented on the submitted plans and specifications in terms of the standards established in this Zoning Code pursuant to the procedure outlined in Section 200.04 (Public Hearings).
- (1) *Basis of Determination.* Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part or modify the order, requirement, decision or determination as in its opinion ought to be done, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken, and it may issue or direct the issuance of a permit or certificate.
 - (a) In granting a variance, the Board may impose such conditions and safeguards as it may deem necessary to protect the public health, safety or welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Zoning Code will be observed.
 - (2) *Issuance of Variance Certificates.* Only upon conclusion of hearing procedures relative to a particular application and adequate review and study may the Board of Zoning Appeals issue a Variance Certificate.
- D. Revocation – Violation and Penalty. The breach of any condition, safeguard, or requirement shall automatically invalidate the certificate granted, and shall constitute a violation of this Zoning Code.
- E. Reapplication. No application for a Variance Certificate which has been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration as determined by the Board of Zoning Appeals. At the expiration of one (1) year from the date of the original application each reapplication shall be accompanied by a fee as set by the New Franklin City Council.
- F. Expiration of Approval. The Variance Certificate shall become void at the expiration of one (1) year after date of issuance unless the use or construction on the structure or alteration thereof is substantially started.
- G. Standards for Approval of a Variance. Where there are practical difficulties in carrying out the strict letter of this Zoning Code regarding yard, height, parking, and sign requirements, the Board of Zoning Appeals shall weigh the interests of the owner against those of the neighboring property owners and the community as a whole and may grant a variance only after it finds adequate evidence that most of the following tests of the existence of practical difficulties apply:
- (1) Whether the variance is in harmony with the general purpose, spirit, and intent of the Zoning Code.
 - (2) Whether the variance will not adversely affect the delivery of governmental services.

300.04G(3) – 300.05B(3)

- (3) Whether the property owner did not purchase the property with knowledge of the zoning restriction, unless such modification of the yard or lot area or width regulations is necessary to secure the appropriate improvement of a legally nonconforming parcel of land that is too small to be appropriately improved without such modification, provided the parcel was separately owned at the time of passage of this chapter, or is adjacent to buildings that do not conform to the general restrictions applicable to their location.
- (4) Whether there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses in the same zoning district or neighborhood that cannot be solved by some manner other than the granting of a variance.
- (5) Whether the granting of the variance will not alter the essential character of the locality or substantially impair environmental quality, property values or public safety or welfare in the vicinity.
- (6) Whether a variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to other properties in the district.
- (7) Whether the grant of a variance is necessary, not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of beneficial use or enjoyment of, or reasonable economic return from the property.

300.05 APPEALS

- A. BZA to Hear Appeals. The Board of Zoning Appeals shall hear and determine appeals by any person or by any officer, board or department of the City adversely affected by the decision of the Zoning Administrator or any decision in which the Board has original jurisdiction.
- B. Notice of Appeal
 - (1) Notice of any such appeal shall be in writing and must be filed with the Zoning Administrator within twenty (20) days after the decision. The appellant shall post security for the cost of all action required for the hearing of the appeal.
 - (2) Every appeal or application shall refer to the specified provision of the Zoning Code or Zoning Map involved, and shall exactly set forth the interpretation that is claimed, the details of the appeal that is applied for, and the grounds on which it is claimed that the appeal should be granted, as the case may be.
 - (3) Within five (5) business days, the Zoning Administrator shall indicate the Board of Zoning Appeals file number on the application and forward the notice of appeal and copies of all relevant materials in the case file to the Board of Zoning Appeals.

- C. Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator whose decision is appealed, shall certify to the Board of Zoning Appeals after the notice of the appeal has been filed, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed by other than a restraining order granted by a court having lawful jurisdiction.
- D. Review and Decision by the BZA. The Board of Zoning Appeals shall act in accordance with the Public Hearing procedure specified by law and Section 200.04 (Public Hearings) of this Zoning Code.
- (1) The Board of Zoning Appeals shall decide all such appeals within a reasonable time after date of hearing.
 - (2) Within its powers, the Board of Zoning Appeals may reverse or affirm, wholly or in part or modify the order, requirement, decision or determination as in its opinion ought to be done, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken, and it may issue or direct the issuance of a permit or certificate.
 - (3) In granting an appeal, the Board may impose such conditions and safeguards as it may deem necessary to protect the public health, safety or welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Zoning Code will be observed.

300.06 ARCHITECTURAL DESIGN REVIEW

- A. Architectural Design Review Required. All new structures and additions to existing buildings shall be subject to Architectural Design Review by the Planning and Zoning Commission pursuant to the standards and guidelines enumerated in Article 9 (Architectural Design Standards).
- (1) *Exception*. Single-family and two-family residential dwellings and agricultural buildings/structures are exempt from these regulations.
 - (2) *Application Requirements*
 - (a) A completed Architectural Design Review application form signed by the property owner or authorized representative;
 - (b) The appropriate fee as established by City Council;
 - (c) Elevation drawings or renderings, with scale clearly shown, of all sides of the proposed structures, illustrating the proposed designs of the elevations of the buildings, signs, fences, and other structures and identifying materials and colors thereof. Locations and dimensions of all wall openings, including windows and doors, vents, etc. Locations and dimensions, finish and colors of all roof and wall-mounted fixtures, equipment, poles, including locations of utility service installations, electrical and phone meters or service

boxes. Material samples and/or paint chips of roofing, exterior wall surfaces, and other prominent features and surfaces.

B. Procedure

- (1) *Concurrent Review.* The applicant shall have the option where Major Site Plan Review is required, pursuant to Section 300.07.D. (Major Site Plan Review Required), to have the Architectural Design Review application concurrently reviewed by the Planning and Zoning Commission with the Major Site Plan Application. Upon such concurrent review, the Major Site Plan review procedure of Section 300.07.D(3) shall apply.
- (2) *Separate Review.* Where Major Site Plan Review is not required or concurrent review is not desired by the applicant, the Architectural Design Review procedure shall require an administrative hearing pursuant to Section 200.04 (Public Hearings).
 - (a) The Planning and Zoning Commission shall approve, approve with conditions, or disapprove the Architectural Design Review application based on findings of fact consistent with the purposes of these regulations. The Planning and Zoning Commission may attach to the approval of the Architectural Design Review application conditions reasonably required to promote the purposes of the Architectural Design Standards and this Zoning Code.
 - (b) Written approval of the site plan application shall be indicated by signature of the Chairperson of the Planning and Zoning Commission on one copy of the Architectural Design Review Application, marked with such amendments and conditions as the Planning and Zoning Commission may require.
- (3) *Expiration of Approval.* Approval of an Architectural Design Review Application by the Planning and Zoning Commission shall expire twelve (12) months from the date of approval unless construction has commenced. Extensions not to exceed six (6) months each may be granted by the Planning and Zoning Commission after written request by the applicant.
- (4) *Resubmittal.* Subsequent to disapproval of an Architectural Design Review Application, no applicant shall resubmit, within a period of six (6) months from the date of disapproval, an Architectural Design Review Application which does not rectify the underlying reasons for disapproval or which the Planning and Zoning Commission deems substantially similar to the previously disapproved site plan.

300.07 SITE PLAN REVIEW

- A. Purpose. Site plan review is required to ensure proper design of sites for the efficient use of land; to protect adjoining properties from adverse impacts of site and structure design and uses; and to promote high standards in the layout, design, landscaping, and construction of development. It is also intended to supplement the requirements of the Subdivision Regulations and to further the purposes and provisions of this Zoning Code and the plans adopted by the City.

- (1) This Article lists the requirements applicable to the development of land for certain uses, structures, and developments of land and in certain zoning districts and to prescribe the standards for the preparation and submission of site plans.
- (2) In order to ensure adequate public review of significant site plans in a public meeting, this Article provides for major site plans subject to review by the Planning and Zoning Commission. This Article also provides for review of minor site plans by the Zoning Administrator only.

B. Site Plan Review Required

- (1) No use or construction for which a site plan is required shall be established or commenced until a site plan application has been submitted and approved by the Zoning Administrator or by the Planning and Zoning Commission, as required herein.
- (2) If a proposed site plan application also requires the granting of a variance or other special approval from the Board of Zoning Appeals, the Planning and Zoning Commission shall do one of the following:
 - (a) Review the site plan in advance of the Board of Zoning Appeals proceedings and approve the site plan on the assumption and condition that the variance or other action will be approved by the Board of Zoning Appeals. Such action shall not constitute a position by the Planning and Zoning Commission in support of the application for a variance or other action and shall not be received in evidence in any proceedings before the Board of Zoning Appeals.
 - (b) Table its review of the site plan until such time as the Board of Zoning Appeals has taken action on the variance or other action request.
 - (c) Review the site plan in advance of the Board of Zoning Appeals proceedings and disapprove the site plan.
- (3) The procedures prescribed by this Article are not intended to be a substitute for, and are in addition to any procedures required by the New Franklin Subdivision Regulations for subdivision of a parcel.
- (4) No permit shall be issued by the Zoning Administrator or any other City official for the construction of any building or improvement subject to a site plan except in conformity with the provisions of this Zoning Code and the duly approved site plan.

C. Minor Site Plans.

- (1) *Minor Site Plan Required.* A minor site plan shall be submitted to the Zoning Administrator to determine or document compliance, for any site improvement for which a major site plan is not specifically required in Section 300.07.D. Such site improvements include, but are not limited to:

300.07C(1)(a) – 300.07D(1)(e)

- (a) New dwellings, additions to dwellings.
 - (b) Accessory structures, including but not limited to fences and signs.
 - (c) Paved areas.
 - (d) Agricultural buildings/structures.
- (2) *Application Requirements.* A minor site plan shall be a scaled drawing or other documentation which illustrates the intended construction and which is approved by the Zoning Administrator as a sufficient record of the intended construction and compliance with the provisions of this Zoning Code.
- (3) *Procedure.* A minor site plan shall be submitted to the Zoning Administrator who shall review the site plan and either approve or disapprove it within 5 working days after submittal.

D. Major Site Plan

- (1) *Major Site Plan Required.* A major site plan shall be submitted for the following:
- (a) Any use for which a conditional use permit is required (except for agricultural uses requiring a conditional use permit).
 - (b) The establishment of a new use, or a substantial change of use;
 - (c) In any residential district, any new building (other than a single family dwelling or accessory to a single-family dwelling) or a change of use of such a building.
 - (d) In any multifamily, business, industrial, and recreation districts and in any other districts required by this Zoning Code, any new construction, substantial renovation, or expansion of a building, structure, or other site improvement;
 - (e) Substantial renovation or expansion shall be defined according to the table below:

When Existing Structure is:	A Substantial Expansion is:
0-1000 Sq. Ft.	50% or Greater
1,001-10,000 Sq. Ft.	40% or Greater
10,001-25,000 Sq. Ft.	30% or Greater
25,001-50,000 Sq. Ft.	20% or Greater
50,001 Sq. Ft. and Larger	10% or Greater

- (2) *Application Requirements.* A major site plan application shall include the following information unless the Zoning Administrator determines that certain information is not necessary for review of the particular site plan:
- (a) A completed site plan application form, signed by the property owner or authorized representative.
 - (b) A fee as established by City Council.
 - (c) Name of the development and the name, address, and phone number of the owner and applicant.
 - (d) Drawing scale, north arrow, and date of preparation.
 - (e) Locations and dimensions of lot lines based on a survey, deed, plat, or other legal delineation.
 - (f) Existing topography, proposed topography, and proposed finished grades, at a maximum one (1) foot contour interval.
 - (g) Locations, acreage, and floor areas of existing and proposed uses, easements, and encroachments on the property.
 - (h) Location of all required yards.
 - (i) Proposed building locations, dimensions, net floor area, locations of entrances and exits, height and number of stories, and finished grade elevations. Locations, dimensions, and description or illustration of all other structures including fences and signs. For multifamily residential developments, the number, type, and minimum floor area of dwelling units.
 - (j) Drainage plan, including all open and enclosed drainage structures and surface drainage, and calculations of off-site impacts in a manner approved by the City Engineer.
 - (k) Locations of existing and proposed refuse disposal facilities and plans for screening.
 - (l) Vehicular and pedestrian circulation plan, that is, a plan showing the planned route of vehicles and pedestrians onto, through, and out of the site, including any safety considerations. Proposed location, layout, dimensions, and area for all parking areas, loading areas, drives, and walkways, curbs, and curb cuts. Surface types of all paved areas. Number of parking spaces provided and the number of spaces required by this Zoning Code.
 - (m) Planting and Landscape Plan including: botanic names, common names, location, quantity, diameter, and height at installation and at maturity of all proposed living and non-living landscape materials and existing materials to be preserved; types and locations of proposed groundcovers and mulches; dimensions, materials, colors, and

300.07D(2)(n) – 300.07D(3)(c)

appearance of all sides of fences, walls, ornamental lighting and other landscape and screening features (including location and contours of proposed berms at one-foot intervals); measures to be taken to protect new and preserve existing trees during construction; identification of existing trees, large shrubs, formal planting areas, and hedges to be removed.

- (n) Lighting plan showing locations, dimensions and types of fixtures.
- (o) Proposed routing of utilities including valve or meter locations.
- (p) Illustrate all fire department connections, hydrant locations, Knox Boxes and transformers and other items relating to life safety controls or disconnects.
- (q) Such other relevant data as may be required to ascertain the compliance of the proposed development with the plans and laws of the City of New Franklin.

(3) *Major Site Plan Review Procedure*

- (a) Preliminary discussion. It is recommended that every applicant request informal preliminary discussion with the Zoning Administrator in order to review the requirements prior to submitting an application for site plan review.
 - 1. If an applicant has submitted and requested preliminary review of a site plan application, then the Planning and Zoning Commission may review and comment upon the application at a regular meeting of the Commission, but shall not take formal action upon such application.
 - 2. The Planning and Zoning Commission may advise the applicant of the information which shall be required for review of a complete site plan application.
 - 3. Review of a preliminary site plan application shall not cause or imply any commitments, authorizations, or rights for the applicant.
- (b) Application submittal. The applicant for site plan review, who shall be the owner of the subject property or the duly authorized representative of the owner, shall submit copies of the Site Plan application (in the number of copies as required by policy of the Planning and Zoning Commission) which shall include the items required per section 300.07D(2). The application shall be submitted according to the submittal and review schedule established by the Planning and Zoning Commission.
- (c) Staff Review. A Site Plan application shall be reviewed by the City staff for completeness and compliance with all applicable regulations.

(d) Planning and Zoning Commission Site Plan Review and Decision

1. Public Hearing Required. Prior to any decision on a Major Site Plan, the Planning and Zoning Commission shall hold a public hearing pursuant to Section 200.04 (Public Hearings).
 2. Decision by Planning and Zoning Commission. If an applicant has submitted a complete site plan application, the Planning and Zoning Commission shall approve, approve with conditions, or disapprove the site plan application within 60 days of the public hearing. Decisions shall be based on findings of fact consistent with the purposes of these regulations.
 3. Approval with Conditions. The Planning and Zoning Commission may establish, in the approval of a site plan, such conditions as it deems necessary to ensure the health, safety, and welfare, to promote the purposes of this Zoning Code, and to ensure completion and maintenance of the site plan as approved in conformance with this Zoning Code.
 - a. Such conditions may include, but are not limited to, bonds or other guarantees, a written development agreement, or other guarantees.
 - b. The need for alteration of existing public improvements, the potential for repair of damage resulting from the site development, or costs resulting from temporary or permanent disruption of existing improvements shall be determined in the process of site plan review. Conditions addressing the foregoing shall be established in approval of the site plan.
 4. Form of Approval. Written approval of the site plan application shall be indicated by signature of the Chairperson of the Planning and Zoning Commission on one copy of the site plan, marked with such amendments and conditions as the Planning and Zoning Commission may require, and shall constitute authorization to proceed with issuance of required permits and construction in compliance with the approved site plan, provided that all conditions are satisfied and the site plan complies with all other requirements of law.
- (e) Resubmittal. Subsequent to disapproval of a site plan, no applicant shall resubmit, within a period of six (6) months from the date of disapproval, a site plan which the Planning and Zoning Commission deems substantially similar to the previously disapproved site plan.
- (f) Amendment of Site Plan. Any site plan may be revised. Such revision shall be accomplished in the same manner as the original approval, provided, however, minor technical changes which do not substantially alter the original site plan may be authorized by approval of the Zoning Administrator.

- (g) Expiration of Approval. Approval of a site plan by the Planning and Zoning Commission shall expire twelve (12) months from the date of approval unless construction has commenced. Extensions, upon showing of good cause not to exceed six (6) months each, may be granted by the Planning and Zoning Commission after written request by the applicant.

- (h) Guarantees
 - 1. All on-site and off-site improvements indicated on the site plan application or conditions required by the Planning and Zoning Commission or required by other local ordinance shall be installed at the expense of the owner of the property consistent with the provisions of the City of New Franklin Subdivision Regulations.
 - 2. All required improvements shall be installed in accordance with construction standards adopted by the City and the standards established by the City Engineer.
 - 3. The City Engineer shall be authorized to require and execute with the owner or developer such development agreements or construction bonds as the City Engineer may deem necessary to ensure proper protection, construction, or restoration of any required physical improvements located within public rights-of-way or easements or connected to any public facility, or to ensure repair of any damage done to existing curb, gutter, sidewalk, street pavement, landscaping, or other items within the right-of-way adjacent to a project. The form and amount of such guarantees shall be as approved by the City Engineer and the City Law Director.

- (4) Design Standards for Major Site Plans. Site developments shall conform to the following standards:
 - (a) Site plans shall demonstrate that the proposed development will be in compliance with all applicable plans, laws and ordinances.
 - (b) Consideration shall be given to providing uses of land and structures consistent with recommendations of plans adopted by the City in the area addressed by the site plan.
 - (c) All development features, including principal buildings, open spaces, service roads, driveways, and parking areas shall be located to minimize the possibility of adverse effects upon current and future adjacent development. Visual and auditory privacy for surrounding properties shall be provided through good design and the use of proper building materials and landscaping.
 - 1. Screening of parking areas and service areas from surrounding properties shall be provided through landscaping, ornamental walls, fences, or other means.
 - 2. To ensure the protection of property values and to promote effective transition of land use from one district to another, the Planning and Zoning Commission shall have the power to determine the need for, location, and the amount of planting materials, walls, walks, or fences or any combination thereof.

- (d) The design and installation of high quality, attractive landscape planting, screening, fences, and other site improvements is required.
 - 1. These improvements shall be designed as integral elements of the overall site plan, selected to complement the site and surrounding sites, and designed to provide visually and spatially attractive areas in all parts of the site.
 - 2. The locations and designs of buildings and other site improvements shall be developed with consideration given to minimizing the removal of trees and natural native vegetation and changes of topography.
- (e) Thoroughfares, service roads, points of ingress and egress, driveways, and parking and loading areas shall be designed to promote safe and efficient pedestrian and vehicular traffic safety on both private and public lands.
 - 1. On-site traffic circulation shall be designed to permit adequate fire and police protection.
- (f) Provision shall be made for the disposal of wastes generated by the proposed use. Screening of temporary storage areas and containers shall be provided to minimize visual impacts on abutting properties, especially adjacent residential uses.
- (g) Grading, surface drainage, and erosion provisions shall be designed to prevent adverse effects on abutting properties, streams, and public streets, during as well as after construction. Adequate drainage for the disposition of storm and natural waters both on and off-site shall be provided. The extent of both on-site and off-site drainage facilities and the requirements for on-site storm water management shall be based on the requirements of the City of New Franklin Subdivision Regulations Chapter 1109 (Utility Design and Construction Standards) and standards established by the City Engineer.

300.08 AMENDMENT TO ZONING CODE TEXT AND ZONING MAP

- A. Amendments to the Zoning Code. The City may, from time to time, amend by Ordinance the number, shape, area, or regulations of districts established on the Zoning Districts Maps or the regulations set forth in this Zoning Code.
- B. Initiation of Amendments. Amendments to the Zoning Code may be initiated by one of the following methods:
 - (1) Motion of the Planning and Zoning Commission.
 - (2) Passage of resolution by City Council and certification to the Planning and Zoning Commission.
 - (3) Filing of an application with the City by one or more owners of property within the area proposed to be changed or affected by the proposed amendment to the Zoning Code.

- C. Contents of Application for Amendment to the Zoning Code. All applications for an amendment shall include:
- (1) Evidence that the existing Zoning Code is unreasonable with respect to the particular property, and it deprives the property owner of his lawful and reasonable use of the land. For purposes of this Zoning Code, a limitation upon the financial gain from the land in question shall not constitute unreasonable zoning.
 - (2) Evidence that the proposed amendment would materialize in an equal or better Zoning Code than that existing.
 - (3) A statement giving the names and addresses of the owners of all properties lying within 1,000 feet of any part of the property, the zoning of which would be changed by the proposed amendment if enacted.
 - (4) A fee as set by City Council shall accompany the application and shall not be refundable.
- D. Public Hearing by Planning and Zoning Commission. Upon the initiation of an amendment to the Zoning Code, the following procedure shall be used:
- (1) Within five (5) days of receipt of a complete application, the Planning and Zoning Commission shall set a date for a public hearing thereon, preceded by one publication in one or more newspapers of general circulation in the City at least 30 days before the date of such hearing and as per City Charter Section 5.15, and
 - (2) If the proposed amendment or supplement intends to rezone or redistrict 10 or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Planning and Zoning Commission, by first class mail, at least 20 days before the date of the public hearing to all owners of property within and contiguous to and directly across the street from such area proposed to be rezoned or redistricted to the addresses of such owners appearing on the County Fiscal Officer's tax mailing list. The failure of delivery of such notice shall not invalidate any such amendment or supplement. The published and mailed notices shall set forth the time and place of the public hearing, the nature of the proposed amendment or supplement.
- E. Action of the Planning and Zoning Commission. The Planning and Zoning Commission shall, within 30 days after such hearing, recommend the approval or denial or the proposed amendment or the approval of some modification thereof and submit such recommendation together with such application or resolution and the text and map pertaining thereto to the City Council.
- F. Public Hearing by City Council. City Council shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment or supplement, which date shall not be less than 30 days from the date of the notice of such public hearing by the City Council by publication in one or more newspapers of general circulation in the City for two consecutive weeks. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

- G. Action of City Council. Within 90 days after the public hearing, Council shall either adopt or deny the recommendations of the Planning and Zoning Commission, or adopt some modification thereof. In the event City Council adopts, modifies or denies the recommendations of the Planning and Zoning Commission, concurrence by a majority of the full City Council members shall be required.

- H. Amendments to Definitions. Whenever an amendment is made to the Zoning Code, the appropriate definitions pertinent to such amendments shall be included in Article 14 hereof.

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ARTICLE 4

ESTABLISHMENT OF ZONING DISTRICTS AND ZONING MAP

400.01 DISTRICTS AND INTENT

- A. **C-D Conservation (Very Low Density) District.** This district has been established to provide for very low density of not more than one dwelling unit per each five acres of residential development for the following purposes: (1) to preserve and protect the values of distinctive geologic, topographic, botanical, historic, or scenic areas; (2) to protect the ecological balance of such an area; (3) to conserve the natural resources, such as river valley, wetlands and tracts of forest land; and (4) to reduce the problems created by intensive development of areas having excessively high water tables, or which are subject to flooding, or which are topographically unsuited for urban type uses.
- B. **R-E Rural Estate (Very Low Density) District.** This district has been established to provide for very low-density of not more than one dwelling unit per each five acres of residential development and thereby discourage concentrated living areas primarily along the western periphery of the community.
- C. **R-1 Rural Residential (Low Density) District.** This district has been established to accommodate low density of not more than one dwelling unit per each two acres of residential development in areas which cannot be reasonably serviced by central water and/or sanitary sewer facilities.
- D. **R-2 Residential (Medium Density) District.** This district has been established to accommodate medium density of up to 2 dwelling units per acre of single-family and two-family dwellings in areas that may reasonably be expected to be provided with central sewer facilities. The stipulated densities are intended to maintain the suburban character of the community.
- E. **R-3 Residential (High Density) District.** This district has been established to encourage single-family, two-family, and multi-family development at high densities. These regulations are intended to restrict the overcrowding of land and to encourage the provision of urban amenities in areas offering unique regional transportation, recreational, and/or scenic advantages, and in areas where centralized water and sewer facilities exist or can be provided as projects are developed.
- F. **R-L Lakefront Residential (High Density) District.** This district has been established to accommodate single-family dwellings in lakefront areas. The stipulated densities are intended to maintain the suburban lakefront character of the community. For purposes of zoning and building on the site, the lakefront property will be classified and designated the front of the home. The front of the property will be considered the pool elevation of the lake which is 989 feet above mean sea level. The rear is to be designated that portion of the property that abuts a designated right-of-way used for public transportation. The minimum lot width at the street right-of-way line shall be 80 feet.
- G. **C-R Commercial-Residential District.** This district has been established to permit the residents of the district to use their property for certain specified office, personal service and sales uses provided that these uses are established and maintained in a manner which maintains the essential residential character of the district.

400.01H – 400.01M(2)

- H. **B-1 Light Commercial District.** This district has been established to allow single or planned integrated groupings of retail businesses. This includes retail convenience and comparison goods stores that offer personal and professional services within the City of New Franklin and surrounding area.
- I. **B-2 Heavy Commercial District.** This district has been established to provide for and to accommodate heavy commercial uses in the fields of repair, storage, wholesaling, and distribution, free from the encroachment of residential uses. The uses allowed are those which, because of their normally unobjectionable characteristics, can be in relatively close proximity to residential and commercial districts.
- J. **I-1 Light Industrial District.** This district has been established to provide for and to accommodate clean manufacturing activities in an industrial park setting. This setting shall be developed so that it shall not diminish the natural landscape and beauty of the surrounding areas. This district shall be free from encroachment of residential, commercial, retail, and institutional uses so that it may develop for purely industrially oriented purposes. Activities that produce significant quantities of hazardous substances are specifically prohibited as regulated by the Environmental Protection Agency.
- K. **I-2 Manufacturing and Storage District.** This district has been established to provide for industrial, storage and uses which may have external physical effects which will negatively impact surrounding areas.
- L. **CH Canal Heritage Overlay District.** This district has been established to preserve and protect the traditional character of the Ohio-Erie Canal Corridor which is characterized by 1) natural open space, 2) support of commercial activities which accommodate visitors and which are consistent with the character of the corridor, and 3) the maintenance of the rustic and rural look of the area with small buildings, natural development and existing landscaping preservation of existing landscaping. This district endeavors to protect and promote the educational, cultural and general welfare of the public through the restoration, preservation and protection of the traditional character of the Ohio Erie Canal Corridor by limiting development to those uses which are consistent with the preservation of the area, will serve to benefit the area.
- M. **HOD Historic Overlay.** The Historic Overlay District is a predominately late Victorian and Edwardian residential district built almost entirely between 1875 and 1915, with houses including, but not limited to, the Second Empire, Queen Anne, Eastlake and Shingle styles, Richardsonian Romanesque, Chateausque, Georgian Revival, Renaissance Revival, and Neo-Classical Revival styles.
 - (1) It is the general purpose of the Historical Overlay District to safeguard the heritage of certain identified parcels, groups of structures, neighborhoods, or other areas in the historic areas of New Franklin City through the preservation, protection, and enhancement of land uses that reflect the area's history and provide the neighborhood with its unique and desired character.
 - (2) Specific purposes of the HOD are to: preserve site and structures representing the area's legacy; stabilize and improve property values; strengthen the economy of the City; protect

and enhance the area's attractions to residents, tourists, and visitors; enhance the visual and aesthetic character, diversity, and interest of the City; foster civic pride in the notable accomplishments of the past; and to promote the future preservation of the identified Historic Overlay District for education and the general welfare.

400.02 ZONING MAP AND INTERPRETATION OF BOUNDARIES

- A. The districts and their boundary lines are indicated upon a map entitled "Zoning Districts Map of the City of New Franklin, Ohio." The said Districts Map together with all notations, references, and other matters shown thereon are hereby incorporated declared a part of this Zoning Code.
- B. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:
 - (1) *Where Boundaries Approximately Follow Streets, Alleys, or Highways.* Where district boundaries are indicated as approximately following the center line or right-of-way line of streets, the center line or alley line of alleys, or the center line or right-of-way lines of highways, such lines shall be construed to be such district boundaries.
 - (2) *Where Boundaries Parallel Street Right-of-Way Lines, Alley Lines, or Highway Right-of-Way Lines.* Where district boundaries are so indicated that they are approximately parallel to the center lines or right-of-way lines of streets, the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given; such dimensions shall be determined by the use of the scale shown on said zoning map.
 - (3) *Vacation of Public Ways.* Whenever any street or public way is vacated in the manner authorized by law the Zoning Districts adjoining each side of the street or public way shall be automatically extended to the center of such vacations and all area included in the vacation shall thereafter be subject to all regulations of the extended Districts.

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ARTICLE 5 PERMITTED AND CONDITIONAL LAND USES

500.01 LAND USE MATRIX

- A. Permitted Uses. The Zoning Administrator shall issue Zoning Certificates for applications for permitted land uses indicated with a “P” in the following table subject to finding that the proposed land use meets all requirements of this Zoning Code.

- B. Conditional Uses. The Zoning Administrator shall issue Conditional Use Zoning Certificates for conditional land uses indicated with a “C” in the following table subject to the approval of the City of New Franklin Board of Zoning Appeals and general and specific requirements contained in this Zoning Code.

- C. Prohibited Uses. If a use is not specified in this section, it shall be considered prohibited until, by amendment such uses are written into these regulations, or by interpretation of the Planning and Zoning Commission, such use is determined to be reasonably similar to another use permitted or conditionally permitted herein.

SCHEDULE OF USES BY ZONING DISTRICT “P” = permitted use “C” = conditional use											
LAND USE CATEGORIES	ZONING DISTRICTS										
	C-D	R-E	R-1	R-2	R-3	R-L	C-R	B-1	B-2	I-1	I-2
Residential Uses:											
Single-family dwelling	P	P	P	P	P	P	P	P			
Two-family dwelling				P	P		P				
Three-family dwelling					C		C				
Four or more family dwelling					C		C	C			
Bed and breakfast residence	C					C		C	C		
Bed and breakfast inn						C		C	C		
Child day care center and child day care home type A								C	C		
Model Home	C	C	C	C	C	C					
Conservation Subdivision	P	P	P	P	P	P					
Office, Professional Service Uses:											
Professional service providers such as doctor, dentist, accountant, attorney								C	P	P	
Real estate and insurance agency								C	P	P	
Office business park											P
Retail and Service Uses:											
Retail sales establishment such as appliance store; clothing and apparel store; department store; drug store; electrical supply store; food sales, including supermarkets; furniture store; variety store; piece goods store; radio, television, music store; paint, glass, wallpaper, hardware store; jewelry store; hobby and toy shop; camera and photography store; florist and gift shop									P	P	

SCHEDULE OF USES BY ZONING DISTRICT											
"P" = permitted use "C" = conditional use											
LAND USE CATEGORIES	ZONING DISTRICTS										
	C-D	R-E	R-1	R-2	R-3	R-L	C-R	B-1	B-2	I-1	I-2
Personal service establishments such as barber and beauty shop; optical goods store and service; shoe repair shop; tailor and dressmaker; laundromat; dry cleaning and laundry agency							C	P	P		
Bank and drive-in banking facility								P	P		
Delicatessen, meat market, dairy store								P	P		
Preparation and processing of food and drink to be retailed on the premises (bakery, confectionery, restaurant, ice cream parlor, soda fountain, tavern)								P	P		
Pet supply store								P	P		
Carpenter, cabinet upholstering, plumbing, heating, roofing, air conditioning, sign painting, painting, and other similar establishment								P	P		
Tractor and lawn mower repair								P	P	P	
Drive-in and drive-thru eating establishment								C	C		
Motel								C	C		
Kennel									C	C	
Musical instruments, toys, novelties, rubber or metal stamps, and other small rubber products (cleaning, servicing, testing or repair).								P	P		
Pottery and figurines (cleaning, servicing, testing, or repair)								P	P		
Electrical and electric appliances, instruments and devices, computers, electronics, television sets, radios, household appliances (cleaning, servicing, testing or repair)								P	P		
Sexually oriented business										P	
Funeral Homes								P	P		
Vehicular Services:											
New vehicle agency (used vehicles an accessory use)								P	P		
Used vehicle agency								C	C		
Off-street public parking lot and garage								C	P	P	
Gasoline filling station								C	C		
Machinery and equipment repair services, including repair garages, and motor, body and fender, radiator, motor tune-ups, muffler shops, tire repairing sales and service including vulcanizing and towing									C	C	
Recreational, Entertainment Uses:											
Indoor commercial recreational								C	C		
Outdoor commercial recreational								C	C		
Storage and Distribution											
Plant greenhouse								P	P	P	

SCHEDULE OF USES BY ZONING DISTRICT												
"P" = permitted use "C" = conditional use												
LAND USE CATEGORIES	ZONING DISTRICTS											
	C-D	R-E	R-1	R-2	R-3	R-L	C-R	B-1	B-2	I-1	I-2	
Warehousing of bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products (except fish or meat products, sauerkraut, yeast, and rendering or refining of fats or oils) wood, glass, and similar materials										P	P	
Wholesale establishment										P	P	
Building materials, sales yard, and lumberyard including millwork performed within a completely enclosed building.											P	P
Contractor's equipment storage yard or plant, or storage and rental of equipment commonly used by contractors											P	P
Fuel, food, and goods distribution station, warehouse, and storage (excluding coal and coke)											P	P
Public storage garage and yard									C	C	P	P
Motor freight garage, truck, or transfer terminal, office, warehousing, and storage											C	P
Mini-storage facility									C	P	P	
Industrial, Manufacturing Facilities												
Industrial parks											C	
Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, fiber, fur, glass, hair, horn, leather, plastics, precious or semi-precious metals or stones, metal (except where presses over 20 tons rated capacity are employed), shell, textiles, tobacco, wax wood (where saw and planing mills are used within a completely enclosed building), yarns											C	P
Electric and neon signs, billboards, and other commercial advertising structures											P	P
Laboratories and processing - experimental, film or testing											C	P
Bag, carpet and rug cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust											P	P
Welding, or other metal working shops, including machine shop operations or the tool, die, and gauge types, including sheet metal											C	P
Foundry, casting lightweight non-ferrous metals											C	P
Ice manufacturing and cold storage plant, creamery and bottling plant											P	P
Laundry, cleaning and dyeing plant											P	P
Stone or monument works											P	P
Community Facilities												
Religious land use	C	C	C	C	C	C	C	C	P	P	C	
Veterinarian hospital or clinic										C		
Cemetery	C	C	C	C				C	P	P		

SCHEDULE OF USES BY ZONING DISTRICT											
"P" = permitted use "C" = conditional use											
LAND USE CATEGORIES	ZONING DISTRICTS										
	C-D	R-E	R-1	R-2	R-3	R-L	C-R	B-1	B-2	I-1	I-2
Governmentally or privately owned and/or operated picnic area, playground, private park, swimming facility, golf course, tennis club, country club, riding academy, and other similar recreational facility or use (excluding drive-in theater, miniature golf course, golf driving range, rifle range, skeet shooting range, pistol range)	C	C	C	C	C	C	C	C	C		
Governmentally or privately owned and/or operated park, recreational area, and campground where camping in tents, trailers and other vehicles, cabins, or lodges is permitted by fee, membership or otherwise, and for overnight or longer periods of time, and day camp, summer camp, health camp, and other type of outdoor facility and/or recreationally-oriented use which involves facilities for group activity and accommodation	C	C	C	C	C	C		C	C		
Governmentally owned and/or operated facility	C	C	C	C	C	C	C	C	C	C	C
Public and parochial school		C	C	C	C		C	C	C		
Institution for higher education							C	C	C		
Quasi-public, institutionally or organizationally owned and/or operated recreational, instructional, and meeting facility, such as those developed and used by the YMCA, YWCA, Boy Scout, or various fraternal or community service groups						C	C	C	C		
Health care facility.							C	C	C		
Wildlife refuge and game preserve	P										
Other Uses:											
Public utility rights of way and pertinent structure	C	C	C	C	C	C	C	P	P	P	P

ARTICLE 6 DEVELOPMENT STANDARDS

600.01 GENERAL DEVELOPMENT STANDARDS

Regulations contained in this Article as well as land use and district regulations in the following Articles shall generally apply to all development.

600.02 DEVELOPMENT STANDARDS MATRIX BY DISTRICT

PLEASE NOTE – R-C IN THE C-R ZONING DISTRICT MEANS RESIDENTIAL-COMMERCIAL USE.

Zoning Districts	LOT REQUIREMENTS			YARD REQUIREMENTS			Maximum Bldg Height (ft.)	Minimum Floor Area (s.f.)	Other Requirements ⁽¹⁾
	Minimum Lot Area per Unit	Minimum Lot Width at Bldg Line (ft.)	Minimum Lot Frontage (ft.)	Minimum Front Yard Depth (ft.)	Minimum Rear Yard Depth (ft.)	Minimum Side Yard Width on Each Side (ft.)			
C-D	5 acres	300	300	100	50	25	35	See footnote ⁽²⁾	
R-E	5 acres	300	300	100	50	20	35	See footnote ⁽²⁾	
R-1	2 acres	120	120	70	50	20	35	See footnote ⁽²⁾	
R-2	S-F	Without Sewer	1 acre	100	70	50	15	35	See footnote ⁽²⁾
	S-F	With Sewer	½ acre	80					
	2-F	Without Sewer	2 acres per bldg	160					
	2-F	With Sewer	1 acre per bldg	120					
R-3	S-F	Without Sewer	1 acre	80	45	20	10	40	See footnote ⁽³⁾
	S-F	With Sewer	15,000 s.f.						
	2-F	Without Sewer	1-½ acre per bldg	110					
	2-F	With Sewer	20,000 s.f.						
	3-F	Without Sewer	2-¼ ac. per bldg	140					
	3-F	With Sewer	30,000 s.f.						
	4-F	Without Sewer	3 acres per bldg	200					
	4-F	With Sewer	1 ac. ⁽⁵⁾						
R-L	S-F	Without Sewer	1 acre	100	50	25	15	35	See footnote ⁽²⁾
	S-F	With Sewer	½ acre	80					

LOT REQUIREMENTS				YARD REQUIREMENTS			Maximum Bldg Height (ft.)	Minimum Floor Area (s.f.)	Other Requirements ⁽¹⁾	
Zoning Districts	Minimum Lot Area per Unit		Minimum Lot Width at Bldg Line (ft.)	Minimum Lot Frontage (ft.)	Minimum Front Yard Depth (ft.)	Minimum Rear Yard Depth (ft.)				Minimum Side Yard Width on Each Side (ft.)
C-R	S-F	Without Sewer & Water	1 acre	120	120	30	30	8	25% of Area Required As Minimum Useable Open Space and 30% Maximum Lot Coverage	
	S-F	With Sewer & Water	15,000 s.f.	90	90					
	2-F	Without Sewer & Water	2 Acres	160	160	30	30	10		
	2-F	With Sewer & Water	30,000 s.f.	120	120					
	R-C	Without Sewer & Water	1 acre	120	120	30	30	10		
	R-C	With Sewer & Water	15,000 s.f.	90	90	30	30	10		
B-1	¾		100	100	50	50	15	35	N/A	
B-2	1		125	125	50	50	15	35	N/A	
I-1	N/A		150	150	50 ⁽⁷⁾	30 plus 1 additional ft. for each ft. of building height in excess of 30 ft. ⁽⁶⁾		40	N/A	50% of Lot Area Required as Minimum Useable Open Space
I-2	1 acre		150	150	50	30 plus 1 additional ft. for each ft. of building height in excess of 30 ft. ⁽⁶⁾		75	N/A	

Footnotes to Development Standards Matrix:

(1) Other requirements shall include off-street parking, landscaping, signage and other specified development standards contained in separate articles of this Zoning Code.

(2) The following minimum floor area shall be required per family for each specified dwelling size:

<u>1 BR Dwelling</u>	<u>2 BR Dwelling</u>	<u>3 BR Dwelling</u>	<u>4 BR Dwelling</u>	<u>5 or more BR Dwelling</u>
700 s.f.	1,100 s.f.	1,400 s.f.	1,700 s.f.	2,000 s.f.

(3) The following minimum floor area shall be required per family for each specified dwelling size:

<u>Dwelling Type</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>	<u>5 or more BR</u>
S-F & 2-F	1,100 s.f.	1,200 s.f.	1,400 s.f.	1,700 s.f.	2,000 s.f.
M-F Dwellings	650 s.f.	900 s.f.	1,200 s.f.	1,500 s.f.	1,500 s.f.

(4) The following minimum floor area shall be required per family for each specified dwelling size:

<u>Dwelling Type</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>	<u>5 or more BR</u>
S-F & 2-F	900 s.f.	1,300 s.f.	1,600 s.f.	1,900 s.f.	2,200 s.f.
M-F Dwellings	900 s.f.	1,300 s.f.	1,600 s.f.	1,900 s.f.	2,200 s.f.

(5) Each dwelling unit shall have the use of a minimum lot area of 5,000 s.f.

(6) The minimum rear yard depth shall be one hundred fifty (150) feet when such yard is adjacent to a residential district.

(7) Properties adjacent to the Nimisila Reservoir shall maintain a minimum front yard setback of 100 feet. This front yard shall remain tree-covered to provide a visual barrier from the street and the lake.

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600.03 SUPPLEMENTAL DISTRICT STANDARDS

A. Lot Requirements

- (1) *Flag Lots*. Future creation of flag lots shall be discouraged, and must be reviewed by the Planning and Zoning Commission and approved as a variance by the Board of Zoning Appeals.

B. Required Yards

- (1) *Projections into Yard Areas*. Every part of a required yard shall be open to the sky, unobstructed, except as follows:

(a) In a rear yard;

1. Accessory buildings and accessory structures (Subject to requirements of Section 800.01). *(Revised 11-6-13)*
2. Bay windows and other cantilevered structures may project into the required rear and front yards no greater than two (2) feet.

(b) In a side yard;

1. Terraces, decks and ornamental features which do not extend more than three (3) feet above the level of the ground (first) story, provided they be distant at least two (2) feet from the adjacent lot line.
2. Accessory buildings and accessory structures (Subject to requirements of Section 800.01). *(Revised 11-6-13)*

(c) In a front yard;

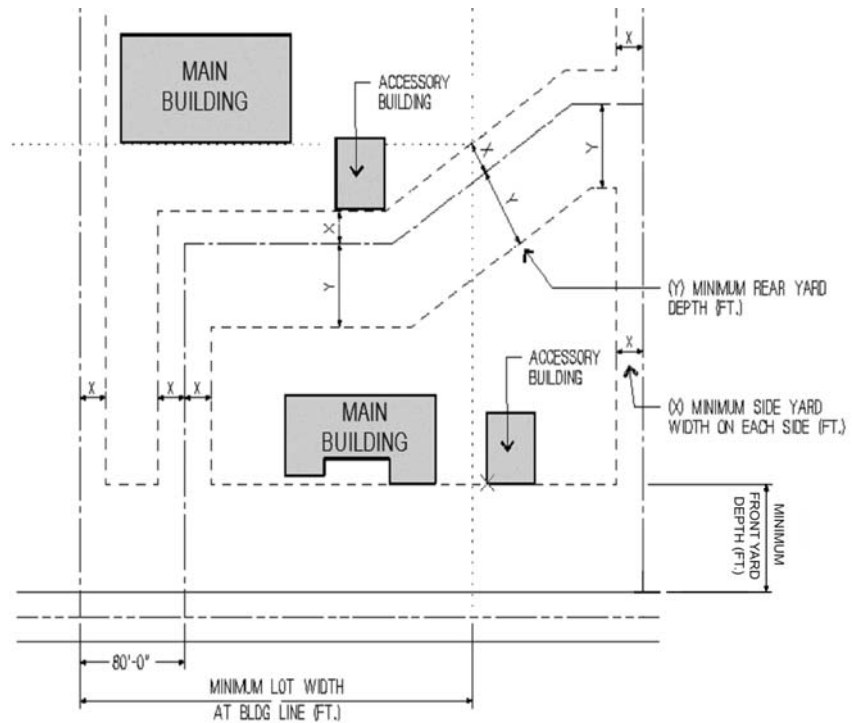
1. An open uncovered porch or paved terrace may project in the required front yard no greater than ten (10) feet. *(Revised 11-6-13)*
2. Accessory buildings and accessory structures (Subject to requirements of Section 800.01). *(Added 11-6-13)*

(d) In any yard;

1. The ordinary projections of chimneys or flues.
2. The ordinary projections of skylights, sills, belt-courses, corbels, cornices, and ornamental features projecting no greater than twelve (12) inches.

600.03B(2) – 600.03B(6)(a)

- (2) *Computing Lots, Yards, and Open Space Area for a Building.* No space which, for the purpose of a building, has been counted or calculated as part of a side yard, rear yard, front yard, or other open space required by these regulations may, by reason of change in ownership or for any other building.
- (3) *Varying Front Yard Setbacks in Residential Districts.* In a C-D, R-E, R-1, R-2 or R-3 District where the average depth of at least 2 existing front yards on lots within 200 feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in these regulations, the required depth of the front yard on such lot may be modified. In such case, this shall not be less than the average depth of said existing front yards on the 2 lots immediately adjoining, or, in the case of a corner lot, the depth of the front yard on any lot shall not be less than 25 feet and need not exceed 100 feet. In an R-L District this regulation shall apply only upon approval by the Board of Zoning Appeals.
- (4) *Corner Lots*
 - (a) Corner lots in all districts are required to have the minimum front yard requirements, as indicated in that district, facing each street.
 - (b) Visibility at Corner Lots. No obstruction in excess of 2 feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, except that street trees are permitted which are pruned at least eight (8) feet above the established grade of the roadway so as not to obstruct clear view by motor vehicle drivers.
- (5) *Cul-de-sac Lots.* Lots that have frontage on a cul-de-sac circle shall have a minimum lot frontage of fifty (50) feet in all zoning districts.
- (6) *Flag and Irregularly-Shaped Lots (with less than the required minimum lot frontage)*
 - (a) Structures shall only be erected, converted, enlarged, reconstructed or structurally altered on legal nonconforming flag or irregular-shaped lots as permitted within this Zoning Code.



REQUIRED SETBACKS ON A FLAG LOT/IRREGULARLY SHAPED LOT

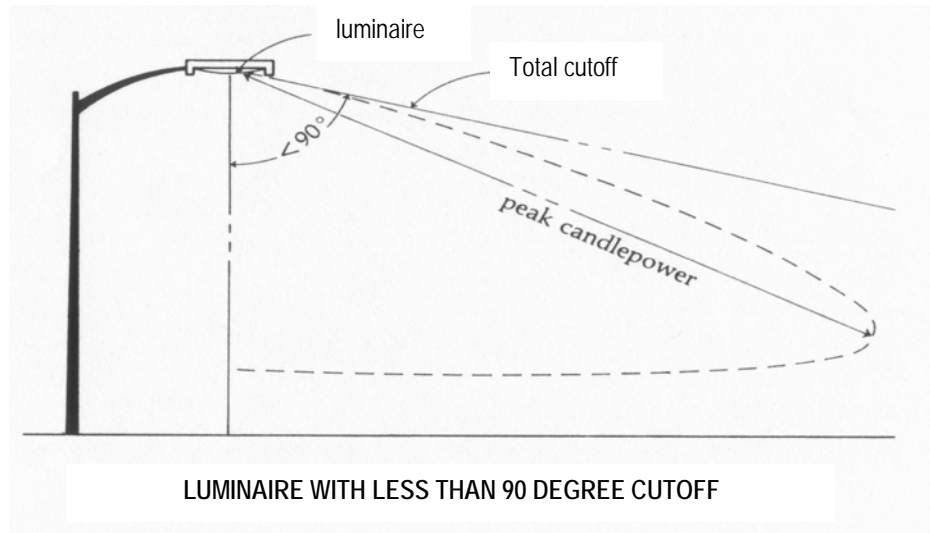
- (b) Where "Minimum Lot Width at Bldg Line" is not possible within the "Minimum Front Yard Depth" due to lot dimensions, the Building line shall be revised to include a setback equal to the "Minimum Side Yard Width" or equal to the proposed building height (whichever is greater) from the point where the "Minimum Lot Width at Bldg Line" can be achieved. A side lot line shall be considered anything that is not a rear or front lot line (with street frontage).
- (c) Accessory buildings on flag and irregularly shaped lots shall be setback from the property line per Section 800.01A(5) for side and rear setbacks, but shall not be required to be setback as far as the front wall of the principal building per Section 800.01A(4).
- C. Permitted Height Exceptions (except agricultural-related structures. See Section 800.03)
- (1) Except as specifically stated in other parts of these regulations, no structure shall be erected, converted, enlarged, reconstructed or structurally allowed to exceed the height limit established for the district in which the building is located, except that penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smokestacks, radio and television aerials, wireless masts, water tanks or similar structures may be erected above the height limits herein.

600.03C(1)(a) – 600.03G(3)

However:

- (a) No such structure may be erected to exceed by more than 15 feet the height limits of the district in which it is located;
 - (b) No such structure shall have a total area greater than 25% of the roof area of the building;
 - (c) No such structure shall be used for any purpose other than a use incidental to the main use of the building.
 - (d) Public or quasi-public buildings, when permitted in a District, may be erected to a height not to exceed 45 feet, except that churches and temples may be erected to a height not to exceed 75 feet if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise provided in the District in which the building is located.
 - (e) Such structure shall be set back from side yard line at least one (1) foot for each one (1) foot of structure height.
- D. Principal Building. No more than one dwelling shall be permitted on any lot unless otherwise specifically stated in these regulations and every dwelling shall be located on a lot having required frontage on a public street, except when permitted in a Conservation Subdivision.
- E. Temporary Buildings. Temporary buildings for use incidental to construction work may be erected in any of the zone districts herein established, however, such temporary building or buildings shall be removed upon the completion or abandonment of the construction work. Construction work shall be considered abandoned if no construction work is performed for a period of 60 consecutive days.
- F. Compliance with Building Regulations and Health Code Regulations. All structures shall comply with the standards and requirements of the building regulations adopted and administered by the Summit County Building Department and shall comply with the standards and requirements of the health code regulations administered by the Summit County Public Health Department. *(Revised 9-4-13)*
- G. Conversions of Dwellings to More Than One Unit. An existing dwelling unit may not be converted to accommodate an increased number of dwelling units unless all of the following conditions are met:
- (1) The conversion is in compliance with all other local codes and ordinances, and any applicable State or Federal regulations.
 - (2) The district within which the residence is located is so regulated as to allow such an increase in dwelling units.
 - (3) The yard dimensions still meet the yard dimensions required by the zoning regulations for new structures in that district.

- (4) The lot area per family equals the lot area requirements for new structures in that district.
- (5) The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.
- (6) The conversion is in compliance with all other relevant codes and ordinances.



- H. Lighting Regulations. All lighting in all zoning districts shall be controlled in such a way as to not shine up into the sky or onto any neighboring properties. Light sources shall be fully shielded and shall feature sharp cutoff capability so as to minimize up-light, spill-light, glare and to minimize light trespass onto adjacent property.
- (1) Where used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots, only fully shielded light fixtures shall be utilized.
 - (2) Where used for signs or for decorative effects or recreational facilities, such as for building or landscape illumination, the outdoor light fixtures shall be equipped with automatic timing devices and shielded and focused to minimize light trespass.
 - (3) All outdoor light fixtures installed and maintained upon private property shall be turned off between 11:00 p.m. and sunrise, except when used for security purposes or to illuminate walkways, roadways, equipment yards and parking lots.
 - (4) All outdoor light pole fixtures, except for ball field lighting, shall not exceed a maximum height of sixteen (16) feet in residential zoning districts and thirty (30) feet in commercial and industrial districts. Ball field lighting may exceed thirty (30) feet in height but shall be so designed to minimize light trespass onto adjacent properties.

600.03H(5) – 600.03I(2)(a)

- (5) All outdoor light fixtures producing light directly by the combustion of fossil fuels, (such as kerosene lanterns or gas lamps), all low-voltage lighting rated twenty-four (24) volts or less and holiday lighting shall be exempt from the requirements of this section.
 - (6) Island canopy ceiling light fixtures shall be recessed so that direct light cannot radiate onto adjacent properties or roadways.
 - (7) In addition to the provisions of this article, all outdoor light fixtures shall be installed in conformity with all other applicable provisions of this resolution.
 - (8) Because of their unique requirements for nighttime visibility and their limited hours of operation, ball diamonds, playing fields, tennis courts, and other similar outdoor public and commercial recreational uses are exempt from these lighting regulations, except that such uses must meet the following standards:
 - (a) The outdoor recreational uses (ball diamonds, playing field and tennis courts) may exceed a total cutoff angle of ninety (90) degrees, provided that the luminaire is shielded to prevent light and glare spillover to adjacent residential property.
 - (b) Exterior lighting shall be extinguished no later than 11:00 p.m.
- I. Home Sales. Home sale means a sale of personal property, which is not produced upon the premises, to the general public, conducted in or on any portion of residential premises within a residential zoning district, and includes, but is not limited to all sales entitled "garage sale," "lawn sale," "yard sale," "patio sale," "attic sale," "room sale," "carport sale," "basement sale," "driveway sale," "flea market sale," "rummage sale," or the like.
- (1) General Restrictions. No person, firm or corporation shall conduct a home sale within the City in violation of the following regulations:
 - (a) No home sale shall be conducted on the same residential premises for longer than three consecutive days.
 - (b) After each three-day duration, all items incident to the sale, including signage, shall be removed and stored indoors.
 - (c) No more than three home sales shall be conducted on the same residential premises during any calendar year.
 - (d) One (1) sign permitted as per Section 1300.05C(15).
 - (2) Exceptions. The home sale provisions shall not apply to or affect the following:
 - (a) Persons selling goods pursuant to an order or process of a Court of competent jurisdiction.

- (b) Persons acting in accordance with their powers and duties as public officials.
- (c) Any person selling an item or items of personal property publicized solely by classified newspaper advertising which describes or identifies the specific item or items offered for sale and does not designate the date, hours, or location of the sale other than by stating the name, address or telephone number of the seller.
- (d) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the Zoning Code of the City or under the protection of the non-conforming use section thereof.
- (e) Any bona fide corporations not for profit, churches, temples, schools, fraternities, sororities, associations, clubs, lodges, and educational, cultural or governmental institutions or organizations.
- (f) Any sale conducted by an auctioneer, not living on or owning the property at which the sale is being held, and having a license issued by the Department of Commerce of the State of Ohio.
- (g) The sale of agricultural-related products.

600.04 SPECIAL REGULATIONS FOR C-R COMMERCIAL-RESIDENTIAL DISTRICT

- A. In the C-R Commercial-Residential District the following types of home occupations and/or businesses are conditionally permitted uses, subject to Board of Zoning Appeals review and approval:
 - (1) Professional offices such as those pertaining to but not limited to architecture, dentistry, engineering, law and medicine (for human care only).
 - (2) Real estate and insurance offices.
 - (3) Personal services such as barber and beauty shops, cleaning and laundry outlets (where no processing is done on the premises), and tailor shops.
 - (4) Baking and canning of food products when conducted entirely within the dwelling.
 - (5) Fabrication and/or repair of goods and the selling of goods produced on the premises provided that no more than 1,500 square feet of floor area in the dwelling is used for such purposes and provided that no noticeable odors, smoke, noise, dust, refuse, electromagnetic interference, or other objectionable conditions are created outside the structure.
 - (6) Limited retail uses such as small art supply shops, hobby shops, photo shops, clothing shops, coffee shops, delicatessen, ice cream parlors, florist shops and other similar uses provided that more than 1,500 square feet of floor area in the dwelling is used for such purposes and provided that no noticeable odors, smoke, noise, dust, refuse, electromagnetic interference, or other objectionable conditions are created outside the structure.

600.04B – 600.04B(6)

- B. The preceding land uses in this subsection are subject to the following conditions:
- (1) Loudspeakers which cause a hazard or annoyance shall not be permitted.
 - (2) There shall be no more than (1) advertisement oriented to each abutting road identifying the activity.
 - (3) Such uses shall not require uneconomical extensions of utility services at the expense of the community.
 - (4) Such uses should be properly landscaped to be harmonious with surrounding residential uses.
 - (5) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual, or the community in general, a bond may be required to insure that this provision will be met.
 - (6) A conditional zoning certificate for a use permitted under these regulations shall be issued for a three (3) year period only. After a three (3) year period has elapsed, a new conditional zoning certificate shall be required and may be issued provided that the Board of Zoning Appeals and the Zoning Administrator determine that the said use has been and is being operated according to the specifications of the Zoning Code and the previous conditional zoning certificate. If necessary, the Board may make additional requirements for the continued operation of the use a prerequisite for re-issuance of the conditional zoning certificate.

ARTICLE 7 NONCONFORMING USE REGULATIONS

700.01 PURPOSE

Pursuant to ORC 713.15, the purpose of this section is to provide for the continuation of legal, nonconforming land uses that do not conform to the existing zoning, but which were in operation prior to the enactment of this Zoning Code or amendments thereto, and to provide for their discontinuance upon certain conditions. It is the legislative intent of the City of New Franklin to discourage the survival of nonconforming uses, to prevent their unreasonable enlargement or expansion, and to minimize their establishment elsewhere in the same district.

700.02 CONTINUANCE

The lawful use of any structure or land existing at the effective date of this Zoning Code or amendments thereto may be continued, although such use does not conform to the provisions of this Zoning Code.

- A. Change of Tenancy, Ownership, or Management. Nothing in this Zoning Code shall prohibit the completion or construction and use of a nonconforming structure where there is a change of tenancy, ownership, or management of any existing nonconforming uses of land, of structures or of structures and land in combination.
- B. Preexisting Applications
- (1) Any zoning application filed with the Township, Village or City and determined to be fully complete prior to the effective date of this Zoning Code shall be regulated, even if submitted as a phased project, by the terms and conditions of the recorded plats, development text, standards, or regulations that were in place at the time the application was determined to be fully complete. If such application is no longer required by the terms of this Zoning Code, the application will be dismissed;
 - (2) If a proposed development or use requires additional approvals pursuant to the terms of this Zoning Code that were not required under the previous Zoning Code, the application will be amended and revised to bring the entire proposed development into complete compliance with the Zoning Code.
- C. Completion of Nonconforming Use. Nothing in this Zoning Code shall prohibit the completion of construction and use of a nonconforming structure provided that each of the following events shall have occurred:
- (1) A lawful Zoning Certificate was issued by the City and is still valid;
 - (2) Actual construction was approved and lawfully begun prior to the effective date of this Zoning Code, or any amendment thereto;
 - (3) Construction is carried on diligently for a continuous period and without interruption exceeding 30 days; and
 - (4) The entire building is completed within two (2) years after the issuance of the Zoning Permit.

700.02D – 700.04A

- D. Legal Nonconforming Lots. If a parcel or subdivision was approved as a buildable lot by the Zoning Administrator, the Planning and Zoning Commission, or the Board of Zoning Appeals prior to the effective date of this Zoning Code, a building and customary accessory buildings may be erected on any such single lot of record after the effective date of adoption or amendment of this Zoning Code subject to any yard requirement variances which may be obtained through approval of the Board of Zoning Appeals. 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:
- (1) The lot has been platted and held in single and separated ownership prior to nonconformance;
 - (2) The land use was legal at the time this Zoning Code or amendment came into effect;
 - (3) A valid, nonconforming use permit has been issued for the property;
 - (4) Any legal nonconforming lot of record, including corner lots, or lot for which a land contract has been issued or any lot within an unrecorded allotment of which at least one-half of said lots are of record or have been sold on land contract on the effective date of these regulations, may be used for a single-family dwelling irrespective of the area, depth, or width of said lot such that:
 - (a) The width of the side yard of any such lot need not exceed 10% of the width of the lot, provided, however, that in no instance shall the minimum dimensions of the side yards be less than five (5) feet;
 - (b) The depth of the rear yard need not exceed 20% of the depth of the lot, provided, however, that in no instance shall the minimum dimensions of the rear yard be less than twenty (20) feet respectively.
 - (c) Yard dimensions and other requirements not involving area, or width, or both, of the lot shall conform to the regulations for the district in which such lot is located;

700.03 DISCONTINUANCE OR ABANDONMENT

- A. Whenever a nonconforming use has been discontinued or abandoned for a continuous period of six (6) months or more, any further use shall be in conformity with the provisions of this Zoning Code. Land and structures occupied by seasonal or agricultural uses shall be exempted from this provision unless the nonconforming use has been discontinued or abandoned for a period of two (2) years.
- B. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

700.04 RESTORATION OF NONCONFORMING USES

- A. Where a previously legal, nonconforming land use has been found to be a nuisance, it shall not be reestablished as a legal nonconforming use.

- (1) Where a permit is granted in violation of this Zoning Code, there shall be no valid restoration of a nonconforming use.
- (2) Uses that are merely incidental to the main, legal, nonconforming use on a property shall not qualify for restoration with legal, nonconforming status.
- (3) The existence of a legal, nonconforming use on a portion on a parcel or on adjacent parcels shall not impart legality of the use on the whole parcel or all adjacent parcels when the use had not previously been used in that manner.
- (4) The right of a landowner to maintain a legal, nonconforming use shall be restricted to the subject parcel and shall not be transferable to another parcel.

700.05 RECONSTRUCTION OF NONCONFORMING USES

- A. Nothing in this Zoning Code shall prevent the reconstruction, repairing, rebuilding, and continued use of any legal nonconforming building or structure damaged by fire, collapse, explosion, or acts of God, subsequent to the date of this Zoning Code.
- B. Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

700.06 EXTENSION OF NONCONFORMING USES

A legal, nonconforming use of a structure, a legal, nonconforming use of land, or a legal, nonconforming use of a structure and land shall not be altered, improved, extended or enlarged after passage of this Zoning Code, except that extension or expansion of nonconformities shall be permitted by the Board of Zoning Appeals subject to the following conditions:

- A. The extension or expansion shall not exceed 50% of the cubic feet of volume of such structure or square feet of land area of the use as originally existed at the time such use became legally nonconforming.
- B. Only one such 50% extension, enlargement, alteration or addition involving the same premises shall ever be permitted unless the building or structure is changed to a conforming use.
- C. Setbacks appropriate to the nature of the nonconforming use are maintained.
- D. The extension or expansion cannot reasonably be expected to adversely affect adjacent conforming uses by reducing the market value of such adjacent property, by interfering with ingress and egress thereto, or obstructing its existing light and air. The burden of establishing such probable injury shall be upon the adjacent property owner or user and in the absence of satisfactory evidence, no injury to adjacent property shall be presumed by the Board of Zoning Appeals.

700.06E – 700.07D

- E. No nonconforming use shall be extended to displace a conforming use.
- F. In permitting such change, the Board of Zoning Appeals may require conditions and safeguards in accord with the purpose and intent of this Zoning Code.

700.07 SUBSTITUTION OF NONCONFORMING USES

- A. A legal, nonconforming land use shall not generally acquire or impart legality for a major change of use to any other proposed nonconforming use or combination of uses.
- B. A legal, nonconforming land use may be changed to another nonconforming land use provided that the proposed nonconforming use is in less conflict with character and use of the district than the existing nonconforming use as determined by the Board of Zoning Appeals.
- C. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- D. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

ARTICLE 8 SUPPLEMENTAL LAND USE REGULATIONS

800.01 ACCESSORY BUILDING AND ACCESSORY STRUCTURE REQUIREMENTS AND/OR USES (EXCEPT AGRICULTURE. SEE SECTION 800.03) *(Revised 11-6-13)*

- A. General Accessory Building and Accessory Structure Requirements and/or Uses. Accessory buildings and accessory structures which are not attached to the principal building, on a lot, shall be: *(Revised 11-6-13)*
- (1) Permitted in Conservation Subdivisions on a lot of less than 3/4 acres in size with a size limitation of 144 square feet. Otherwise, all accessory building and accessory structure regulations shall apply. *(Revised 11-6-13)*
 - (2) Permitted in the R-L Lakefront Residential District in accordance with the following: *(Revised 11-6-13)*
 - (a) Due to the undulating character of the shoreline, all accessory buildings and accessory structures in the R-L Lakefront Residential District shall be subject to review and approval by the Board of Zoning Appeals. The Board of Zoning Appeals shall review the accessory buildings and structures with regards to the following considerations: *(Added 11-6-13)*
 1. Whether the accessory building or structure is in harmony with the general purpose, spirit and intent of the zoning code. *(Added 11-6-13)*
 2. The accessory building or structure will not adversely affect the delivery of government services. *(Added 11-6-13)*
 3. Whether the accessory building or structure would require a variance in any other residential zoning district. *(Added 11-6-13)*
 4. Allowing the accessory building or structure will not alter the essential character of the locality or substantially impair environmental quality, property values or public safety or welfare in the vicinity. *(Added 11-6-13)*
 5. Whether the accessory building or structure is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to other properties in the district. *(Added 11-6-13)*
 6. Whether the accessory building or structure is necessary, not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of beneficial use or enjoyment of, or reasonable economic return from the property. *(Added 11-6-13)*
 - (b) The above guidelines are meant to assist the Board of Zoning Appeals and are neither exclusive, nor all inclusive. Each request is to be viewed in terms of its own circumstances. *(Added 11-6-13)*

800.01A(2)(c) – 800.01B(2)(a)

- (c) Notwithstanding the foregoing, an R-L property owner is permitted to have one accessory building or structure no greater than four (4) feet in height, four (4) feet in width, and four (4) feet in length without review by the Board of Zoning Appeals. The permitted structure does require a zoning permit. *(Added 11-6-13)*
- (d) Otherwise, all accessory building and accessory structure regulations shall apply. *(Revised 11-6-13)*
- (3) Located no closer than ten (10) feet from any other building or structure on the same parcel (this applies to distances between accessory buildings only). *(Revised 11-6-13)*
- (4) Accessory buildings and accessory structures, except fences, shall be built not closer than five (5) feet of the rear and side lot lines. (Refer to Section 801.01G General Fence, Wall and Hedge Regulations). *(Revised 11-6-13)*
- (5) Designed so that storm water does not drain onto adjacent property.
- (6) Subordinate to the principal building in length, width, and height.
- (7) Not to exceed fifteen (15) feet in height (see definition of “building height” under Article 14).
- (8) A style, siding, color, and roof pitch similar to the principal building.
- (9) Not constructed of canvas, fabric, tarp or mesh material. *(Revised 11-6-13)*
- (10) Permitted structures shall be securely mounted on a permanent foundation and be engineered to withstand fifty (50) mile per hour winds.
- (11) On lots of less than 2 acres, a maximum of one detached garage and one storage building may be built according to Section 800.01B.

B. Private Residential, Accessory Garage or Carport

- (1) Attached Garages. A garage is considered attached to the dwelling when its structural members are permanently attached to the dwelling. The maximum size of attached garages shall be as follows:
 - (a) For dwellings with living space up to 2,400 square feet shall be 800 square feet.
 - (b) For dwellings with living space greater than 2,400 square feet shall be thirty-three (33%) percent of the living space of the dwelling.
- (2) Detached Garages. No more than one detached garage or carport may be built in a side or rear yard of any lot, except as permitted elsewhere in this Zoning Code. A detached private garage or carport shall:
 - (a) Not exceed 800 square feet in size.

(b) Be allowed a second-story for non-living space purposes only,

- (3) Nonconforming Garages. A non-conforming garage may be replaced under these regulations, without going before the Board of Zoning Appeals and, in fact, may be increased in size by fifty (50%) percent, provided that it shall be no larger than 800 square feet.

C. Storage Building

- (1) A storage building shall not exceed 400 square feet. No more than one allowed per lot.
- (2) Shall have minimum side yard and rear yard setbacks not less than 5 feet or not be located closer to the required front yard setback than the front wall of the principal building;
- (3) No more than one storage building may be built in a side or rear yard of any lot, except as permitted elsewhere in this Zoning Code.
- (4) Portable storage units are not permitted as a principal permitted use, permitted accessory use or as a conditional use in any zoning districts except when used in the following situations:

(a) *Temporary Construction Sites*

1. When necessary to facilitate clean-up and/or restoration activities resulting from a natural disaster of fire or flood for a period of not more than one hundred eighty days (180) days provided that a permit is obtained from the Planning and Zoning Department.
2. When the occupant of the property is relocating, a portable storage unit may be located on the property for a period not to exceed thirty (30) consecutive days and not more than twice per year, provided that a permit is obtained from the Planning and Zoning Department and that the unit is not placed in the public street, road, alley or public right-of-way.

- (5) Storage of hazardous materials is prohibited.

D. Additional Accessory Building.

- (1) On a lot of two (2) acres in size or greater, accessory buildings as listed in section 800.01A(12), and, one additional accessory building shall be permitted. The additional accessory building shall be as follows:
- (2) When 2 acres to 5 acres in lot size -1,200 square feet maximum.
- (3) When 5 acres to 10 acres in lot size - 2,400 square feet maximum.
- (4) When 10 acres or greater in lot size – 3,600 square feet maximum.

800.01E – 800.01G(1)(g)

- E. Satellite Television Antenna. Satellite television antennas are permitted as accessory structures in all zoning districts and shall be subject to any permits required for an accessory building, except for those of one meter or less in diameter shall not require a permit.
 - (1) Roof-mounted satellite television antennas requiring permits shall be permitted in commercial, industrial, and multifamily residential zones only.
 - (2) Roof mounted antennas shall not exceed more than 10 feet above the height limit established for the zone in which the structure is located.
- F. Projections of Exterior Ornamental Features. See Section 600.03B(1) Projections into Yard Areas.
- G. General Fence, Wall, and Hedge Requirements (Except for Agricultural Uses, See Section 800.03).
 - (1) *Regulations Applicable to All Districts*.
 - (a) Visibility at Corner Lots. No obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, except that street trees are permitted which are pruned at least eight (8) feet above the established grade of the roadway so as not to obstruct clear view by motor vehicle drivers.
 - (b) Fences, walls and hedges shall be well maintained and will be harmonious and appropriate in appearance with the existing character of the immediate area in which it is to be located, and will not be hazardous to existing neighboring uses.
 - (c) No sharp wire or points shall project from the top, either side, end, or bottom of any fence.
 - (d) No electrified fence or fence containing broken glass, barbed wire, scrap materials or any other substance reasonably calculated to do bodily harm shall be permitted in any zoning district without the express approval of the Board of Zoning Appeals.
 - (e) No wall, fence, or hedge shall be placed on top of a berm or earth form that is higher than 18".
 - (f) When walls or fences are used to fulfill screening requirements, they shall be detailed on the landscaping plan. They are to be of weather-proof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware.
 - (g) No fence or wall shall be constructed in any platted no-build zone, conservation/no disturb zone, floodway, floodplain or drainage easement for any parcel or subdivision which would be detrimental to the public health and safety. A fence or wall shall not be located so as to adversely affect the vision of drivers on the public streets or from driveways intersecting public streets.

- (h) Supporting members for fences and walls shall be located inside of the fenced or wall area away from the adjoining property unless the fence is designed such that the supporting members are identical in appearance on both sides of the fence or wall. In any case, all supporting members for fences and walls shall be located on the fence owner's property. (*Revised 4-1-11*)
 - (i) All portions of the property shall remain accessible from outside the fence area by means of a gate or other opening.
 - (j) The height of a fence shall be measured from the established grade line to the highest point of the fence including posts and finials. The height of the fence in a side or rear yard may not be artificially increased by the use of mounding unless otherwise required by this Article.
 - (k) Chain link fences with or without wooded or synthetic slat material shall not be allowed when used to satisfy buffer yard and landscaping requirements.
- (2) *Accent Fences and Picket Fences.* Accent fences and picket fences shall be permitted in all zoning districts if limited to four (4) feet in height as measured from grade, and if designed only to partially enclose an area and serve only an ornamental purpose.
- (3) *Arbors and Trellises.* Arbors or trellises shall be permitted in all zoning districts except for the R-L District, where they are considered a conditional use subject to Board of Zoning Appeals approval. Arbors or trellises, which are detached from the building, may encroach on a required side yard, side yard which abuts a street and forward of the principal structure provided that:
- (a) The surface of the arbor or trellis shall be at least 50% open, and
 - (b) Such arbors and trellises shall be of a size no greater than the following maximum dimensions:
 - 1. Maximum Height - 8 feet
 - 2. Maximum Width - 5 feet
 - 3. Maximum Depth - 3 feet
- (4) *Solid fences.* Solid fences of an approved type shall be permitted in all zoning districts only in rear yards or to enclose a deck, patio, or pool. Solid fences shall not be located within a required side yard. Solid fences shall not be used to enclose the entire perimeter of the property except when used to enclose junk yards, land fills, or highly nuisance-oriented land uses.
- (5) *Brick, Stone or Masonry Walls.* Brick, stone or masonry walls are permitted, but forward of the building line shall not exceed three feet in height.
- (6) *Regulations Applicable to C-D, R-E, R-1, R-2, R-3 and C-R Districts Only*

800.01G(6)(a) – 800.01G(9)(b)2

- (a) Fences, walls, and hedges may be permitted in any required yard or along the edge of any yard, provided that no fence, wall, or hedge between the front building line of the main structure and the road right-of-way shall be more than four (4) feet in height above grade.
- (b) Fences, walls, or hedges may be permitted along the side or rear lot lines to a height of not more than six (6) feet above the grade. Informal planting, however, may be higher than six (6) feet. Hedges and living fences shall be located so that future growth shall not extend over the lot line.

(7) *Regulations Applicable to the R-L District Only*

- (a) From the lakefront towards the street, the height of a fence, wall or hedge shall not exceed three (3) feet in height for the first twenty (20) feet back from the waters edge. From this first twenty (20) feet to not closer than twelve (12) feet of the public right-of-way, it shall be not higher than four (4) feet. If the fence is a completely see-thru security fence with all metal construction, then the fence shall not exceed four (4) feet in height along its total run. No fence, wall or hedge shall be erected within twelve (12) feet of the public right-of-way.

(8) *Regulations Applicable to All Other Districts*

- (a) Security Or Industrial Fences. Security, electrified, and industrial fences can be conditionally permitted in business and industrial zoning districts as approved by the Board of Zoning Appeals.
- (b) Such fences may not be placed forward of the primary structure and are restricted to side and rear yards.
- (c) Such fences may be erected parallel to and on, or approximately on, the common property line to a height not exceeding six (6) feet above the established grade.

(9) *Retaining Wall Regulations. (Added 4-1-11)*

- (a) Retaining walls shall be permitted in all zoning districts along all lot lines to a height of not more than six (6) feet above the existing natural grade prior to construction, provided that any retaining wall shall be well maintained, will be harmonious and appropriate in appearance with the existing character of the immediate area in which it is to be located, and will not be hazardous or disturbing to existing or future neighboring uses.
- (b) Retaining walls shall be subject to site plan review by the Planning and Zoning Commission and approved by the Summit County Building Department and/or the City Engineer and/or his/her designee when they meet any of the following conditions:
 - 1. The wall is three (3) feet or over in height above grade to the top of the wall.
 - 2. The wall is supporting an additional load, such as a structure or driveway.

3. The wall is containing a surcharge for driveways and sidewalks when they are more than three (3) feet above an adjacent grade point that is within five (5) feet of the edge of the drive.
- (c) All retaining walls shall be subject to the requirements of Section 800.01G(1)(a) Visibility at Corner Lots.
- (d) Permit Application Requirements. A site plan indicating:
 1. The distance to property lines.
 2. The contours of all adjacent grade that indicate the flow of the surface water on the lot that may be affected by the wall, and the height and type of fill contained by the wall.
 3. The location of any easements near the proposed wall.
 4. Technical drawings indicating the height, length, width, reinforcing, and drainage of the walls, the type of soil or other material being retained are required to be submitted prior to permit approval. Retaining walls shall be designed to ensure stability against overturning, sliding, excessive foundation pressure and water uplift.

H. Swimming Pools.

- (1) Public or private in-ground or above-ground swimming, wading, or other pools containing over one an one-half (1 ½) feet of water depth shall be considered as structures for the purpose of permits, shall not be located in the front or side yards, and shall conform to all required yard setback lines. The construction, plumbing, and electrical requirements, inspection, and other safety facilities shall be regulated by local and/or county codes.
- (2) Every pool defined as a structure shall be completely surrounded by a fence or wall not less than 4 feet in height; and comply with Ohio Building Code railing requirements, except for doors or gates which shall be equipped with suitable locking devices to prevent unauthorized intrusion. An accessory building for the housing of pool supplies may be used in or as part of such enclosure. Pools above-ground having vertical surfaces of at least 4 feet in height shall be required to have fences and gates only where access may be had to the pool.

800.02 OUTSIDE STORAGE AND DISPLAY

Outdoor storage or display locations shall be subject to and approved by the Zoning Administrator upon the application of the record owner of the property.

A. Commercial or Industrial Outdoor Bulk Storage or Display. The following regulations shall apply to business, commercial or industrial outdoor bulk storage or displays:

- (1) *Display of Merchandise.* No outdoor storage or commercial display of furniture, lawn monuments, or other manufactured goods and materials may occur outside of a building in any required yards, except.
 - (a) New vehicles, boats, and trailers displayed for sale;

800.02A(1)(b) – 800.02A(2)(d)2b

- (b) Used vehicles, boats, and trailers displayed for sale when in conjunction with new vehicle sales on the lot;
 - (c) Lawn and garden centers, plant nurseries, or other merchandise for sale or rental may be displayed in front yards of commercial districts other than the minimum required yards, provided that they are suitably screened or fenced from street-level view from the public right-of-way or adjacent residential properties.
- (2) *Display of Bulk Goods.* The outdoor storage or display of bulk goods including seasonal items such as firewood and mulch shall be controlled by the following regulations:
- (a) The outdoor storage or display of merchandise, inventory or materials shall not interfere with parking or the safe and unobstructed use of vehicular or pedestrian access ways or walkways.
 - (b) The outdoor storage or display of merchandise, inventory or materials shall not be located within the first twenty (20) feet of the minimum front yard area within the lot, and not within the minimum side yards.
 - (c) Outdoor storage areas shall be buffered from adjoining properties as required by the landscaping regulations.
 - (d) No storage of raw materials, building materials, unlicensed or inoperative vehicles, recreation vehicles, merchandise, waste products, junk, or other material or equipment shall be stored or displayed on any lot outside of a fully, enclosed building unless expressly permitted by this section.
 - 1. Raw Materials. No raw materials used as inventory or for value-added retail or other processing may be stored or displayed outside of a building on the premises.
 - 2. Building Materials. Building materials or equipment intended for use in connection with construction upon the premises may be stored or placed in yards other than minimum required yards for a period not to exceed one year only upon receipt of a permit for such outside storage from the Zoning Administrator as long as the materials or equipment are screened or fenced in such a way so that the same are not visible from any residential zoning district or the public right-of-way by persons standing at the street level. Provided further, that all construction debris shall be removed from any premises within 30 days after occupancy thereof.
 - a. Building materials shall include, but shall not be limited to, lumber, bricks, concrete or cinder blocks, dirt, topsoil, gravel, mulch, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in landscaping and construction.
 - b. Such screening or fencing shall be constructed and maintained at a height of not less than 4 feet and not more than 6 feet above grade, and shall be constructed of similar materials to match or blend with the building in appearance and color. If decorative masonry or wood is used, upright

evergreens shall, in addition thereto, be planted on the side of the wall or fence nearest to the residential district or the public right-of-way. The maximum spacing between such plantings shall not exceed 5 feet.

- (e) Applications for outdoor storage or display areas shall be on a form provided by the Zoning Administrator and shall be submitted with a site plan depicting the location of the said storage or display areas with supporting documentation indicating the impact of the storage or display area on the property as a whole. The Zoning Administrator may request the specific review and approval of the Planning and Zoning Commission of any application. The review and approval of the Planning and Zoning Commission may also be requested by any applicant whose application has been rejected or modified by the Zoning Administrator, which request must be made in writing and must be made within ten days of such rejection or modification.
- (3) *Service Structures.* Service structures shall include, but not be limited to, loading docks, dumpsters, electrical transformers, utility vaults which extend above electrical and other equipment or exterior components of plumbing, processing, heating, cooling, and ventilating systems (including but not limited to piping, tanks, stacks, collectors, heating, cooling, and ventilating-equipment fans, blowers, duct work, vents, louvers, meters, compressors, motors, incinerators, ovens, etc).
- (a) Service structures shall be screened with fencing or landscaping and shall not be directly visible at ground level from the public right-of-way or any residential district.
 - (b) Exterior components of plumbing, processing, heating, cooling, and ventilating systems and their screening devices which will be visible from upper floors of adjacent buildings shall be installed in a neat and compact fashion and shall be painted such a color as to allow their blending with their visual backgrounds.
 - (c) The location and dimensions of trash receptacles and/ or any other solid waste disposal facilities shall have adequate capacity for the proposed use of the site. Trash dumpsters with screening shall be accessible without occupying required parking, loading or vehicular movement areas.
- (4) *Waste Products or Junk.* Waste products or junk may be stored or placed in yards other than minimum required yards for a period which does not exceed 30 days, provided the matter shall be adequately screened from view of the public right of way and residential areas and not create a nuisance.
- (a) The term “waste products” shall include discarded or salvage materials, including, but not limited to, waste materials, remnants of lumber, metal, or any other used building materials, used glass, paper, rags, rubber in any shape or form, barrels or other material of this character.
 - (b) The term “junk” shall include parts of machinery or motor vehicles, unused or inoperable appliances stored in the open, or other castoff materials of any kind whether or not same could be put to any reasonable use.

800.02A(5) – 800.03B(2)

(5) *Hazardous Materials*

- (a) No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, except tanks or drums of fuel directly connected with energy devices or heating appliances located and operated on the same lot as the tanks or drums of fuel. All outdoor storage facilities for fuel shall be enclosed by an approved safety fence.
- (b) All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored outdoors only if enclosed in containers which are adequate to eliminate such hazards.
- (6) *Natural Resource Protection.* No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or watercourse or otherwise render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse.

B. Manufactured Homes and Mobile Homes.

- (1) Mobile homes are not permitted except a legal nonconforming mobile home within an existing trailer park. In addition, trailers and mobile homes used or intended to be used for residential purposes and trailer parks shall not be permitted in any of the zoning districts.
- (2) The parking of a manufactured or mobile home for periods exceeding 24 hours on lands not approved for manufactured or mobile homes shall be expressly prohibited.

800.03 AGRICULTURAL USES

A. Purpose. It is considered to be in the best interests of the City to regulate agricultural land uses. Such uses shall only be permitted in the C-D, R-E, R-1 and R-2 zoning districts. However, the growing of fruits, vegetables, flowers or trees for the owner's consumption or enjoyment shall be permitted in any zoning district and no zoning permit shall be required.

B. Definitions:

- (1) *Agriculture* - The use of land for farming; dairying; pasturage; ranching; aquaculture; apiculture; horticulture; silviculture, viticulture; animal husbandry, including but not limited to, the care and raising of livestock, equine and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; the production of field crops, fruits, vegetables, nursery stock, ornamental shrubs and trees, flowers, sod or mushrooms; any combination of the foregoing; the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. The above agricultural pursuits shall not include the feeding of garbage or refuse to animals. A use shall be considered agricultural if it is the primary use of the property.
- (2) *Agricultural Buildings and Structures* – Buildings or structures used in connection with agriculture as defined in Section 3781.06 of the Ohio Revised Code, including shelter for livestock and storage of farm machinery, equipment and supplies. Shelter shall be defined as

a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation as per ORC 959.13.

- (3) *Farm Market – Class A* – A business for the retail sale of agricultural products produced on site and operated without any additional or permanent site facilities than are otherwise associated with agriculture use. Roadside stands or truck sales are examples of such uses, however the intensity and frequency of such sales shall be so that no additional roads, structures, warehouses, or other storage facilities are necessary on the site.
- (4) *Farm Market – Class B* – A business for the retail sale of agricultural products produced on site or on other farms and consisting of additional or permanent site facilities that are otherwise associated with agricultural uses.
- (5) *Orchards or Nursery* - A use of land and facilities for growing trees and plants for the retail or wholesale sale and distribution of the trees or plants or the byproducts of the trees or plants.

C. General Regulations.

- (1) Buildings or structures incident to the use of the land for agricultural purposes shall consist of structures associated with agricultural use including barns, coops, silos, granaries, cribs and storage sheds for agricultural equipment such as tractors, combines, balers and spreaders, but exclude commercial storage, industrial usage, vehicle storage, or the accumulation of non-operative motorized equipment. All agricultural-related buildings, fences and structures shall require a zoning certificate except as defined in Section 300.01A(5).
- (2) *Housing of Animals.* All domestic animals whether harbored for agricultural or any other purpose, shall be properly sheltered and maintained in such sanitary conditions as not to be offensive to neighboring properties according to generally accepted agricultural practices.
- (3) *Roadside Stands.* Roadside stands for the display and sale of farm and truck garden and forest products of which at least 75% are grown on the premises is permitted provided there is only one such stand on the premises and that such stand does not exceed 100 square feet in area. There is no minimum front yard setback for a roadside stand, but it shall not be located in the road right-of-way. Adequate off-street parking shall be provided as per Section 1200.01B Parking Space Matrix.
- (4) *Operation of a Farm Market – Class B.* A farm market – Class B shall be permitted only upon the issuance of a Conditional Zoning Certificate by the Board of Zoning Appeals. Such use shall be subject to the following standards:
 - (a) Be considered a separate use on an active farm site.
 - (b) Be confined to an area within an existing barn or similar structure or, if new construction is proposed, the scale and design shall be compatible with the residential/agricultural area.
 - (c) Shall have its primary means of access from a public street and adequate parking shall be provided as per Section 1200.01B Parking Space Matrix. Such uses shall be considered open-air markets for parking space determination.

800.03C(4)(d) – 800.03C(7)(a)1

- (d) Shall be limited to the sale of the following items: fruits, vegetables, plants, flowers, trees, shrubs and similar items, processed foods such as wines, jams, conserves, preserves, pickled foods, honey, maple syrup, baked goods, eggs and similar products grown or produced within the City, as well as a full range of dairy products, which may be produced on or off-site. The facility may provide seating for the public and tables where food and beverages may be consumed. The Board of Zoning Appeals may permit the sale of items not produced or grown within the City where it is necessary to supplement the variety of items for retail sale.
 - (e) Such uses shall be separated from all other buildings or occupancies as per the Ohio Building Code.
 - (f) The facility shall meet all state and local codes and health requirements and shall be classified as Occupancy Group Class M per the Ohio Building Code and have a certificate of occupancy issued by the Summit County Building Department.
 - (g) The Board of Zoning Appeals may limit the size and scope of the facility in relation to the size of the farm based on acreage and production.
 - (h) One non-illuminated freestanding sign with a maximum size of thirty-two (32) square feet and one wall sign with a maximum size of thirty-two (32) square feet shall be permitted.
- (5) Keeping of horses, fowl and other animals, except hogs and mink, whether harbored for agricultural or any other purposes, is permitted only when the building, yards, and all other confinements for said animals are located at least one hundred (100) feet distant from any building used for human habitation or occupancy, other than the residence of the owner, manager, or caretaker of these animals. Horses shall be prohibited on a lot of less than two (2) acres in size. A maximum of two (2) horses, both of which are owned by the lot occupant, may be permitted on a lot of two (2) acres in size. For each non grain-fed horse over two, at least one and one-half (1 1/2) acres of pasture per horse is required. There is no maximum limit for grain-fed horses.
- (6) Keeping of hogs or mink, whether harbored for agricultural or any other purpose, is permitted only when the building, yard and all other confinements for said animals are located at least three hundred (300) feet distant from any building used for human habitation or occupancy, other than the residence of the owner, manager, or caretaker of these animals, and at least one hundred (100) feet distant from all property lines, reservoirs, or public streets. The keeping of hogs or mink harbored for agricultural or any other purpose shall be permitted only upon the issuance of a Conditional Zoning Certificate by the Board of Zoning Appeals.
- (7) *Buildings and Structures.* Buildings and structures incident to the use of the land for agricultural purposes shall be permitted according to the following regulations:
- (a) On lots greater than one (1) acre but not greater than five (5) acres in size, such buildings or structures shall be regulated as follows:
 - 1. Front setback building lines shall be subject to the restrictions of the use district in which the agricultural use is located. Side yard and rear yard setbacks shall be twenty (20) feet with an additional setback of one (1) foot for each additional one (1)

foot of additional building height above 20 feet as measured from the peak of the building's roof.

2. One (1) such building or structure up to 1,800 square feet in size shall be permitted.
 3. Maximum height of agricultural buildings or structures shall be forty (40) feet. Silos and storage towers for agricultural purposes only shall be exempt from the height restriction as long as they are set back from all property lines at least the height of the structure.
- (b) On lots of five (5) acres to 10 acres in size, such buildings or structures shall be regulated as follows:
1. Front setback building lines shall be subject to the restrictions of the use district in which the agricultural use is located. Side yard and rear yard setbacks shall be twenty (20) feet with an additional setback of one (1) foot for each additional one (1) foot of additional building height above 20 feet as measured from the peak of the building's roof.
 2. Total lot coverage of such buildings or structures shall be limited to no more than ten (10) percent of the lot area.
 3. Maximum height of agricultural buildings or structures shall be forty (40) feet. Silos and storage towers for agricultural purposes only shall be exempt from the height restriction as long as they are set back from all property lines at least the height of the structure.
- (c) On lots of greater than 10 acres in size, such buildings or structures shall be regulated as follows:
1. Front setback building lines shall be subject to the restrictions of the use district in which the agricultural use is located. Side yard and rear yard setbacks shall be twenty (20) feet with an additional setback of one (1) foot for each additional one (1) foot of additional building height above 20 feet as measured from the peak of the building's roof.
 2. No restriction on size or number of agricultural-related buildings or structures.
 3. Maximum height of agricultural buildings or structures shall be forty (40) feet. Silos and storage towers for agricultural purposes only shall be exempt from the height restriction as long as they are set back from all property lines at least the height of the structure.
- (8) *Fences*. Fences incident to the use of the land for agricultural purposes shall be regulated as follows:
- (a) Maximum height – six (6) feet.
 - (b) No required set back from property line.

800.03(8)(c) – 800.03D

- (c) Generally accepted types of agricultural fencing are permitted, including low impedance electric fencing and barbed wire fencing, provided the barbed wire strands are located not less than four (4) feet above the ground.
 - (d) Only perimeter fences defining the boundaries of agricultural-related parcels shall require a permit. Fencing of interior feedlots and such shall not require a permit.
- (9) *Signs*. Signs used to advertise agricultural products shall be permitted with a maximum size of thirty-two (32) square feet.
- (10) *Visibility at Corner Lots*. No obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street right-of-way lines and a line connecting them at points thirty (30) feet from the intersection of the street lines, except that street trees are permitted which are pruned at least eight (8) feet above the established grade of the roadway so as not to obstruct clear view by motor vehicle drivers.

D. Permitted and Conditional Uses

The following table indicates agricultural land uses and whether the uses are permitted uses requiring a zoning permit (P) or not requiring a zoning permit (NP), or conditional uses (C) requiring the issuance of a Conditional Zoning Certificate by the Board of Zoning Appeals.

AGRICULTURAL LAND USES	Districts			
	C-D	R-E	R-1	R-2
ON LOTS IN A PLATTED SUBDIVISION OF LESS THAN TWO ACRES OR, ON LOTS OF ONE ACRE OR LESS OUTSIDE OF A PLATTED SUBDIVISION				
Growing of fruits, vegetables, flowers or trees for the owner's consumption or enjoyment	NP	NP	NP	NP
ON LOTS IN A PLATTED SUBDIVISION OF TWO ACRES OR GREATER				
Growing of fruits, vegetables, flowers or trees for the owner's consumption or enjoyment	NP	NP	NP	NP
Orchards, Nursery	P	P	P	P
Domestic animals kept for the use of the property owner or lessee thereof and his family and/or friends invited to use said animal(s) without the payment of any fee	P	P	P	P
Riding academies and the keeping, training, and otherwise harboring of domestic animals for a fee	C	C	C	C
ON LOTS OUTSIDE OF A PLATTED SUBDIVISION OF GREATER THAN ONE ACRE				
Domestic animals kept for the use of the property owner or lessee thereof and his family and/or friends invited to use said animal(s) without the payment of any fee	P	P	P	P
Riding academies and the keeping, training, and otherwise harboring of domestic animals for a fee	C	C	C	C
Crop farming	P	P	P	P
Growing of fruits, vegetables, flowers or trees for the owner's consumption or enjoyment	NP	NP	NP	NP
Orchards, Nursery	P	P	P	P
Raising of domestic animals (except hogs and mink)	P	P	P	P
Raising of hogs and mink	C	C	C	C
Farm Market – Class A	P	P	P	P
Farm Market – Class B	C	C	C	C
Apiculture	P	P	P	P
Viticulture	P	P	P	P
Growing of sod	P	P	P	P
Cultivation of mushrooms	P	P	P	P

800.04 SPECIFIC REQUIREMENTS FOR CONDITIONALLY PERMITTED USES**A. BED & BREAKFAST RESIDENCE FACILITY (SMALL SCALE)**

- (1) Building must be compatible with the surrounding land uses and contain no more than three (3) guestrooms.
- (2) The bed and breakfast dwelling unit and any accessory buildings shall conform to all building, environmental, health, safety and zoning regulations of the City and other applicable governmental entities. Parking shall be located on the property, and comply with Section 1200.01 (Off-Street Parking).
- (3) Permits are not transferable and shall not run with the land. All permits shall expire upon the sale, transfer, or lease of the property to a new owner or tenant.
- (4) All activities shall be conducted solely within the bed and breakfast dwelling unit and accessory buildings. No outside activity or operations shall be permitted.
- (5) No such uses and/or equipment shall be used that creates a nuisance due to noise, traffic, odor, dust, fumes, smoke, glare, vibrations, electrical interference or other causes, which can be detected at or beyond the property line.
- (6) Shall be located on parcel abutting, or adjacent to an arterial street, park, body of water, or commercial district.
- (7) Meals shall be provided only to residents and guests taking lodging in the facility.
- (8) Guestrooms shall not contain cooking facilities. A common lounge area may be provided for guests.
- (9) Only retail sales customary to overnight facilities shall be permitted.
- (10) No food and laundry deliveries shall be made to the facility.
- (11) The building shall not contain a commercial kitchen.

B. BED & BREAKFAST RESIDENCE INN

- (1) The bed and breakfast dwelling unit and any accessory buildings shall conform to all building, environmental, health, safety and zoning regulations of the City and other applicable governmental entities.
- (2) Permits shall not be transferable and shall not run with the land. All permits shall expire upon the sale, transfer, or lease of the property to a new owner or tenant.
- (3) All activities shall be conducted solely within the bed and breakfast dwelling unit and accessory buildings. No outside activity or operations shall be permitted.
- (4) No such uses and/or equipment shall be used that creates a nuisance due to noise, traffic, odor, dust, fumes, smoke, glare, vibrations, electrical interference or other causes, which can be detected at or beyond the property line.
- (5) Shall be located on parcel abutting, or adjacent to an arterial street, park, body of water, or commercial district.
- (6) Meals shall be provided only to guests taking lodging in the facility.
- (7) Guestrooms shall not contain cooking facilities. A common lounge area may be provided for guests.
- (8) Only retail sales customary to overnight facilities shall be permitted.
- (9) Building shall contain a minimum of four (4) and a maximum of eight (8) guestrooms.
- (10) Include a commercial kitchen that has been licensed by the Summit County Health Department.
- (11) Food and laundry deliveries shall be made to the rear of the building and only during daylight hours.

C. CAMPGROUND

- (1) Such uses shall not require uneconomical extensions of utility services at the expense of the community.
- (2) A minimum of fifty (50) acres shall be required for a use proposed under these regulations.
- (3) All facilities and structures shall meet all county and/or State of Ohio health, building, electrical, and other applicable codes.
- (4) A Conditional Zoning Certificate for a use permitted under these regulations shall be issued for a three (3) year period only. After a three (3) year period has elapsed, a new Conditional Zoning Certificate shall be required and may be issued provided that the Board of Zoning Appeals and the Zoning Administrator determine that the said use has been and is being operated according to the specifications of the Zoning Code and the previous Conditional Zoning Certificate. If necessary, the Board may make additional requirements for the continued operation of the use as a prerequisite for re-issuance of the Conditional Zoning Certificate.
- (5) No campsite shall be continuously occupied by the same occupant or group for a period longer than thirty (30) consecutive days, or be used as a principal residence. No cabin, lodge, room, or other rental accommodations shall be occupied by the same occupant or group for a period longer than thirty (30) consecutive days.
- (6) Only retail uses which are customarily accessory or incidental to the main recreational use shall be permitted as part of the park, recreational area, or campground. Included as such retail uses are refreshment stands, souvenir stands, concession stands, park office, and the limited sale of groceries when the customers are primarily the campers using the park.
- (7) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (8) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (9) Loudspeakers which cause a hazard or annoyance shall not be permitted.
- (10) There shall be no more than one (1) advertisement oriented to each abutting road identifying the activity.
- (11) No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway; no lighting shall shine directly on adjacent properties.
- (12) Such uses should be properly landscaped to be harmonious with surrounding residential uses.
- (13) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual, or to the community in general.
- (14) All activities, programs, and other events shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents, or to the community in general.

D. CEMETERY

- (1) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (2) Such developments should be located on major thoroughfares or at intersections of major and/or collector thoroughfares.

- (3) The area proposed for a cemetery shall be used for cemetery purposes only, and shall meet the following requirements:
- (a) Except for office uses incidental to cemetery operations, no business or commercial uses of any kind shall be permitted on the cemetery site.
 - (b) Minimum area required for a cemetery site to be forty (40) acres.
 - (c) A building shall be provided for storage of maintenance equipment and/or materials.
 - (d) Pavement width of driveways shall be at least twenty (20) feet - ten (10) feet per moving lane.
 - (e) Refer to Subdivision Regulations for drive requirements and Site Plan Review procedures.
 - (f) Pavement is to be installed as development progresses and as indicated on the final plans approved by the Board of Zoning Appeals.
 - (g) Sufficient parking space shall be provided as to not deter traffic flow within the cemetery.
 - (h) Only signs designating entrances, exits, traffic direction and titles shall be permitted, and must be approved by the Board of Zoning Appeals.
 - (i) Adequate screening with shrubs, trees, or compact hedge shall be provided parallel to property lines adjacent to or abutting residential dwellings; such shrubs, trees, and hedges shall not be less than two (2) feet in height and must be maintained in good condition.
 - (j) Provisions shall be made for landscaping throughout the cemetery.
 - (k) Location of cemetery buildings and all other structures shall conform to front, side and rear yard building lines of the particular district in which it is located.
 - (l) No gravesites shall be located within one hundred (100) feet of the right-of-way lines of any publicly dedicated thoroughfare.
 - (m) A gravesite shall not be within two hundred (200) feet of an existing residence unless the owner of such residence gives his written consent.
- (4) Guarantees shall be made that the cemetery will be developed as proposed on the plans approved by the Board of Zoning Appeals, the City Engineer, and the County Health Department. Guarantees shall be in a form approved of by the Board of Zoning Appeals.

E. CHILD DAY CARE CENTER AND CHILD DAY CARE HOME - TYPE A

- (1) Such developments should be located on major thoroughfares or at intersections of major and/or collector thoroughfares.
- (2) Such uses shall not require uneconomical extensions of utility services at the expense of the community.
- (3) The applicant shall demonstrate compliance with all applicable licensing requirements of the State of Ohio.
- (4) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (5) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (6) Curb cuts, parking, drop-off and pick-up areas shall be designed to accommodate peak traffic at the facility in a safe and efficient manner without causing obstruction of the public road. Parking shall not be permitted on the public road for purposes of the proposed use.
- (7) Such uses should be properly landscaped to be harmonious with surrounding residential uses.

800.04E(8) – 800.04J(2)

- (8) The site shall provide sufficient fenced outdoor space for outdoor recreation for the children and located in a manner which minimizes disturbance of abutting residential areas.
- (9) Loudspeakers which cause a hazard or annoyance shall not be permitted.
- (10) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual, or to the community in general.

F. CORPORATE OFFICES

G. DRIVE-IN AND DRIVE-THRU ESTABLISHMENT

- (1) Such facilities shall be located at the extremity of the business districts so as not to interfere with the pedestrian interchange between stores in the district and provided further, that it would not limit expansion of the pedestrian-oriented facilities.
- (2) At least a six (6) inch high pedestrian safety curb shall be installed along all street right-of-way lines except at driveway approaches.
- (3) No more than two (2) driveway approaches shall be permitted directly from any thoroughfare and shall not exceed thirty (30) feet in width at the property line. If the property fronts on two or more streets, the driveways shall be located as far from the street intersections as is practical.
- (4) Loudspeakers which cause a hazard or annoyance shall not be permitted.
- (5) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual, or to the community in general.

H. FOUNDRY

I. GASOLINE STATION / CONVENIENCE STORE

- (1) Such developments should be located on major thoroughfares or at intersections of major and/or collector thoroughfares at the extremity of the business districts so as not to interfere with the pedestrian interchange between stores in the district and provided further, that it would not limit expansion of the pedestrian-oriented facilities.
- (2) At least a six (6) inch high pedestrian safety curb shall be installed along all street right-of-way lines except at driveway approaches.
- (3) No more than two (2) driveway approaches shall be permitted directly from any thoroughfare and shall not exceed thirty (30) feet in width at the property line. If the property fronts on two or more streets, the driveways shall be located as far from the street intersections as is practical.
- (4) All activities, except those required to be performed at fuel pumps, shall be carried on inside a building; if work is performed on a vehicle, said vehicle shall be entirely within a building.
- (5) Must have a public restroom available for use.

J. GOVERNMENT FACILITY

- (1) Such developments should be located on major thoroughfares or at intersections of major and/or collector thoroughfares adjacent to non-residential uses such as churches, parks, industrial, or commercial districts.
- (2) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.

- (3) Such uses should be properly landscaped to be harmonious with surrounding residential uses.

K. INDOOR COMMERCIAL RECREATIONAL

- (1) At least a six (6) inch high pedestrian safety curb shall be installed along all street right-of-way lines except at driveway approaches.
- (2) No more than two (2) driveway approaches shall be permitted directly from any thoroughfare and shall not exceed thirty (30) feet in width at the property line. If the property fronts on two or more streets, the driveways shall be located as far from the street intersections as is practical.
- (3) Loudspeakers which cause a hazard or annoyance shall not be permitted.
- (4) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, any individual, or to the community in general.

L. INSTITUTION FOR HIGHER EDUCATION

- (1) Such developments should be located on major thoroughfares or at intersections of major and/or collector thoroughfares.
- (2) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (3) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (4) There shall be no more than one (1) advertisement oriented to each abutting road identifying the activity.
- (5) Such uses should be properly landscaped to be harmonious with surrounding residential uses.
- (6) Loudspeakers which cause a hazard or annoyance shall not be permitted.

M. HEALTH CARE FACILITY

- (1) Such developments should be located on major thoroughfares or at intersections of major and/or collector thoroughfares.
- (2) Such uses shall not require uneconomical extensions of utility services at the expense of the community.
- (3) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (4) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (5) Loudspeakers which cause a hazard or annoyance shall not be permitted.
- (6) Such uses should be properly landscaped to be harmonious with surrounding residential uses.

N. KENNEL

- (1) A Conditional Zoning Certificate for a use permitted under these regulations shall be issued for a three (3) year period only. After a three (3) year period has elapsed, a new Conditional Zoning Certificate shall be required and may be issued provided that the Board of Zoning Appeals and the Zoning Administrator determine that the said use has been and is being

operated according to the specifications of the Zoning Code and the previous Conditional Zoning Certificate. If necessary, the Board may make additional requirements for the continued operation of the use as a prerequisite for re-issuance of the Conditional Zoning Certificate.

- (2) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (3) There shall be no more than one (1) advertisement oriented to each abutting road identifying the activity.
- (4) Sanitation practices shall assure that odors will not be noticed off the lot.
- (5) Adequate sound proofing shall be provided to reduce the noise level and the proper management of animals shall be provided to control noise in outdoor exercise runs.

O. LABORATORIES AND PROCESSING

P. MACHINERY AND EQUIPMENT REPAIR SERVICES

- (1) No outdoor storage of used, salvage equipment or parts.
- (2) All repair activities shall occur within an enclosed building.
- (3) Storage of junk, wrecked, abandoned vehicles shall be prohibited.

Q. MINI-STORAGE FACILITY

- (1) Activities on the site shall be limited to the storage of property only.
- (2) All storage shall be within an enclosed building except where the nature and location of outdoor storage is specifically approved by the Board of Zoning Appeals. Outdoor vehicle, trailer, or boat storage shall only be permitted in locations on the site specifically approved by the Board of Zoning Appeals.
- (3) An on-site leasing office shall be provided.
- (4) A minimum of five (5) parking spaces shall be provided near the leasing office.
- (5) All drives, parking, loading and unloading areas shall be paved and shall be located only as approved in the site plan.
- (6) Sufficient space shall be provided in the paved lanes serving the storage units to accommodate on-site movement of vehicles and the parking and loading/unloading of trucks, vans, trailers, and automobiles of persons using the units.
- (7) No dwelling will be permitted on the same lot.
- (8) Fencing of the perimeter shall be provided as permitted by this Zoning Code and as determined by the Board of Zoning Appeals in a manner which promotes security and presents an appropriate appearance to abutting properties. The fence shall be landscaped as required in the approved site plan.
- (9) Door openings facing residential districts shall not be permitted unless approved by the Board of Zoning Appeals.
- (10) Hours of operation shall only be as approved by the Board of Zoning Appeals, after consideration of the impact of the proposed use upon the character, safety, and tranquility of the neighborhood.

R. MODEL HOMES

- (1) Such use shall be a temporary conditional use and shall automatically lapse and be null and void after two (2) years from the date of Board of Zoning Appeals approval on appeal.
- (2) A paved parking area for visitors shall be provided.

- (3) No business other than new home sales or leasing shall be conducted from the model home.
- (4) A model home shall not be open for public viewing or business before 9 a.m. or later than 8 p.m.

S. MOTEL

- (1) Such developments should be located on or immediately adjacent to state highways at the extremity of the business districts so as not to interfere with the pedestrian interchange between stores in the district and provided further, that it would not limit expansion of the pedestrian-oriented facilities.
- (2) Such uses shall not require uneconomical extensions of utility services at the expense of the community.
- (3) At least a six (6) inch high pedestrian safety curb shall be installed along all street right-of-way lines except at driveway approaches.
- (4) No more than two (2) driveway approaches shall be permitted directly from any thoroughfare and shall not exceed thirty (30) feet in width at the property line. If the property fronts on two or more streets, the driveways shall be located as far from the street intersections as is practical.

T. MOTOR FREIGHT GARAGE

- (1) Shall only be located along an arterial street.

U. MULTIFAMILY DWELLING Proposed multifamily dwelling projects shall conform to all requirements and/or conditions as the Board of Zoning Appeals may deem necessary and shall meet the following criteria:

- (1) Utilities. Such uses shall not require uneconomical extensions of utility services at the expense of the community. The property must be served by centralized sewer and water facilities approved by the State and County Health Departments and operated and maintained according to the inspection and rules of the Summit County Health Department and the County of Summit Environmental Services' regulations.
- (2) Courtyard Requirement. Each multifamily dwelling shall be designed with a courtyard. The courtyard shall be unoccupied by any building or other structures, except fire hydrants, utility poles, or other street improvements. The courtyard shall have an unobstructed opening, not less than thirty (30) feet wide, onto the front yard of a lot which has a width not less than that required in the district in which it is located.
 - (a) Each one (1) story group multifamily dwelling development shall have a minimum courtyard of thirty (30) feet in width and thirty (30) feet in length, in addition to its required yards.
 - (b) Each two (2) or two and one-half (2-1/2) story group multifamily dwelling development shall have a minimum courtyard of forty (40) feet in width and forty (40) feet in length, in addition to its required yards.
 - (c) All dwelling structures of the group except those facing a public street shall face upon the courtyard.

800.04U(3) – 800.04U(7)

- (3) Setbacks. Where more than one multifamily dwelling is located on a lot, the entire group of buildings shall be considered as one (1) building for the purpose of determining front, side, and rear yard requirements.
 - (a) The entire group shall require one (1) front and rear and two (2) side yards as specified for dwellings in the appropriate district.
 - (b) In such a group dwelling development, no two (2) separate dwelling structures shall be closer to each other along the sides or end of a courtyard than fifteen (15) feet.
- (4) Access and Circulation
 - (a) Vehicular approaches to the property shall be so designed as not to create an interference with traffic on surrounding public streets or roads.
 - (b) On-site circulation shall be designed to make possible adequate fire and police protection.
 - (c) Paved vehicular access drives of at least ten (10) feet in width shall be required for parking areas of ten (10) vehicles or less capacity, and two-way drives of twenty (20) feet paving width minimum shall be required for parking areas of eleven (11) or more vehicle capacity.
- (5) Parking. Paved off-street parking and service areas shall be required.
 - (a) No parking or service areas shall be permitted between any street and the main building.
 - (b) Parking spaces shall contain at least two hundred (200) square feet and be provided at the rate of two (2) spaces per dwelling unit in each apartment building.
 - (c) All parking and service areas shall be paved with asphalt or concrete and shall be located no closer than twenty (20) feet from any residential structure.
 - (d) In large parking areas, visual relief shall be provided through the use of trees planted along the perimeter of the lot and landscaped dividers, islands, and walkways.
- (6) Building Design and Landscaping
 - (a) The architectural design of apartment buildings should be developed with consideration given to the relationship of adjacent development in terms of building height, mass, texture, line and pattern, and character.
 - (b) Maximum possible privacy for each apartment shall be provided through good design and use of proper building materials and landscaping. Visual privacy should be provided through structural screening and landscaping treatment. Auditory privacy should be provided through soundproofing.
 - (c) Building location and placement should be developed with consideration given to minimizing removal of trees and change of topography.
 - (d) Such uses should be properly landscaped to be harmonious with surrounding residential uses.
 - (e) TV antenna shall be centralized.
- (7) Site Plan Review No zoning certificate shall be issued until final site plans have been submitted and approved by the Board of Zoning Appeals.

- (a) A performance bond or other financial guarantee acceptable to the City Council shall be placed to insure that the landscaping will be installed, that the hard surfacing of the access drives and parking and service areas will be installed, and that adequate storm water drainage will be installed, all in accordance with the City Council and Board of Zoning Appeals' approved plans.

V. USED VEHICLE AGENCY

- (1) The Conditional Zoning Certificate shall be issued for a three (3) year period only. After a one (3) year period has elapsed, a new Conditional Zoning Certificate shall be required and may be issued provided that the Board of Zoning Appeals and the Zoning Inspector determine that the said use has been and is being operated according to the specifications of the Zoning Code and the previous Conditional Zoning Certificate. If necessary, the Board may make additional requirements of the continued operation of the use as a prerequisite for reissuance of the Conditional Zoning Certificate.
- (2) Structures for offices must be located on the site of the dealership. (Vacant lots of used cars are not permissible without a local, on-site office.)
- (3) The parking lot must be paved.
- (4) All vehicles must be operable and driveable.
- (5) No outside repairs will be allowed (only sale preps).
- (6) No bodywork of any kind will be permitted outside.
- (7) There shall be no vehicle dismantling, dismantled, wrecked, junk, or partially dismantled vehicles permitted outside.

W. OFF-STREET PARKING LOT AND GARAGE

- (1) Commercial and utility vehicle parking lots shall be enclosed with an eight-foot high see-thru security fence and utilize a gated key-card access system in lieu of a security guard post. Such a facility shall not be located adjacent to a residential zoning district.
- (2) No vehicle repair shall be permitted.

X. OUTDOOR COMMERCIAL RECREATIONAL

- (1) A Conditional Zoning Certificate for a use permitted under these regulations shall be issued for a three (3) year period only. After a three (3) year period has elapsed, a new Conditional Zoning Certificate shall be required and may be issued provided that the Board of Zoning Appeals and the Zoning Administrator determine that the said use has been and is being operated according to the specifications of the Zoning Code and the previous Conditional Zoning Certificate. If necessary, the Board may make additional requirements for the continued operation of the use as a prerequisite for reissuance of the Conditional Zoning Certificate.
- (2) Such uses shall not require uneconomical extensions of utility services at the expense of the community.
- (3) All facilities and structures shall meet all county and/or State of Ohio health, building, electrical, and other applicable codes.
- (4) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.
- (5) Such uses should be properly landscaped to be harmonious with surrounding residential uses.

- (6) There shall be no more than one (1) advertisement oriented to each abutting road identifying the activity.

Y. PUBLIC & PRIVATE SCHOOL

- (1) Elementary school structures should be located on a collector thoroughfare.
- (2) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (3) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.

Z. PUBLIC UTILITY

- (1) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (2) Site locations should offer natural or man-made barriers that would lessen the effect of intrusion into a residential area.
- (3) Such uses should be properly landscaped to be harmonious with surrounding residential uses.

AA. RELIGIOUS LAND USE FOR PUBLIC WORSHIP

- (1) Such developments should be located on major thoroughfares or at intersections of major and/or collector thoroughfares.
- (2) Such structures should be located adjacent to parks and other non-residential uses such as schools and shopping facilities where use could be made of joint parking facilities.
- (3) All structures and activity areas should be located at least one hundred (100) feet from all property lines.
- (4) All points of entrance or exit should be located no closer than two hundred (200) feet from the intersection of two major thoroughfares; or no closer than one hundred (100) feet from the intersection of a major thoroughfare and a local or collector thoroughfare.

BB. VETERINARY HOSPITAL/CLINIC

1. The boarding of animals shall be restricted to allow overnight lodging only as necessary for animals receiving medical attention.
2. Such uses shall not be permitted adjacent to any Residential District.
3. Outdoor pens and exercise runs shall be kept in a sanitary condition and screened from adjacent properties and streets.
4. Sanitation practices shall assure that odors will not be noticed off the lot.
5. No dead animals shall be buried on the premises and incineration shall not create odors or smoke off the premises.
6. Adequate sound proofing shall be provided to reduce the noise level and the proper management of animals shall be provided to control noise in outdoor exercise runs.

CC. WELDING OR OTHER METAL WORKING SHOP

800.05 HOME OCCUPATIONS

- A. Purpose. The purpose of the home occupation provisions and regulations is to control the non-residential uses of any residential dwelling unit and to limit the scope of the non-residential use to that of an accessory use. These provisions and regulations are intended to allow accessory home occupations that are located and conducted in such a manner that existence of the home occupation is not detectable, except for possibly a permitted nameplate on the outside of the dwelling unit.
- B. The City has established two classes of home occupations as follows:
- (1) CLASS A – Home occupation uses that have little or no impact on the surrounding residential area. Examples of CLASS A businesses include accountants, attorneys, artists, sculptors and dressmakers.
 - (2) CLASS B – Home occupation uses that can impact the surrounding residential area. Examples of CLASS B businesses include barbers, beauticians, landscapers, computer and/or electronic repair technicians. Trade businesses include, but are not limited to electricians, plumbers and carpenters.
- C. Procedure. No home occupation activities shall be conducted until an application for a home occupation CLASS A permit or CLASS B permit is submitted to the Zoning Administrator for home occupation classification, review, and approval.
- (1) The Zoning Administrator shall have the power to review, approve, disapprove or revoke a CLASS A home occupation permit.
 - (2) The Zoning Administrator shall submit all professional service, repair service and trade business CLASS B home occupation conditional use applications to the Board of Zoning Appeals for review and approval.
- D. Prohibited Uses. The following uses and activities shall be prohibited as a home occupation:
- (1) Automotive, truck, recreational vehicle, trailer, motorcycle, all-terrain and boat bodywork, customization, detailing, painting, reconditioning and mechanical repair;
 - (2) Lawn mower and/or small engine repair or reconditioning;
 - (3) New or used automotive and/or vehicle sales or rentals;
 - (4) Bed and breakfast inns;
 - (5) Boarding houses;
 - (6) Funeral homes;
 - (7) Hotels and motels;
 - (8) Massage parlors;
 - (9) Medical and/or dental offices and laboratories;
 - (10) Restaurants;
 - (11) Retail sales and services;
 - (12) Sexually oriented businesses;
 - (13) Veterinary facilities and/or small animal clinics or kennels.

800.05E -800.05E(11)

- E. Standards. The City shall permit home occupations in the C-D, R-E, R-1, R-2, R-3 and R-L zoning districts only if the following provisions and regulations are met throughout the duration of the home occupation:
- (1) Home occupation businesses are subject to all provisions and regulations as stated in this Zoning Code. The Zoning Administrator shall monitor and enforce all home occupation provisions and regulations.
 - (2) All said uses should be clearly subordinate and incidental to the residential use of the property in order to protect the character of the surrounding residential neighborhood, while recognizing that with changing technology and the changing job market that traditional workplaces are also changing.
 - (3) Home occupations shall not occupy more than 25% of the total gross floor area of the principal dwelling unit.
 - (4) No changes in the exterior appearance of the dwelling to accommodate the home occupation shall be permitted. The home occupation dwelling shall not differ from the character of the surrounding residential neighborhood.
 - (5) The residence may be the base of operation for the business, but the conduct of any phase of the trade on the property shall be prohibited.
 - (6) Only one home occupation shall be permitted per property.
 - (7) A home occupation shall only be permitted for a resident of the dwelling unit in which the home occupation is to be conducted or an immediate family member of the owner or resident. If the resident rents the dwelling unit, the resident shall provide evidence of written permission from the dwelling unit's owner as part of the home occupation permit application. Not more than one person who is not a resident of the dwelling unit may be employed or engaged in the home occupation.
 - (8) The dwelling unit or accessory building in which the home occupation is conducted shall conform to all building, environmental, health, safety and zoning regulations of the City and other applicable governmental entities.
 - (9) Home occupation permits shall not be transferable and shall not run with the land. All home occupations shall expire upon the sale, transfer, or lease of the property to a new owner or tenant.
 - (10) All activities associated with the home occupation shall be conducted solely within the dwelling unit or accessory building. No outside activity or operations shall be permitted.
 - (11) No equipment shall be used that creates a nuisance due to noise, traffic, odor, dust, fumes, smoke, glare, vibrations, electrical interference or other causes, which can be detected at or beyond the property line.

- (12) There shall be no storage of toxic or hazardous materials, including ammunition, gunpowder and chemicals, not normally associated with a home occupation.
- (13) There shall be no commodities sold or services rendered that require receipt or delivery of merchandise, goods or equipment by other than a passenger vehicle or by parcel or letter carrier mail service using vehicles typically employed in residential deliveries. No excessive deliveries by tractor-trailers are permitted.
- (14) Sales of commodities not produced on the premises may be permitted, provided that the commodities are specified in the home occupation application and are reasonably related to the home occupation use.
- (15) No display of products may be visible from the street or adjoining properties.
- (16) Personal and professional services shall be provided on an appointment only basis between the hours of 8:00 AM and 9:00 PM.
- (17) Written evidence shall be provided that the appropriate governmental agency has approved the water and sewage treatment requirements for a home occupation.
- (18) Only one unlighted name plate of not more than 2 square feet in area announcing the name of the home occupation shall be permitted.
- (19) No outdoor storage of materials or equipment in conjunction with the home occupation shall be permitted.
- (20) All equipment, supplies, stock material and trailers used for landscaping, lawn maintenance, construction, remodeling or a related business shall be parked or stored only within an enclosed garage or accessory building.
- (21) A home occupation shall provide additional off-street parking area adequate to accommodate all needs created by the home occupation, but in no case shall provide more than 2 additional off-street parking spaces. Required off-street parking to serve a home occupation shall not be permitted in the front yard of the dwelling unit, other than in a driveway.

800.06 UTILITY SERVICES

Underground Utilities. All electric power lines (not including transformers or enclosures containing electric equipment which may be pad mounted), telephone, gas distribution, and cable television lines shall be placed underground in accordance with the specifications and policies of the respective utility service providers.

800.07 WIRELESS TELECOMMUNICATIONS FACILITIES

- A. Purpose. In order to provide for the regulation of, and to establish guidelines for, the site process and construction of wireless telecommunications towers (cellular towers) located in the city, and to ensure the promotion of the public health, safety, comfort and welfare of the citizens of the City. The regulations provided in this Zoning Code are presented as minimum standards and requirements.

The construction of new wireless telecommunications towers and related facilities is hereby determined to be a conditionally permitted use in all zoning districts. The placing of wireless telecommunications antennas on any legal tower, building or structure within the City is determined to be a conditionally permitted use in all zoning districts.

All new construction, or the placement of equipment shall conform to the regulations of the district in which it is located and to the additional development standards and supplementary regulations contained herein.

- B. General construction standards. Proposed new telecommunication towers/facilities shall comply with the following development standards. Wireless telecommunications towers/facilities are permitted as a sole use on a lot or when combined with another use, subject to all existing regulations in each zoning district and the following:
- (1) The tower must be set back from the any property line or existing structure off the lot on which the tower is to be located by a distance equal to the vertical height of the tower.
 - (2) The tower must not exceed 150 feet (including antenna) if designed for use by a single user, 175 feet if designed for use by two co-users, and 200 feet if designed for use by three co-users. Due to the proximity of the Akron-Canton Regional Airport, all wireless telecommunications towers must also receive Federal Aviation Administration (FAA) clearance and concurrence of the FAA decision by the airport director before construction may proceed.
 - (3) The maximum size of the equipment shelter shall be 300 square feet, or if there is more than one shelter, a total of 750 square feet.
 - (4) When a wireless telecommunications tower/facility is to be located on a property with an existing use:
 - (a) The existing use need not be affiliated with the wireless telecommunications provider.
 - (b) The wireless telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
 - (c) The service access to the equipment shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

- (5) Security fencing, eight feet in height, shall surround the tower, the equipment shelter and any guy wires, either completely or individually, as determined by the Board of Zoning Appeals.
- (6) A vegetative screen shall be planted that consists of one row of a mixture of evergreen and deciduous trees or privet hedge planted five feet on center maximum. A landscaping plan is required to be submitted that indicates how the wireless telecommunications facility will be screened from adjoining properties.
- (7) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- (8) Any applicant requesting permission to install a new tower shall provide evidence of written contact with all wireless service providers who supply service within a mile of the proposed facility. The applicant shall inquire about potential co-location opportunities at all technically feasible locations. The contacted providers shall be requested to respond in writing to the inquiry within sixty days. The applicant shall present proof of mailing as well as responses to the Board of Zoning Appeals as a means of demonstrating the need for a new tower. If a contacted wireless service provider fails to respond to a written request for co-location from the applicant within sixty day, the Board of Zoning Appeals may accept the non-response as proof that co-location on an existing tower is not feasible.
- (9) No advertising is permitted anywhere on the facility, with the exception of identification signage.
- (10) "No Trespassing" signs shall be posted around the facility with a telephone number of who to contact in the event of an emergency.
- (11) Applicants will provide evidence of legal access to the tower site and maintain this access regardless of other developments that may take place on the site.
- (12) No tower shall be artificially lighted except to assure safety or as required by the FAA. Security lighting around the equipment shelter is prohibited, unless specifically requested by the applicant and need is proved to the Board of Zoning Appeals.
- (13) The tower shall be painted in a neutral tone, i.e. desert sand/khaki, so as to minimize its visibility, unless otherwise required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- (14) The electromagnetic field levels of the tower shall conform to the standards developed by the National Council on Radiation Protection and Measurement (NCRP Report No. 86) or by the American National Standards Institute and Institute of Electrical and Electronics Engineers (ANSI/IEEE C95.1-1992).
- (15) A report prepared by an Ohio registered Engineer that the antenna(s) and/or tower(s) to be constructed are in compliance with all applicable federal, state, and local regulations pertinent to the construction.

800.07B(16) – 800.07E(1)

- (16) A soil report prepared by a licensed professional engineer complying with the standards of Appendix I: Geotechnical Investigations, ANSI>EIA 222-E, as amended, shall be submitted to the City to document and verify the design specifications of the foundation for the tower, and anchors for the guy wires, if used.
- C. Construction in Residential Districts. The construction of wireless telecommunications towers/facilities in residential zoning districts shall conform to all applicable existing zoning regulations, all development standards contained herein and the following supplementary regulations:
- (1) In applying for a permit to construct a wireless telecommunications tower/facility in any residential district, the applicant must present substantial evidence as to why it is not technically feasible to locate in a more appropriate non-residential zone. Once those efforts to locate in a non-residential zone have been exhausted, a wireless telecommunication facility may be located in a residential district.
 - (2) When the telecommunications facility is located on property with another principal use, the applicant shall present documentation that documentation that the owner of the property has granted an easement or entered into a lease for the proposed facility and that vehicular access is provided to the facility.
- D. Placement of Antennas and Equipment. The placing of wireless telecommunications antennas on any legal tower, building or structure within the City is determined to be a conditionally permitted use in all zoning districts. The placement of equipment shall conform to the regulations of the zone in which it is located, as well as the following:
- (1) Business and Industrial Districts. No wireless telecommunications antenna shall be higher than twenty feet or twenty percent of the building height, whichever is greater, above the existing tower, building or structure in a business or industrial zoning district.
 - (2) Residential Zoning Districts. No wireless telecommunications antenna shall be higher than twenty feet above the existing tower, building or structure within a residential zoning district.
 - (3) Equipment Shelters. If the applicant proposes to locate the telecommunications equipment in a separate shelter (not located on or attached to the building), the shelter shall comply with all applicable development standards contained herein. Also, vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
- E. Review and Approval of Plans. No person or entity shall construct a wireless telecommunications tower and facility, or place a wireless telecommunications antenna, on any legal tower, building or structure, without a site plan review, a public hearing, and approval by the Board of Zoning Appeals, as specified below:
- (1) The site plan for the construction of a wireless telecommunications tower and related facility shall be reviewed and approved according to the standards and procedures set forth in this Zoning Code.

- (2) The placing of a wireless telecommunications antenna on any legal tower, building or structure (which may or may not involve co-location with another wireless service provider) shall be reviewed and approved according to the standards and procedures set forth in this Zoning Code, and the site plan shall consist of a drawing and depiction which accurately conveys the following information:
 - (a) A vicinity map indicating the location of the site and existing structure;
 - (b) The location of the antenna on the structure;
 - (c) The location of the equipment shelter. If the equipment shelter is separate from the structure, its size, fencing, landscaping, setbacks and evidence of legal access to the site shall be indicated.
- F. All other applicable site plan review procedures, as set forth in this Zoning Code, shall also be adhered to.

800.08 SEXUALLY ORIENTED BUSINESS REGULATIONS

- A. A Sexually Oriented Business may be located only in accordance with the following restrictions:
 - (1) No such business shall be located on any parcel within 500 feet of any residential district;
 - (2) No such business shall be located on any parcel within 1,000 feet of any public library, private or public elementary or secondary school, public park or church;
 - (3) No such business shall be located on any parcel within 1,000 feet of another sexually oriented business;
 - (4) Such business shall only be located in the I-1 Light Industrial District.
- B. For purposes of subsection A. hereof, the measurement of distance shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or public or private elementary or secondary school, or the nearest boundary of an affected public park, residential district or residential lot.
- C. For purposes of subsection A. hereof, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
- D. No person shall establish, operate or cause the establishment or operation of any sexually oriented business in violation of the provisions of this section. Nothing in this section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video material, or any live performance, which, taken as whole, contains serious literary, artistic, political, medical, educational or scientific value.

800.09 OIL AND GAS WELL REGULATIONS

- A. Purpose. It is the intent of the City to ensure the safe operation of oil and gas wells within the City. Toward that end, these regulations have been adopted to supplement any State issued permits which authorize the drilling of an oil and gas well within the City. The provisions of these regulations are based upon local conditions which may not be known to the State at the time such drilling was authorized.
- B. Drilling Regulations. Any person who has a permit to drill for oil and gas within the City which has been issued by any Department of the State of Ohio ("Permit Holder"), shall adhere to the following regulations:
- (1) A copy of the State issued permit shall be filed with the City's Planning and Zoning Department no later than four weeks before the commencement of any operations preparatory to drilling in the City. Upon receipt by the Planning and Zoning Department, a copy of such permit shall be delivered to all owners and/or occupants of all properties which adjoin the property where a well is to be drilled.
 - (2) With a copy of the permit, a letter shall be filed with the Planning and Zoning Department which identifies the owner(s) of the subject property where the well is to be drilled; by name and address, identifying all persons, including but not limited to the Permit Holder, who are responsible for the drilling and operation of the well. The identification shall include, at a minimum, names, addresses and work telephone numbers. Any contractors performing gas or oil well drilling work shall comply with the following:
 - (a) Being registered with the City.
 - (b) Obtaining a drilling permit from the City in the amount of five hundred dollars (\$500.00).
 - (3) Plans for all wells, tank batteries, all excavation work (including but not limited to boring pits) and all other site work shall be presented to the Planning and Zoning Department and the City Engineer not less than four weeks prior to the commencement of any drilling or other operations. These plans shall show the topography of the site and all vehicular access to and from the site, from any road or street.
 - (4) Plans showing all buildings on the subject premises, and all buildings within 500 feet of the well and tank sites, shall be provided.
 - (5) No well may be drilled, or tank batteries located, in any location where emergency vehicles (e.g. fire trucks and ambulances) cannot obtain reasonable access to the site.
 - (6) No well is allowed to be drilled within any distance of any structure or facility (e.g. a playground) which, based upon the specific facts and circumstances surrounding such structure or facility, creates a threat to the health, safety and welfare of said structure or facilities or occupants or users thereof.

- (7) Proof of insurance shall be filed with the Planning and Zoning Department and Law Director, prior to the commencement of drilling. The proof of insurance must establish that the Permit Holder is insured by a solvent insurer, licensed to do business in the State of Ohio, with limits of three million dollars (\$3,000,000.00) per occurrence for personal injury and property damage. The City shall be named as an additional insured policy.
- (8) Emergency contact information for all persons engaged in drilling and operating the well shall be filed with the Planning and Zoning Department and Fire Chief, prior to the commencement of drilling. Such information shall be immediately updated upon any change of circumstances.
- (9) Within ten days after drilling operations have been completed, the Permit Holder shall do all of the following:
 - (a) Remove all bore pits, and all well spoils from the subject property;
 - (b) Fill all bore pits with clean fill dirt, and restore the grade of the site to its previous elevation;
 - (c) Seed all disturbed sites with grass or other vegetative ground, and ensure such ground cover becomes established; and
 - (d) Notify the Planning and Zoning Department and City Engineer that the site has been restored pursuant to the terms of this section. The Planning and Zoning Department, City Engineer and any other professional needed by the City, shall inspect the site within 14 days of the notification.
- (10) At all times relative to the drilling, operation and capping of the well, the well and all tank facilities shall be secured from public access by sufficient fencing and vegetation. The sufficiency of the fencing and vegetation shall be determined by the Planning and Zoning Department.
- (11) Within ten days after the drilling operations have been completed, the Permit Holder shall plant sufficient vegetation which, in conjunction with any fencing and natural vegetation, shall effectively and permanently screen all above-ground facilities from all neighbors and from all public and private rights-of-way while such facilities are on the subject premises. The Planning and Zoning Department, City Engineer and any other professional needed by the City shall determine the sufficiency of the screening and vegetation and may order the Permit Holder to install additional screening or plant more vegetation.
- (12) The Permit Holder shall give the Planning and Zoning Department at least four weeks advance notice before commencing to drill.

- (13) A cash bond of five thousand dollars (\$5,000.00) per well, shall be filed with the Planning and Zoning Department to ensure sufficient securing and screening of facilities, as provided herein, and to ensure the proper capping of the well, the removal of all equipment and the restoration of the site after the well is abandoned. The City shall return the bond upon the restoration of the site after the well has been abandoned and all equipment has been removed.
 - (14) Notwithstanding any other provision of City Ordinances, drilling operations may occur 24 hours per day until the permitted depth is reached. This provision does not obviate the Permit Holder's obligation to ensure that adjacent residents are not inconvenienced or otherwise impacted by any nuisance, excessive noise or noxious fumes as further regulated in any City Ordinance.
 - (15) It shall be a violation of this section for a Permit Holder to violate the terms and conditions of any State issued permit.
 - (16) A deposit in the amount of two thousand five hundred dollars (\$2,500.00), per well, shall be filed with the City, to ensure payment of any fees which will be incurred by the City Engineer or any other professional the City determines it must engage. Upon completion of all involvement by the City Engineer (or other professional), the City shall return any funds which remain on deposit.
 - (17) The Planning and Zoning Department shall, within ten business days of receipt of the plans, pursuant to division (3) of this section, review said plans and immediately advise the Permit Holder if anything shown on the plans does not comply with the regulations set forth herein. In the event that any Permit Holder fails to comply with the regulations herein promulgated, the administrative official responsible for the enforcement hereof (i.e. the Planning and Zoning Department or Fire Chief, as designated), shall provide written notice to the owner of the property and the Permit Holder within 48 hours of the failure to comply. Such service shall be made to the addresses identified in division (2) of this section, and if no address has been provided to any address identified on the permit issued by the State of Ohio. The notice shall advise the owner and the Permit Holder that if they wish to appeal the decision of the administrative official, the time for appeal is five days after service of the notice.
- C. Appeal. The determination of any administrative official, in applying the regulations promulgated hereunder, which is adverse to the rights of any owner of property or any Permit Holder may be appealed to the Board of Zoning Appeals by filing a notice of appeal with the Planning and Zoning Department within five days of notification by the administrative official that the Permit Holder has not complied with the regulation. The appeal shall be heard at the next Board of Zoning Appeals meeting, but such further hearings may be held as required for the Board to resolve the appeal. The decision of the Board of Zoning Appeals shall be final within the City.
- D. Severability. In the event any provision of these regulations is found to be unconstitutional or otherwise held to be invalid, the remainder of these regulations shall remain in full force and effect.

- E. Penalty. Whoever violates the provisions of these regulations shall be guilty of a misdemeanor of the first degree. A separate violation shall be deemed to occur on each day during or on which a violation or noncompliance occurs or continues. In lieu of or in addition to the prosecution of a violation of this chapter, and upon the authorization of the Mayor, the Law Director may institute an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful condition, to restrain, correct or abate a violation, nuisance, or to require compliance with these regulations other applicable laws, ordinances or rules.

800.10 JUNK MOTOR VEHICLE REGULATIONS

- A. Purpose. The intent of these regulations is to address certain properties in the City that have junk and/or unlicensed vehicles on them. These regulations also provide an opportunity for those vehicle owners and the properties associated with those vehicles for a hearing and due process before final action is taken.

B. Prohibitions.

(1) Storage Of Junk Motor Vehicles

- (a) No person shall willfully permit a junk motor vehicle to remain in the open on private property, which the person owns, occupies, or controls after receipt of an order to remove the junk motor vehicle. The order shall state that a hearing appealing the order to remove the junk motor vehicle may be had, shall describe the vehicle to be removed, and shall be served by the Police Department or the Planning and Zoning Department in any manner provided by the Ohio Rules of Civil Procedure.
- (b) If any recipient of an order to remove a junk motor vehicle fails to appeal the same in writing within ten (10) days after its receipt to the Property Maintenance Enforcement Board, it shall be conclusively presumed to establish the junk motor vehicle as a nuisance and the junk motor vehicle shall be removed by the Police Department immediately. The fact that a junk motor vehicle is left on private property without the filing of an appeal by the recipient of an order to remove a junk motor vehicle is prima facie evidence of willful failure to comply with the order.
- (c) No person shall leave a junk motor vehicle for any period of time on private property to which such person does not have the right of possession without the authorization of the person having the right of possession of such property.

(2) Storage Of Unlicensed Vehicles

- (a) No person shall willfully permit an unlicensed motor vehicle to remain in the open on private property, which the person owns, occupies, or controls after receipt of an order to remove the unlicensed motor vehicle. The order shall state that a hearing appealing the order to remove the unlicensed motor vehicle may be had, shall describe the vehicle to be removed, and shall be served by the Police Department or by the Planning and Zoning Department in any manner provided by the Ohio Rules of Civil Procedure.

800.10B(2)(b) – 800.10D(2)(a)

- (b) If any recipient of an order to remove a unlicensed motor vehicle fails to appeal the same in writing within ten (10) days after its receipt to the Property Maintenance Enforcement Board, it shall be conclusively presumed to establish the motor vehicle shall be removed by the Police Department immediately. The fact that an unlicensed motor vehicle is left on private property without the filing of an appeal by the recipient of an order to remove an unlicensed motor vehicle is prima facie evidence of willful failure to comply with the order.
- (c) No person shall leave an unlicensed motor vehicle for any period of time on private property to which such person does not have the right of possession without the authorization of the person having the right of possession of such property.
- (3) Historical Motor Vehicle Defense. Any person claiming Historical Motor Vehicle status for any motor vehicle in defense of a violation of this section must provide proof that said vehicle is registered as a Historical Motor Vehicle with the Ohio Bureau of Motor Vehicles, has been inspected, and is currently safe to operate on the highways of the State.

C. Appeals.

- (1) Any person receiving an order to remove a motor vehicle pursuant to Section 800.10B shall have a right to appeal the order to remove to the Property Maintenance Enforcement Board. The appeal shall be filed in writing within ten (10) days after the order to remove is served.
- (2) The Property Maintenance Enforcement Board shall hear any appeals within forty-five (45) days after the appeal is filed. The Board shall determine if the motor vehicle is in violation of Section 800.10B. If the vehicle is found to be in violation by the Board, the Board shall order that the vehicle be removed by the Police Department.

D. Storage And Disposal Of Motor Vehicles.

- (1) After a motor vehicle has been determined to be a junk motor vehicle, as provided herein, the Police Department shall immediately cause the junk motor vehicle to be removed from the property where the junk motor vehicle is located by a salvage service and stored in a designated facility.
- (2) Any junk motor vehicle which has been removed and stored pursuant to this section shall be disposed of in accordance with the following procedures:
 - (a) The Police Department shall cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the owner and any lienholder of the motor vehicle ordered into storage. If known, the Police Department shall send or cause to be sent notice to the owner or lienholder at the owner's or lienholder's last known address by certified mail, return receipt requested, that the motor vehicle has been declared a nuisance and will be disposed of if not claimed within ten (10) days of the date of mailing of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle. If the owner or

lienholder of the motor vehicle reclaims it after a search of the records of the Bureau has been conducted and after notice has been sent to the owner or lienholder as described in this section, the owner or lienholder shall pay to the City a processing fee of three hundred dollars (\$300.00) plus fifty dollars (\$50.00) per vehicle.

- (b) If the owner or lienholder makes no claim to the motor vehicle within ten (10) days of the date of mailing of the notice, the motor vehicle shall be disposed of by a motor vehicle salvage service or other facility as provided in Section 4513.62 of the Ohio Revised Code. The Police Department shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it will be disposed of, and that all requirements of this section have been complied with. The Police Department shall retain the original of the affidavit for its records, and shall furnish two copies to the motor vehicle salvage service or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage service, the Clerk of Courts shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.
 - (c) Whenever a motor vehicle salvage service or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the designated salvage service or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the salvage service's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.
- E. Expenses As A Lien. All expenses incurred by the City in removing any junk motor vehicle, together with an administrative charge of three hundred dollars (\$300.00) plus fifty dollars (\$50.00) per vehicle, shall be reported to the City Director of Finance, who shall mail a statement thereof to the owner of the property, if his or her address is known. If after thirty (30) days the amount remains unpaid, the City Director of Finance shall certify the total amount of the expense, the name of the owner of the land, and a sufficient description of the premises to the Summit County Fiscal Officer to be entered upon the tax duplicate, to be a lien on the land from the date of entry, to be collected as other taxes and assessments and returned to the City, pursuant to Ohio Revised Code Section 731.54.
- F. Additional Penalties. In addition to the penalties set forth herein, whoever fails to remove a junk motor vehicle or unlicensed motor vehicle, after receipt of a proper order to remove, is guilty of a misdemeanor of the third degree. Each motor vehicle found to be in violation of these regulations shall constitute a separate offense. Every twenty (20) days that a motor vehicle is in violation of these regulations shall constitute a separate offense.

800.11 LITTER & TRASH REGULATIONS

- A. Purpose. The intent of these regulations is to address certain properties in the City that have litter or trash on them. These regulations also provide an opportunity for those owners and occupants of lands affected by these regulations for a hearing and due process before final action is taken.

B. Throwing Or Depositing Litter In Public Places: Use Of Receptacles And Dumps.

- (1) No person shall throw or deposit litter in or on any street, sidewalk or other public place within the City except in public receptacles, in authorized private receptacles for collection, or in official City dumps.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

C. Using Receptacles To Prevent Scattering; Damaging Receptacles.

- (1) Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements onto any street, sidewalk, or other public place or private property.
- (2) No person shall, without authority, upset, damage, tamper with or destroy a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or on any public place or private premises.
- (3) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

D. Responsibility Of Landowners.

- (1) No person shall sweep into or deposit into any ditch, gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.
- (2) The owner or person in control of any private property shall at all times maintain the premises free of litter. However, this section shall not prohibit the storage of litter in authorized private receptacles for collection.
- (3) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

E. Responsibility Of Merchants.

- (1) No person owning or occupying a place of business shall sweep into or deposit into any ditch, gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep their business premises free of litter.

- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

F. Litter Thrown From Vehicles.

- (1) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road, highway or other public way or other public way or place within the City, or on private property, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- (2) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- (3) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.
- (4) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

G. Litter In Parks.

- (1) No person shall throw or deposit litter in any park within the City, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public way or place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

H. Litter In Bodies Of Water.

- (1) No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere in the City.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

800.11I – 800.11M(2)

I. Dropping Litter From Aircraft.

- (1) No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or other object.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

J. Billposting.

- (1) No person shall place, post or affix any notice, poster or other paper or device on any lamppost, utility pole, structure or tree in the public right-of-way, except as may be authorized by law.
- (2) Whoever violates this section is guilty of a minor misdemeanor.

K. Litter On Occupied Private Property.

- (1) No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon an street, sidewalk, ditch or other public place or upon private property.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

L. Litter On Vacant Private Property.

- (1) No person shall throw or deposit litter on any open or vacant private property within the City, whether owned by such a person or not.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

M. Construction Sites.

- (1) Construction sites shall be maintained in such a manner as to prevent litter from accumulating thereon unrestrained or from being carried by the elements onto other property. A watertight, covered waste container, constructed of durable material and having a capacity of at least fifty gallons, shall be maintained on the site at all times.
- (2) Dirt, sand, gravel and similar construction materials shall be stored on construction sites in such manner as not to be deposited or tracked on public streets or rights-of-way.

- (3) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

N. Loading And Unloading Operations.

- (1) Any owner or occupant of any establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide at such establishment or institution watertight, covered containers, constructed of durable material and having a capacity of at least fifty gallons for the disposal and storage of such litter, and shall at all times maintain the dock area free of litter in such manner that litter will be prevented from being carried or deposited by the elements on any public place or private property.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

O. Clearing Of Litter By City.

- (1) Notice To Remove. The Planning and Zoning Department is hereby authorized to notify the owner of any open or vacant private property, or any other private property within the City, or the agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. The notice shall state that a hearing appealing the notice to remove may be had, shall describe the litter and trash to be removed, and shall be served by the Police Department or by the Planning and Zoning Department in any manner provided by the Ohio Rules of Civil Procedure.
- (2) Right To Appeal. Any person receiving a notice to remove pursuant to this section shall have a right to appeal the notice to the Property Maintenance Enforcement Board. The appeal shall be filed in writing within ten (10) days after the notice to remove is served. The Property Maintenance Enforcement Board shall hear any appeals within forty-five (45) days after the appeal is filed. If the property is found to be in violation of these regulations by the Board, the Board shall order that the property be brought into compliance.
- (3) Action Upon Noncompliance. Upon the failure, neglect or refusal of any owner or agent served with a notice to remove, to appeal or to properly dispose of litter dangerous to the public health, safety or welfare within ten (10) days after service, as provided in this section, the Planning and Zoning Department shall cause such litter to be removed, and may employ the necessary labor to perform such work or cause it to be done by the City.
- (4) Expenses As A Lien. All expenses so incurred by the City, including administrative costs, shall be reported to the Finance Director, who shall mail a statement to the owner of the land, if his or her address is known. If, after thirty days, such amount remains unpaid, the Finance Director shall certify the total amount of the expenses, the name of the owner of the land, and a sufficient description of the premises, to the Fiscal Officer of Summit County, to be entered upon the tax duplicate to be a lien on the land from the date of entry, and to be collected as

other taxes and assessments and returned to the City, pursuant to Ohio Revised Code Section 731.51. The remedy herein provided shall be in addition to the penalties provided in this chapter.

P. Distributing Handbills In Or On Public Places.

- (1) No person shall throw or deposit any commercial or noncommercial handbill in or on any sidewalk, street, ditch or other public place within the City. No person shall hand out, distribute or sell any commercial handbill in any public place. However, it shall not be unlawful on any sidewalk, street or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Q. Placing Handbills On Vehicles.

- (1) No person shall throw or deposit any commercial or noncommercial handbill in or on any vehicle. However, it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

R. Depositing Handbills On Uninhabited Or Vacant Premises.

- (1) No person shall throw or deposit any commercial or noncommercial handbill in or on any private premises which are temporarily or continuously uninhabited or vacant.
- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

S. Distributing Handbills Prohibited Where Posted.

- (1) No person shall throw, deposit or distribute any commercial or noncommercial handbill on any private premises, if requested by anyone thereon not to do so, or if there is placed on such premises, in a conspicuous position near the entrance thereof, a sign bearing the words: "No Trespassing", "No Peddlers or Agents", "No Advertisements" or any similar notice indicating in any manner that the occupant of such premises do not desire to be molested or to have their right of privacy disturbed or to have any handbills left on the premises.

- (2) Whoever violates this section is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

T. Distributing Handbills At Inhabited Private Premises.

- (1) No person shall throw, deposit or distribute any commercial or noncommercial handbill in or on private premises which are inhabited, except by handling or transmitting such handbill directly to the owner, occupant or other person then present in or on such private premises. However, in the case of inhabited private premises which are not posted as provided in Section 800.11S, unless requested by anyone on the premises not to do so, may place or deposit such a handbill in or on the inhabited private premises if the handbill is so placed or deposited as to secure or prevent it from being blown or drifted about the premises or sidewalks, streets or other public places, except that mailboxes may not be so used when so prohibited by Federal postal law or regulations.
- (2) The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements onto any street, sidewalk or other public place or onto private property.
- (3) Whoever violates this section is guilty of a minor misdemeanor.

800.12 ALTERNATIVE ENERGY SYSTEM REGULATIONS *(Added 11-26-11)*

A. Outdoor Wood-Fired Boilers.

- (1) Outdoor wood-fired boiler or outdoor wood-fired hydronic heater or outdoor wood heater or outdoor wood burning furnace means a fuel burning device specified by the manufacturer for outside installation and designated to heat interior building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.
- (2) Outdoor wood-fired boilers are conditionally permitted in C-D, R-1 and R-2 zoning districts only.
- (3) No person shall construct, install, establish, modify, operate or use an outdoor wood-fired boiler unless all of the following conditions are met:
 - (a). Outdoor wood-fired boilers must be US EPA Phase 2 Program Qualified Models, or better;
 - (b) Outdoor wood-fired boilers may be located only in a rear yard;
 - (c) Minimum setback to all property lines shall be one hundred and fifty (150) feet;

800.12A(3)(d) – 800.12A(3)(o)

- (d) Except for the principal residence being serviced, an outdoor wood-fired boiler shall be placed at least two hundred and fifty (250) feet from the nearest building intended for human habitation, place of assembly, education, or occupancy by the public on the surrounding properties;
- (e) The maximum height for the outdoor wood-fired boiler and/or enclosure shall not exceed fifteen (15) feet, measured from the average grade at the base of the furnace to the top, not including the chimney stack;
- (f) The property owner shall obtain all required building permits from the Summit County Department of Building Standards prior to construction;
- (g) Operation of outdoor wood-fired boilers is permitted only during the established burning season, from September 15 through May 1;
- (h) Outdoor wood-fired boilers shall have a chimney stack that is recommended by the manufacturer's specifications. The chimney stack of the boiler shall be extended to height higher than the highest roof peak of the principal residence and any other residence within 500 feet of the outdoor wood-fired boiler, but in no event may the chimney stack exceed fifty-five (55) feet in height.
- (i) The outdoor wood-fired boiler shall be located at least fifty (50) feet from the residential structure on the same lot;
- (j) The outdoor wood-fired boiler shall be located at least twenty-five (25) feet from accessory buildings on the same lot;
- (k) Installation shall be done by a qualified professional and shall be operated with strict adherence to manufacturer's instructions;
- (l) No person shall operate an outdoor wood-fired boiler in such a manner as to create a nuisance;
- (m) As a condition of approval of use, the property owner will provide for access to the property for inspection of the system by City officials during periods of operation, to determine compliance with all regulations;
- (n) Outdoor wood-fired boilers and the area containing the fuel materials shall be enclosed by a six (6) foot high fence and landscaping and be completely screened from view of any public right-of-way or from viewing of any adjoining property;
- (o) Fuel burned in any outdoor wood-fired boiler shall be only natural untreated clean wood, wood pellets, corn products, biomass pellets or other listed fuels specifically permitted by the manufacturer's instructions, unless the materials are otherwise prohibited to be used by this Section.

The following fuels are strictly prohibited in outdoor wood-fired boilers;

1. Wood that has been painted, varnished or coated with similar material and/or pressure-treated with preservatives and contains resins or glues as in plywood, particle board or other composite wood products;
 2. Construction and demolition debris, rubbish or garbage, including but not limited to food wastes, food packaging, food wraps, yard waste, asphalt products, animal waste including manure and carcasses;
 3. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers;
 4. Rubber including tires and other rubber-like products;
 5. Newspaper, cardboard, or any paper with ink or dye products;
 6. Chemicals, waste petroleum products, creosote waste materials, paint and paint thinners;
 7. Coal;
 8. Any other items not specifically allowed by the manufacturer or this Section.
- (p) Visible Emission Standard. No person shall cause or allow the emission of a smoke plume from any outdoor wood-fired boiler to exceed an average of 20 percent opacity for six consecutive minutes in any one-hour period.
- (q) Nuisance Conditions. No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration that are injurious to human, plant or animal life or to property, or that unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies to, but is not limited to, any particulate, fume, gas, mist, odor, smoke, toxic, or deleterious emission, either alone or in combination with others.
- (4) All wood fire boilers, existing and installed on or before the effective date of this Section shall be subject to the following:
- (a) All wood fire boilers, existing and installed on or before the effective date of this Section, shall be operated in an environmentally safe manner.
 - (b) All wood fire boilers, existing and installed on or before the effective date of this Section, shall at all times be operated according to the manufacturer's specifications and shall only use environmentally safe fuels. Failure to operate a wood fire boiler in such a manner or the failure to use environmentally safe fuels shall constitute a nuisance.
 - (c) Any wood fire boiler, existing and installed on or before the effective date of this Section, that is operated in a manner as to constitute a nuisance to surrounding properties, as determined by New Franklin officials, shall, after notice from the New Franklin Planning and Zoning Department, be brought into compliance with the requirements of this ordinance chapter in a timely manner. Requirements relative to minimum setbacks and distances from other residences/buildings may be waived upon the granting of a variance by the New Franklin Board of Zoning Appeals.

800.12A(4)(d) – 800.12A(5)(c)

- (d) In enacting this Section, New Franklin Council determines that without adequate regulation, existing wood fire boilers can constitute a nuisance as that term is generally used in the Ohio Revised Code and associated case law. New Franklin, pursuant to its police powers found in the Ohio Revised Code, has the authority to abate a preexisting use that has become a nuisance.

(5) Penalties/Remedies

- (a) It shall be unlawful for any property owner to fail to comply with the terms of this Section, or create a nuisance condition for neighboring property owners.
- (b) If the New Franklin Planning and Zoning Department determines that a violation of the Code or permit has occurred, the property owner shall be notified of the violations, in writing.
- (c) If the alleged violation does not pose an immediate threat to the public health or safety, the parties shall engage in good faith negotiations to resolve the issues at hand. Such negotiations shall be conducted within thirty (30) days of the notice of violation.
- (d) If the conditions pose an immediate threat to the public health or safety, the City shall require the offending outdoor wood-fired boiler to be discontinued until, through negotiations with all parties involved, a solution or system-modification can be achieved to resolve the problem.
- (e) If the New Franklin Planning and Zoning Department determines that the parties have not resolved the alleged violation, the City may revoke the conditional use permit, as applicable, and/or institute enforcement proceedings or other remedy at law to ensure compliance with this Section.

ARTICLE 9

ARCHITECTURAL DESIGN STANDARDS

900.01 PURPOSE

The goal of these regulations is to encourage development that contributes to the City of New Franklin as a unique place, reflecting the community's physical character and adding to it in appropriate ways. The architectural design of non-residential developments, particularly large scale developments, determines much of the character and attractiveness along the thoroughfares of the City, the windows to our community. These regulations serve as a basis to promote creative architectural designs that are in context with its surroundings.

900.02 GENERAL ARCHITECTURAL DESIGN REQUIREMENTS

The design of non-residential buildings and other structures shall comply with the following standards and guidelines, except as otherwise provided in plans and policies adopted by the City: The Planning and Zoning Commission may at some time adopt a Design Guidebook to provide additional information and clarification of the standards contained in this section.

- A. Compatible and Unified Design. The design, massing, materials, shape, and scale of all new or modified principal buildings and accessory structures shall create a unified design on the premises and shall be visually compatible with the surrounding buildings.
- (1) Architectural styles similar to or compatible with existing historical buildings of similar use adjacent to or across the street from the site shall be encouraged. Compatibility and complementary design among existing and proposed new structures shall be encouraged in all locations.
 - (2) Scale of new construction similar to that of the majority of surrounding buildings is encouraged.
 - (3) Alterations and additions to existing buildings shall be compatible in scale, material, color, placement, and character with the existing buildings.
 - (4) Side and rear walls shall be so designed as to relate to and be compatible with the front or main entry wall and overall design of the building, although they may be less detailed and articulated.
 - (5) Any façade visible from a residential area should be designed to incorporate the same architectural features as that of the façade containing the main entrance.
 - (6) Materials shall be appropriate for the use of the proposed structures, weathering, and the relationship to other materials, including those used on adjacent structures.
 - (7) Colors and textures shall be appropriate for the size and scale of proposed structures, weathering, and the relationship to other colors and textures, including those used on adjacent structures.
 - (8) Pole building construction shall be used for accessory buildings only.

900.02A(9) – 900.02B(7)

(9) Site features such as fences, and walls, compatible in color, texture, scale, materials and other characteristics with the main building shall be encouraged.

B. Use of Architectural Elements to Break Up Mass. Buildings that are characterized by a flat roof and a continuous wall elevation of uniform height shall contain three-dimensional architectural elements that serve to break up the horizontal emphasis of the elevation. Building entrances, corners and other similar features are examples that may be characterized by a separate mass.

- (1) Architectural elements shall present a balanced design for the entire building.
- (2) Architectural details and ornamentation shall be meaningful to the overall design and appropriate for the size and scale of proposed structures, weathering, and the relationship to other architectural details and ornamentation, including those used on adjacent structures. Detailing such as trim, moldings, bands of contrasting siding or brick, and varying textures of concrete or stone are encouraged as part of an overall design which is in scale with the building and carefully related to other elements.
- (3) Varied roof lines, roof details and features such as dormers, turrets, eave breaks, and overhangs are encouraged in new construction as a means to break up the mass of large buildings and to provide visual interest. Flat roofs are discouraged.
- (4) Windows, doors, and other openings shall be so located on the facades and be of such dimensions as are appropriate for the style, scale, and orientation of the building and in a pattern which contributes to a balanced facade appearance. Customer entrances should be accentuated. Decorative elements, caps, brickwork, and trim are encouraged around windows and doors to add interest to the overall design.
- (5) Distinctive architectural features of existing buildings should not be altered or removed unless replaced with features of similar composition, texture, color, design, and other characteristics. Restoration of historic features and building characteristics shall be encouraged.
- (6) For a single story building, required architectural elements shall have a height that exceeds the wall height of the dominant portion of the building.
- (7) Architectural elements shall be distributed in a manner that limits the length of a continuous wall section of uniform height to not more than four times the height of the building.

ARTICLE 10 LANDSCAPING REGULATIONS

1000.01 PURPOSE

The intent of these regulations and requirements is to establish minimum standards for the maintenance of existing natural amenities and the design and installation of landscape improvements. Landscaping is a critical element of the physical environment contributing to: development quality; compatibility between land uses; reduction of negative physical, visual, noise, and lighting impacts; reduction of the effects of erosive winds and storm water runoff pollution; preservation of existing natural areas such as woodlands, wetlands and floodplains within and adjacent to a development site; reestablishment of native plants; energy conservation by providing shade from the sun and shelter from the wind; stability of property values; and the overall improved character of the City.

1000.02 APPLICABILITY

This Article shall apply to new subdivisions, new parks or open space, new construction, or any substantial expansion, alteration, or improvements to an existing building, structure, or paved area of a lot except for individual single family dwellings and two family dwellings and parking lots of five (5) spaces or smaller. Substantial expansion of existing structures shall be defined based on the criteria established below:

When Existing Structure is ...	A Substantial Expansion is ...
0 - 1,000 sq. ft.	50% or greater
1,001 - 10,000 sq. ft.	40% or greater
10,001 - 25,000 sq. ft.	30% or greater
25,001 - 50,000 sq. ft.	20% or greater
50,001 sq. ft. and larger	10% or greater

1000.03 REGISTERED ENGINEER OR ARCHITECT

When new development, or the expansion of an existing structure, involves the construction of more than 5,000 square feet of gross floor area, the required landscaping plan shall be prepared by an architect or civil engineer registered in the State of Ohio.

1000.04 CONTENTS OF LANDSCAPING PLAN

The Landscaping Plan shall include the following minimum information:

- A. North Arrow and Scale. The landscaping plan shall be drawn on 24 x 36 drawing sheets to a reasonable scale for the site, matching the scale used for site plan or subdivision review. Typically landscaping plans are prepared between a scale of one inch = 20 feet for sites less than one acre and a scale of one inch = 40 feet for larger sites.
- B. The name, address and phone number of the applicant and owner(s) and the name, address and phone number of the person or firm responsible for the preparation of the landscaping plans.
- C. The date the plans are submitted or the date of revision.
- D. All property lines and easements.

1000.04E – 1000.04N(6)

- E. Existing and proposed contour lines at 2-foot intervals with elevations indicated at sufficient locations of the site to clearly show the drainage patterns on the site and adjacent to the site.
- F. All existing and proposed buildings and other structures, streets, sidewalks, curbs, gutters, paved areas, railroad tracks, utility poles, fire hydrants, light standards, signs, fences and other permanent features on the site and immediately adjacent to the site.
- G. Existing and proposed changes to the natural land features on the site and adjacent to the site including, but not limited to: tree canopy cover, meadows, planted areas, and water resources. Water resources include ponds, lakes, streams, wetlands, flood plains, drainage ditches and retention areas, rivers, and any other body of water or waterway.
- H. All proposed new or changes or additions to site grading, natural land features, buildings and other structures, paved areas, walkways, and other permanent features on the site.
- I. All landscaping and buffering to be retained, protected during construction, added, or removed.
- J. All new landscaping materials to be installed shall be indicated on a schedule which includes the common and botanical names, specified installation sizes, on-center planting dimensions when applicable, quantities required, and other remarks as appropriate to describe the plant material selection.
- K. Details shall be shown for the planting of trees, shrubs and ground cover within the buffered or landscaped area. When the list of plant material to be removed contains existing trees, the landscape plan shall justify that building location and placement has been developed with due consideration given to minimizing removal of trees 18 inches in diameter or more. Include details of barricade methods to protect existing landscape to remain, but which may be effected by construction traffic patterns or re-grading. Temporary barricades or fencing shall be erected along the drip line of the tree. If substantial re-grading above existing conditions is necessary, show details of retaining walls around the base of the trunk and drainage tile installation to protect the entire drip line of the tree.
- L. Location and description of any and all storm water management or low impact development techniques used in site design (i.e. rain gardens, detention/retention ponds, wetland benches, filter strips, et cetera) shall be shown.
- M. Additional information which is determined necessary by the Zoning Administrator or the Planning and Zoning Commission to adequately review the proposal.
- N. The plans shall also include any proposed irrigation plan which shall include the following:
 - (1) Location and type of all sprinkler heads.
 - (2) Size of mainline and irrigation piping.
 - (3) Location and size of water meter.
 - (4) Location of back flow prevention device.
 - (5) Location and size of all valves.
 - (6) Location of irrigation controller.

1000.05 APPROVAL

- A. No site or development plan required under this Zoning Code shall receive final approval unless a landscaping plan has been submitted and approved.
- B. No Certificate of Occupancy shall be issued by the Building Department unless the following criteria are fully satisfied with regard to the approved landscape plan:
 - (1) Such plan has been fully implemented on the site; or
 - (2) Such plan, because of seasonal conditions, cannot be implemented immediately, but has been guaranteed by a postponed improvement agreement between the developer and the City.

1000.06 BUILDING LANDSCAPING STANDARDS

Landscaping shall be installed at the base of all building elevations where a principal entrance is located in the following manner:

- A. A minimum of two (2) square feet of landscape area shall be established for every linear foot of building frontage where landscaping is required.
- B. A minimum of one (1) deciduous tree and 3 shrubs shall be installed for every 100 square feet of required landscape area.
- C. Landscaped areas may be established along the foundation or as planting islands.
- D. Landscaping areas shall be installed within twenty (20) feet of the building wall.

1000.07 SCREENING AND LANDSCAPING OF PARKING LOTS

- A. Landscaping on the Interior of Parking Lots. Interior landscaping of parking lots shall be provided in accordance with the following requirements:
 - (1) For any parking area designed to accommodate forty (40) or more vehicles, a minimum of five (5) percent of the parking lot shall be planted as landscaped island areas, developed and reasonably distributed throughout the parking lot so as to provide visual and climatic relief from broad expanses of pavement.
 - (a) Each island shall be a minimum of ten (10) feet in any horizontal dimension;
 - (b) Within the landscaped islands, there shall be provided one major shade tree for every ten (10) parking spaces.
 - (c) Landscaped areas adjacent to the perimeter of the parking area shall not be counted as interior parking lot landscaped areas.

1000.07A(2) – 1000.09A(1)

- (2) For the purpose of this Section the area of a parking lot shall be the total vehicular surface area including circulation aisles.
- B. Screening Along Public Streets and Perimeter of Parking Areas. Whenever parking areas consisting of five (5) spaces or more are located such that the parked cars will be visible from a public street, screening, in addition to the interior landscaping required in Section 1007.07A, shall be provided and maintained between the parking area and the street right-of-way as follows:
- (1) All shrubs, berms, walls, and fences shall have a minimum height of three (3) feet and a maximum height of five (5) feet.
 - (2) Such landscaping and screening shall be located parallel to and within five (5) feet of the edge of the parking lot.
 - (3) Such landscaping and screening shall be located to not obstruct the view from vehicles entering and exiting the parking lot per Section 1000.10C(2).

1000.08 LANDSCAPING ALONG THE STREET FRONTAGE

All areas within the required building and parking setback, excluding driveway openings, shall be landscaped. The following minimum plant materials shall be provided and maintained on all lots or developments except lots devoted to single-family detached and two-family dwellings:

- A. One shade tree shall be provided for every thirty (30) linear feet of lot frontage or fraction thereof, not including drive entrances. Spacing shall take into account an adjacent lot required to have trees by this section. Each tree, at the time of installation, shall have a clear trunk height of at least six (6) feet and a minimum caliper of two (2) inches.
- B. One shrub shall be provided for every ten (10) linear feet of lot frontage or fraction thereof, not including drive entrances.
- C. All areas not devoted to trees and shrubs shall be planted with grass, ground cover or other live landscape treatment, excluding paving or gravel.

1000.09 SCREENING AND BUFFERING OF RESIDENTIAL AREAS

Protective screening and buffers for residential areas adjacent to non-residential areas shall be provided for the purpose of minimizing the friction between incompatible land uses and improving the aesthetic and functional quality of new development.

- A. Screening and Bufferyard Requirements. When any non-residential or multifamily land use is proposed to abut any C-D, R-E, R-1, R-2, R-3, or R-L zoning district, a minimum bufferyard composed of a wall, fence, greenbelt, or mounding providing seventy-five (75) percent year-round opacity is required.
 - (1) This bufferyard shall consist of either one of the following:

- (a) A six (6) foot high wall or solid fence shall be placed six (6) feet from the non-residential property line. The area between such wall or fence and the property line shall be treated with tree and shrub plantings to form a permanent landscaped area; OR
 - (b) A greenbelt shall be a strip along the property line of at least ten (10) feet in width. Such greenbelt shall be planted and maintained with evergreens such as spruce, pine or firs at least five (5) feet in height or a hedge of evergreens at least four (4) feet in height situated so as to provide an effective and permanent visual buffer.
- (2) A two (2) to five (5) foot undulating earthen mound may be constructed within the required setback for any yard directly abutting the residentially zoned property. If constructed, the mound will be constructed adjacent to the residentially zoned property and will be aligned with any existing mound located within the setback for any similar yard of any immediately adjacent property. Said mound shall be as wide as necessary to obtain a maximum slope of three (3) to one (1) (horizontal to vertical angle of repose). The mound/berm itself shall have a grass or other suitable vegetative cover to prevent erosion. On top of the mound/berm, a staggered row of trees and shrubs shall be planted that maintains dense foliage 365 days a year (coniferous) minimum height of four (4) feet. Said trees shall be planted an average of ten (10) feet apart.
 - (3) The portion of any screening and bufferyard area not covered by plantings shall be kept in a healthy growing condition and neat and orderly in appearance.
 - (4) Where vegetative and/or topographic conditions that provide a natural screening and buffer exist prior to development of properties in question, every effort shall be made to retain such conditions.
- B. Bufferyard Establishment. Once a bufferyard has been approved by the Planning and Zoning Commission and established by the owner, it may not be used, disturbed, or altered for any purpose.
 - C. Modification of Requirements. The Planning and Zoning Commission may waive the requirements for a wall, fence or greenbelt if equivalent screening is provided by existing or planned parks, recreation areas or by topography or other natural conditions.

1000.10 LANDSCAPING MATERIALS AND INSTALLATION STANDARDS.

- A. Existing Vegetation. Existing landscaping material or natural vegetation shown on a Landscaping or Site Plan that is in satisfactory condition may be used to satisfy any requirements of this Article in whole or in part, as determined by the Zoning Administrator, if protected and maintained in accordance to generally accepted nursery industry principles and procedures during the construction phase of the development.
- B. New Plant Material. All new plant material shall conform to the latest version of the American Standard for Nursery Stock (ANSI Z60.1) and shall have passed any inspection required under state regulations. Alternatives to these materials that can be shown to meet both the intent and requirements of this Zoning Code may be approved as part of a Landscaping Plan.

1000.10B(1) – 1000.10D(2)(a)

- (1) Plant material shall be of standard quality or better, true to name and type of the required species or variety, and free of disease, insects, and/or damage.
 - (2) Plant material selection should include consideration of soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, and compatibility with existing native vegetation preserved on the site.
- C. Installation. All required new landscaping, screening, and buffering materials shall be installed in accordance with generally accepted nursery industry principles and procedures.
- (1) Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the Zoning Administrator.
 - (2) *Vision Clearance Areas*. All landscaped areas on corner lots and road right-of-ways in buffer yards or median strips must meet traffic safety vision clearance standards and shall be reviewed by the Service Director. No vegetation which obscures driver visibility should be planted within a twenty-five (25) foot sight distance triangle for a street intersection; however trees with at least eight (8) feet of limbless trunk may be permitted.
- D. Vegetative Landscaping Materials. The following items are suitable vegetation for screening use individually or in combination with each other provided they create the desired density of screening, subject to review and approval by the Zoning Administrator:
- (1) Grass and Ground Cover
 - (a) Grass of the Fescus (Gramineak) or Bluegrass (Poaceae) family shall be planted in species normally grown as permanent lawns in Summit County. Grass species shall be selected to assure slow growth and low water consumption whenever possible.
 1. In swales or other areas subject to erosion, solid sod, erosion reducing nets, or suitable mulch shall be used and nursegrass seed shall be sown for immediate protection until complete coverage otherwise is achieved and shall be reviewed by the Summit County Soil and Water Conservation District.
 2. Grass sod shall be clean and free of weeds and noxious pests or diseases.
 - (b) Ground cover shall provide 75% complete coverage after one complete growing season. If approved as part of a Landscaping Plan, ground cover may also consist of rocks, pebbles, wood chips, and/or other natural material.
 - (2) Shrubs and Hedges
 - (a) Shrubs and hedges shall be at least 36 inches average in height and spread at the time of planting. Where required as buffering, all shrubs and hedges shall be designed to provide a continuous, year-round, solid visual screen.

- (b) Shrubs and hedges shall be permitted in all zoning districts, but shall not be located within a drainage easement, floodway, flood plain or other area which would be detrimental to the public health and safety.

(3) Trees

- (a) Trees shall be desired species which are resistant to insects and disease and should not be placed in locations which could cause interference with above and below ground utilities or street lighting.

1. *Size.* Required trees shall have the following specifications at the time of planting:

- a. Deciduous trees shall have a minimum caliper of at least two (2) inches (as measured 6 inches above ground) conforming to acceptable nursery industry procedures at the time of planting. If deciduous trees are to be used for screening purposes, additional materials listed in this Section must be used to create a dense buffer and tree species should be used which have an ultimate height no greater than 40 feet.
- b. Evergreen trees shall be a minimum of 6 feet in height at the time of planting. Evergreen plantings shall be planted at a maximum distance of 15 feet on center to provide an effective, dense screen within 4 years of planting.

- (b) Every development shall retain all existing trees 18 inches in diameter or more unless during the Landscaping Plan review process, it is determined that the retention of such trees would unreasonably burden the development.

(c) Species

- 1. Diversity Requirements. Maintaining diversity of trees is important to preservation of woodland habitat and can be achieved by preventing an over-dependence on a few species. The over-use of a few species is inevitable without a conscious effort to vary plant species and families. The use of several varieties adds interest to the plantings of the City and insures against the loss of all trees in case of an epidemic disease or insect infestation striking any one species. The International Society of Arboriculture's "Diversification Formula" shall be used as a guideline to prevent over planting of a single species or family.
- 2. Desired Shade Trees. The following deciduous trees are hardy in Zone 5 and reach a mature height as indicated in the following table:

Desired Shade Trees		
Small	Medium	Large
<u>Mature Height Under 30'</u>	<u>Mature Height Between 30'-50'</u>	<u>Mature Height Over 50'</u>
Hedge Maple	Amur Cork	Red Maple
Sourwood	River Birch	Norway Maple
Hornbeam	Yellowwood	Sugar Maple
Paperbark Maple	Thornless Honeylocust	European Beech
Amur Maple	Japanese Zelkova	Red Oak
European Hornbeam	Dawn Redwood	Pin Oak
Dogwood Species	Callery Pear	London Planetree
Crabapple	Littleleaf Linden	Scarlet Oak
Eastern Redbud	Hackberry	Willow Oak
		Shumardi Oak
		Shingle Oak
		Ginko Biloba (Male Only)
		Elm

Other shade trees which are native and hardy to Zone 5 of the United States Department of Agriculture Plant Hardiness Zone Map may also be used within the landscaped or buffer yard area.

3. Desired Flowering Trees. The following deciduous trees are hardy in Zone 5 and reach a mature height not exceeding thirty (30) feet.

Desired Flowering Trees		
Callery Pear	Dogwood Species	Saucer Magnolia
Crabapple	Lilac	Star Magnolia
Eastern Redbud	Carolina Silverbell	Hawthorne Species
Downy Serviceberry	Golden Raintree	
Allegheny Serviceberry	Sweetbay Magnolia	

4. Desired Evergreen Trees. The following evergreen trees are hardy in Zone 5 and can reach a mature height over thirty (30) feet. If not limbed-up, these trees can create a screen from the ground level up.

Desired Evergreen Trees	
American Holly	Carolina Hemlock
Austrian Pine	Norway Spruce
Canadian Hemlock	Colorado Blue Spruce
White Fir	Scotch Pine

5. Desired Deciduous Shrubs. These perennial woody plants are tolerant in Zone 5 and grow at least three (3) feet in height.

<u>Desired Deciduous Shrubs</u>		
Burning Bush	Winterberry Barberry	Spirea Species
Viburnum Species	Quince	Spreading Cotoneaster
Forsythia Species	Shrub Cinquefoil	Greenlane Euonymus
Witch Hazel	Shrub Roses	Rhododendron Species
Azelea Species	Honey Suckle	Privet Species

6. Desired Evergreen Shrubs. These perennial woody plants are tolerant in Zone 5 and grow at least three (3) feet in height.

<u>Desired Evergreen Shrubs</u>		
Anglojap Yew	Spreading Yew	Leatherleaf Viburnum
Blue Holly	Japanese Yew	Mugho Pine
Chinese Juniper	Korean Boxwood	Juniper Species

7. Undesirable Species with Potentially Harmful Characteristics. Trees which produce nuts, seeds, or fruit, or large root systems can create undesirable hazards to pedestrians, vehicles, and/or public utilities. The species of trees identified in the following table shall not be planted in such a manner that the natural drip line of an average adult tree of the species planted will be any closer than 3 feet of a parking lot which direct unfiltered storm water into public storm sewers, a public right-of-way, or a pedestrian walkway.

<u>Undesirable Species with Potentially Harmful Characteristics</u>	
Ailanthus	Osage-Orange
American Elm	Pear, Bradford
Apple Common	Plum
Box Elder or Ash Leaved Maple	Poplar
Catalpa	Sassafras
Cherry Black	Siberian Elm
Chestnut	Silver Maple
Cottonwood	Sumac
Gingko Biloba (Female)	Sweetgum
Hickory	Thorned Hawthorns
Kentucky Coffee Tree	Tree of Heaven
Locust Common	Tulip Tree or Tulip Poplar
Mulberry	Walnut
Oregon Maple	Willow

8. Prohibited Species. No person shall plant any trees which the Ohio Department of Natural Resources has quarantined or placed on alert. Any person who is the owner of any such tree in the City shall cause the same to be removed, killed or girdled within sixty days after notice from the Zoning Administrator.

1000.11 – 1000.12

1000.11 MAINTENANCE OF LANDSCAPING AND BUFFERYARDS

- A. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures.
- B. The owner of the property shall be responsible for the continued property maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance free from refuse and debris at all times.
- C. All unhealthy or dead plant material shall be replaced within one year, or by the next planting period, whichever comes first.
- D. Violation of these installation and maintenance provisions shall be grounds for the Zoning Administrator to require replacement of the landscape material, or institute legal proceedings to enforce the provisions of this Section.

1000.12 MODIFICATION

The Planning and Zoning Commission shall have the authority to modify any of the aforementioned requirements in this Article, in considering an individual site with respect to changes in elevation, environmental impact, durability of plant material, aesthetic appeal, and any other factor that will develop a compatible buffer or screen with the surrounding neighborhood at the time of application.

ARTICLE 11 NATURAL RESOURCE PRESERVATION REGULATIONS

1100.01 RIPARIAN DEVELOPMENT SETBACK REGULATIONS

- A. Purpose. Since it is hereby determined that the system of streams within the City contribute to the health, safety and general welfare of the residents of the City, these Riparian Development Setback regulations are enacted in order to protect and preserve the water quality within the streams of the City and to protect residents of the City from property loss and damage because of flooding and other impacts of the stream. These regulations shall control uses and development within a riparian setback that would impair the ability of the riparian area to:
- (1) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters and regulating base flow;
 - (2) Stabilize the banks of streams to reduce bank erosion and the downstream transport of sediments eroded from stream banks;
 - (3) Reduce pollutants in streams during periods of high flows by filtering, settling and transforming pollutants already present in streams or in runoff before they enter streams;
 - (4) Provide areas for natural meandering and lateral movement of stream channels;
 - (5) Reduce the presence of aquatic nuisance species to maintain diverse and connected riparian vegetation;
 - (6) Provide high quality stream habitats with shade and food to a wide array of wildlife by maintaining diverse and connected riparian vegetation;
 - (7) Benefit the City economically by minimizing encroachment on stream channels and reducing the need for costly engineering solutions such as dams and riprap, to protect structures and reduce property damage and threats to the safety of watershed residents, and by contributing to the scenic beauty and to the environment of the City, the quality of life for the City residents and corresponding property values.
 - (8) Protect the health, safety, and welfare of the citizens of the City.
- B. Compliance and Violations. No zoning approvals or zoning permits shall be issued by the City without full compliance with the terms of these provisions.
- C. Establishment of a Riparian Setback
- (1) Riparian Setbacks are established as provided in this Article and as defined in Article 14. Streams addressed by these regulations are those which meet the definition of "stream" in Article 14 and appear on at least one of the following maps:

1100.01C(1)(a) – 1100.01D(2)

- (a) USGS topographical map;
 - (b) Summit County Riparian Setback map;
 - (c) Soils maps found in the Soil Survey of Summit County, Ohio, USDA, NCRS.
- (2) Widths of setbacks are measured as horizontal map distance outward from the ordinary high water mark on each side of a stream, and are established as follows:
- (a) A minimum of 300 feet on each side of all streams draining an area greater than 300 square miles.
 - (b) A minimum of 100 feet on each side of all streams draining an area greater than 20 square miles and up to 300 square miles.
 - (c) A minimum of 75 feet on each side of all streams draining an area greater than 0.5 square miles (320 acres) and up to 20 square miles.
 - (d) A minimum of 50 feet on each side of all streams draining an area greater than 0.05 square miles (32 acres) and up to 0.5 square miles (320 acres).
 - (e) A minimum of 30 feet on each side of all streams draining an area less than 0.05 square miles (32 acres).
- (3) The following are exempt from the terms and protection of these regulations: grassy swales, roadside ditches, drainage ditches created at the time of a subdivision to convey storm water to another system, tile drainage systems and stream culverts.

D. Modification of Riparian Setbacks

- (1) Where the 100-year floodplain is wider than the Riparian Setback on either or both sides of the stream, the Riparian Setback shall be extended to the outer edge of the 100-year floodplain. The 100-year floodplain shall be defined by FEMA and approved by the County of Summit Department of Building Standards.
- (2) Because the gradient of the riparian corridor significantly influences impacts on the stream, the following adjustment for steep slopes will be integrated into the Riparian Setback formulae for width determination:

Average Percent Slope	Width of Setback
15% through 20%	Add 25 feet
Greater than 20% through 25%	Add 50 feet
Greater than 25%	Add 100 feet

- (3) Average percent slope of the streambank is to be calculated for the area within the Riparian Setback and is to be measured as a line perpendicular to the stream channel at the location where structures or uses are proposed in the plan. All of the following measurements are to be performed using County of Summit Geographical Information System data (1994, 2000).
- (4) Calculate slope as follows:

Change in elevation from the edge of stream channel to the edge of the Riparian Setback divided by horizontal map distance from the edge of the stream channel to the edge of the Riparian Setback.
- (5) Where wetlands protected under federal or state law are identified within the Riparian Setback, the Riparian Setback shall consist of the full extent of the wetlands plus the following additional setback widths:
 - (a) A 50-foot setback extending beyond the outer boundary of a Category 3 wetlands.
 - (b) A 30-foot setback extending beyond the outer boundary of a Category 2 wetlands.
 - (c) No additional setback shall be required adjacent to Category 1 wetlands.
- (6) Wetlands shall be delineated by a qualified professional under guidelines established by the U.S. Army Corps of Engineers and Ohio Environmental Protection Agency and the site delineation approved by the appropriate agencies. All wetland delineations shall also include the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of the regulations.
- (7) The applicant shall be responsible for delineating the Riparian Setback, including any expansions or modifications as required by this Article and identifying this setback on all subdivisions, site plans, and/or zoning permit applications. This delineation shall be done at the time of application of the preliminary plans, or all plans that are required, or at the time of submission of any permit applications. This delineation shall be subject to review and approval by the Summit SWCD, which may require additional studies from the applicant.
- (8) Prior to any soil disturbing activity, the Riparian Setback shall be clearly delineated with construction fencing or other suitable material by the applicant on-site, and such delineation shall be maintained throughout soil-disturbing activities. The delineated area shall be maintained in an undisturbed state unless otherwise permitted by these regulations. All fencing shall be removed when a development project is completed.
- (9) No approvals or permits shall be issued by the City prior to delineation of the Riparian Setback in conformance with these regulations.
- (10) Upon completion of an approved subdivision, the Riparian Setback shall be permanently recorded on the plat records for Summit County.

1100.01E – 1100.01F(2)(c)

E. Permitted Uses in the Riparian Setback (No Permit Required).

- (1) Passive recreational uses, such as hiking, non-motorized bicycling, fishing, hunting, picnicking and similar uses (as permitted by federal, state and local laws) and associated structures including boardwalks, pathways constructed of pervious materials, picnic tables and wildlife viewing areas.
- (2) Removal of damaged or diseased trees, provided that logs and branches resulting from the removal of said trees that are greater than 6 inches in diameter shall be anchored to the shore or removed from the 100-year floodplain.
- (3) Revegetation and/or reforestation with the approval of Summit SWCD. Species of shrubs and vines recommended for stabilizing flood prone areas along streams as listed in Section 1100.01L.
- (4) The Summit County Engineer maintains the right of access to all streams within Summit County for the purposes outlined in the Ohio Revised Code, Sections 6131.01 to 6131.64, 6133.01 to 6133.15, 6135.01 to 6135.27, and 6137.05.1.

F. Permitted Uses in the Riparian Setback With Prior Approval of the Design (Permit Required From the City).

- (1) *Streambank Stabilization/Erosion Control Measures.* Best Management Practices (BMP's) for stream bank stabilization or erosion control may be allowed if such practices are within permitted uses by the local, state and federal government regulations and are ecologically compatible and emphasize the use of natural materials and native plant species where practical and available. Such streambank stabilization/erosion control practices shall only be undertaken upon approval of a Storm Water Pollution Prevention Plan (SWPPP) by the Summit SWCD.
- (2) *Crossings.* In reviewing plans for stream crossings, the City may confer with the Summit SWCD; the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the Summit County Engineer; the Summit County Department of Environmental Services; the Summit County Health Department; or other technical experts as necessary.
 - (a) Limited crossings of designated streams through the Riparian Setback by vehicles, storm sewers, sewer and/or water lines and public utility lines will be per the approval of local, county and state governing agencies and as a part of the regular subdivision review process.
 - (b) One driveway crossing per stream per tax parcel shall be allowed for individual landowners.
 - (c) Roadway crossings for major and minor subdivisions, open space subdivisions or any other non-single family residential use shall be designed and constructed per the Summit

County Engineer's design standards and as approved by the New Franklin Planning and Zoning Commission. If more than two crossings per 1,000 linear feet of stream center are required for these areas, the applicant must apply for a variance.

- (d) All roadway crossings shall be perpendicular to the stream flow and shall minimize disturbance to the Riparian Setback and shall mitigate any necessary disturbances.
- (3) Storm water retention or detention facilities may be considered with the Riparian Setback if the following conditions are met:
 - (a) Storm water quality treatment that is consistent with current state standards is incorporated into the basin.
 - (b) The storm water quality treatment basin is located at least 50 feet from the ordinary high water mark of the stream.

G. Prohibited Uses in the Riparian Setback.

- (1) *Construction.* There shall be no structures of any kind, except as permitted under these regulations.
- (2) *Dredging or Dumping.* There shall be no drilling for petroleum or mineral products, mining activity, filling or dredging of soils, spoils, or any material – natural or man-made – except as permitted under these regulations.
- (3) *Roads or Driveways.* There shall be no roads or driveways, except as permitted under these regulations.
- (4) *Motorized Vehicles.* There shall be no use of motorized vehicles of any kind, except as permitted under these regulations.
- (5) *Modification of Natural Vegetation.* Modification shall be limited to conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with these regulations; and for the passive enjoyment, access and maintenance of landscaping or lawns existing at the time of passage of these regulations. The landowner is not required to plant or undertake any other activities in the Riparian Setback provided the landowner allows for natural succession.
- (6) *Parking Lots.* There shall be no parking lots or other man-made impervious cover, except as permitted under these regulations.
- (7) *New Surface and/or Subsurface Sewage Disposal or Treatment Area.* No disposal or treatment of sewage shall be allowed except for the following:
 - (a) Undeveloped parcels that have received site evaluation approval and/or permit approval prior to the enactment of these regulations.

- (b) Dwellings served by disposal/ treatment systems existing at the time of passage of these regulations when such systems are properly sited (approved site evaluation) and/or permitted in accordance with the Summit County Health Department and/or the Ohio Environmental Protection Agency. Existing failing systems which are located within the Riparian Setback can be upgraded with approval of the Summit County Health Department and/or the Ohio Environmental Protection Agency.

- H. Non-Conforming Structures or Uses in the Riparian Setback. Structures and uses within the Riparian Setback existing on the date these regulations became effective, and that are not permitted under these regulations, may be continued but shall not be expanded except for residential structures or uses as follows:
 - (1) The expansion conforms to the existing zoning regulations.
 - (2) The expansion shall not impact the stream channel or the 100-year floodplain.
 - (3) The expansion shall not exceed an area of fifteen (15) percent of the footprint of the existing structure or use that lies within the Riparian Setback. Expansions exceeding fifteen (15) percent of the total footprint within the Riparian Setback must be obtained through a variance from the Board of Zoning Appeals.
 - (4) Non-residential structures or uses shall be permitted only through a variance from the Board of Zoning Appeals.

- I. Boundary Interpretation and Appeals Procedure
 - (1) When an applicant disputes the boundary of the Riparian Setback or the ordinary high water mark of a stream, the applicant shall submit evidence to the Summit SWCD, with a copy to the Zoning Administrator that describes the boundary, presents the applicant's proposed boundary and presents all justification for the proposed boundary change.
 - (2) The Summit SWCD shall evaluate all materials submitted and shall make a written recommendation to the Board of Zoning Appeals within a reasonable period of time not to exceed 60 days. A copy of this recommendation shall be submitted to the applicant. If during this evaluation the Summit SWCD requires further information to complete this evaluation, the applicant may be required to provide additional information.
 - (3) The Board of Zoning Appeals shall decide such boundary disputes. The party contesting the location of the Riparian Setback or the ordinary high water mark of the streams as determined by these regulations shall have the burden of proof in case of any such appeal.
 - (4) Application for a variance shall be as per Section 300.02 (Variance Review) of this Zoning Code.

- J. Limitations and Constraints on Variances Within the Riparian Setback. The Board of Zoning Appeals shall have the power to hear and decide all applications for variances to the provisions of this Article.

- (1) The Board of Zoning Appeals shall consult with representatives of the Summit SWCD; the Ohio Department of Natural Resources, Division of Natural Areas; the Ohio Environmental Protection Agency, Division of Surface Water; the Summit County Engineer; the Summit County Department of Environmental Services; the Summit County Health Department; or other technical experts as necessary to consider variance requests.
- (2) Expansions of residential structures or uses exceeding fifteen (15) percent of the footprint area and expansions of all non-residential structures or uses are subject to consideration based on the following provisions:
 - (a) The expansion conforms to the existing zoning regulations.
 - (b) The expansion must not impact the stream channel or 100-year floodplain.
 - (c) The expansion of a non-residential structure or use must not affect upstream or downstream hydrologic conditions which could cause damage from flooding or streambank erosion to landowners in those areas. A hydrologic study must be completed by non-residential applicants only as a process of the variance application.
 - (d) The expansion of a non-residential structure or use shall not exceed twenty-five (25) percent of the footprint area. The twenty-five (25) percent expansion limit is for the portion of the structure or use that lies within the Riparian Setback.
- (3) Requests for variances for subdivisions shall be considered for the following:
 - (a) An additional stream crossing or crossings for a subdivision or open space development which is necessary for the health, safety and welfare of the residents in the subdivision.
 - (b) A reduction of setback width, not to exceed ten (10) percent of the prescribed Riparian Setback width.
- (4) No variances shall be granted for expansion of the following structures or uses:
 - (a) Facilities which use, store, distribute, or sell petroleum-based products or any hazardous materials, such as but not limited to, asphalt plants, dry cleaners, gasoline service stations, and road maintenance facilities.
 - (b) Facilities which use, store, distribute, or sell products which may contribute higher than acceptable concentrations of dissolved or particulate matter to storm water runoff around the facility, such as but not limited to, landfills or transfer stations, junk yards, recycling facilities, quarries and borrow pits, sand and gravel extraction operations and road salt storage barns.
- (5) In reviewing whether or not to grant variances to these regulations, the Board of Zoning Appeals shall consider the following:

1100.01J(5)(a) – 1100.01L

- (a) The extent to which the requested variance impairs the functions of the riparian area, based on sufficient technical and scientific evidence as provided by the applicant and the agencies listed in the preceding portions of Section 1100.01J(1).
- (b) The soil type and natural vegetation of the parcel as well as the percentage of the parcel that is in the 100-year floodplain.
- (c) The degree of hardship these regulations place on the applicant and the availability of alternatives to the proposed activity.
- (d) Whether a front, side or rear yard setback variance should be considered to maintain the required Riparian Setback area.

K. Inspection of Riparian Setback

- (1) The Riparian Setback shall be inspected by the Summit SWCD:
 - (a) When a preliminary subdivision plat or other land development plan is submitted to the City.
 - (b) When a building or zoning permit is requested.
 - (c) Prior to any soil disturbing activity to inspect the delineation of the Riparian Setback as required under these regulations.
- (2) The Riparian Setback shall also be inspected annually or as time permits by the Summit SWCD or approved monitoring entity for compliance with any approvals under these regulations or any time evidence is brought to the attention of the Summit SWCD that uses or structures are occurring that may reasonably be expected to violate the provisions of these regulations.

L. Species of Shrubs and Vines Recommended for Stabilizing Floodprone Areas Along Streams. The following list of woody plants suitable for riparian areas was assembled by Roger Gettig, The Holden Arboretum for Chagrin River Watershed Partners.

Flood Tolerance	Common Name	Shade Tolerance**
High Flood Tolerance*		
<i>Aronia arbutifolia</i>	Red chokeberry	3
<i>Aronia melanocarpa</i>	Black chokeberry	3
<i>Cephalanthus occidentalis</i>	Common buttonbush	5
<i>Clethra alnifolia</i>	Summersweet clethra***	2
<i>Cornus amomum</i>	Silky dogwood	4
<i>Cornus stolonifera (sericea)</i>	Redosier dogwood	5
<i>Hamamelis vernalis</i>	Vernal witchhazel ***	3
<i>Ilex decidua</i>	Possumhaw ***	3
<i>Ilex glabra</i>	Inkberry ***	2
<i>Ilex verticillata</i>	Common winterberry	3
<i>Itea virginica</i>	Virginia sweetspire ***	1
<i>Magnolia virginiana</i>	Sweetbay magnolia ***	2
<i>Myrica pensylvanica</i>	Northern bayberry	4
<i>Physocarpus opulifolius</i>	Common ninebark	4
<i>Potentilla fruticosa</i>	Bush cinquefoil	4
<i>Sambucus canadensis</i>	American elderberry	1
<i>Salix x cotteti</i>	"Bankers" willow ***	5
<i>Salix exigua</i>	Sandbar willow	5
<i>Salix purpurea</i>	"Streamco" willow ***	5
<i>Viburnum cassinoides</i>	Withered viburnum	2
<i>Parthenocissus quinquefolia</i>	Virginia creeper (vine)	1
Moderate Flood Tolerance*	Common Name	Shade Tolerance**
<i>Calycanthus floridus</i>	Common sweetshrub	1
<i>Hypericum kalmianum</i>	Kalm St. Johnswort	5
<i>Viburnum dentatum</i>	Arrowwood viburnum	2
<i>Xanthorhiza simplicissima</i>	Yellowroot ***	1
Intermediate Flood Tolerance*	Common Name	Shade Tolerance**
<i>Aesculus parviflora</i>	Bottlebush buckeye ***	2
<i>Aesculus pavia</i>	Red buckeye ***	2
<i>Cornus racemosa</i>	Gray dogwood	2
<i>Lindera benzoin</i>	Common spicebush	1
<i>Rosa setigera</i>	Prairie rose	4
<i>Campsis radicans</i>	Trumpetcreeper (vine)	3
<i>Lonicera dioica</i>	Limber honeysuckle (vine)	2
<i>Corylus americana</i>	American filbert	2
<i>Diervilla lonicera</i>	Dwarf bushhoneysuckle	1
<i>Fothergilla gardeni</i>	Dwarf fothergilla ***	1
<i>Fothergilla major</i>	Large fothergilla ***	1
<i>Hydrangea arborescens</i>	Smooth hydrangea	1
<i>Hydrangea quericifolia</i>	Oakleaf hydrangea ***	1
<i>Mahonia aquifolium</i>	Oregongrape holly ***	1
<i>Rosa carolina</i>	Carolina rose	4
<i>Rubus odoratus</i>	Fragrant thimbleberry	1
<i>Vaccinium stamineum</i>	Common deerberry	2
<i>Arctostaphylos uva-ursi</i>	Bearberry	4
<i>Cornus rogersia</i>	Roundleaf dogwood	1

<u>Low Flood Tolerance</u>	<u>Common Name</u>	<u>Shade Tolerance**</u>
<i>Corylus americana</i>	American filbert	2
<i>Diervilla lonicera</i>	Dwarf bushhoneysuckle	1
<i>Fothergilla gardeni</i>	Dwarf fothergilla ***	1
<i>Fothergilla major</i>	Large fothergilla ***	1
<i>Hydrangea arborescens</i>	Smooth hydrangea	1
<i>Hydrangea quercifolia</i>	Oakleaf hydrangea ***	1
<i>Mahonia aquifolium</i>	Oregongrape holly ***	1
<i>Rosa carolina</i>	Carolina rose	4
<i>Rubus odoratus</i>	Fragrant thimbleberry	1
<i>Symphoricarpos albus</i>	Common snowberry	1
<i>Vaccinium stamineum</i>	Common deerberry	2
<u>No Flood Tolerance</u>	<u>Common Name</u>	<u>Shade Tolerance**</u>
<i>Amorpha canescens</i>	Leadplant ***	5
<i>Ceanothus americanus</i>	New Jersey tea	3
<i>Comptonia peregrina</i>	Sweetfern	2
<i>Dirca palustris</i>	Leatherwood	1
<i>Hypericum frondosum</i>	Golden St. Johnswort	5
<i>Juniperus communis</i>	Common juniper	5
<i>Juniperus horizontalis</i>	Creeping juniper ***	5
<i>Rhus aromatica</i>	Fragrant sumac	5
<i>Sambucus pubens</i>	Scarlet elder	1
<i>Symphoricarpos albus</i>	Common snowberry	1
* High Flood Tolerance: Generally lowland wet species surviving when flooded or exposed to high water table more than 40% of the growing season.		
* Moderate Flood Tolerance: Generally lowland wet species surviving when flooded or exposed to high water table more than 30% of the growing season but less than 40%.		
* Intermediate Flood Tolerance: Generally lowland wet-mesic species surviving occasional inundation or elevated water table between 20% and 30% of the growing season.		
* Low Flood Tolerance: Generally upland mesic and mesic-dry species rarely inundated or exposed to an elevated water table for periods of short duration, between 5% and 20% of the growing season.		
* No Flood Tolerance: Generally upland dry species exhibiting immediate and rapid decline frequently culminating in death if inundated or exposed to elevated water table for more than 5% of the growing season.		
** Shade Tolerance: Shade tolerance means able to grow in a state of health and vigor beneath dense shade. In this ranking, shrubs and vines are ranked on a scale of 1 to 5, with 1 being very shade tolerant, and 5 being very shade intolerant.		
Note: 1. The majority of plants listed are available on the local commercial market and do not displace native species. 2. The cultivated varieties ("cultivars") of the species listed above may also be used. 3. Primary information taken from Hightshoe, Gary, 1987. Native Trees, Shrubs, and vines for Urban and Rural America. Van Nostrand. NY, NY 4. For further assistance contact Roger Gettig, Landscape Consulting Program, The Holden Arboretum, or Steve Roloson, ODNR Scenic Rivers Program.		

1100.02 EROSION AND SEDIMENT CONTROL AND POST CONSTRUCTION STORM WATER QUALITY
(Added 4-20-11)

- A. Purpose and Scope. The purpose of this Section is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of the City.
- (1) This Section will:
 - (a) Allow development while minimizing increases in erosion and sedimentation.
 - (b) Reduce water quality impacts to receiving water resources and wetlands that may be caused by new development or redevelopment activities.
 - (2) This Section applies to all parcels in the City used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section 1100.02A(3).
 - (3) This Section does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules. Rules 1501:15-5-01 to 15-5-18 of the Ohio Administrative Code as amended. However, all agricultural building construction and construction of non-irrigation related ponds are subject to the provisions of this Section.
- B. Disclaimer of Liability. Compliance with the provisions of this Section shall not relieve any person from the responsibility for damage to any person otherwise imposed by law. The provisions of this Section are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.
- C. Conflicts, Severability, Nuisances and Responsibility.
- (1) Where this Section is in conflict with other provisions of law, regulation, or ordinance, the most restrictive provisions shall prevail.
 - (2) If any clause, section, or provision of this Section is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
 - (3) This Section shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this Section shall not be a defense in any action to abate such a nuisance.
 - (4) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall no relieve the site owner from the responsibility for the condition or damage resulting there from, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting there from.

1100.02D – 1100.02F(1)

- D. Regulated Activities. This Section requires that a Storm Water Pollution Prevention Plan (SWPPP) be developed and implemented for all parcels on which one (1) acre or more is subjected to soil disturbance and on which any regulated activity of Section 1100.02A(2) is proposed. For parcels on which less than one acre is subjected to soil disturbance, a SWPPP is not required; however the owner shall comply with Sections 1100.02H(3)(a) through and including 1100.02H(3)(b)2b and Sections 1100.02K through and including 1100.02N.
- E. Application Procedures.
- (1) *Soil Disturbing Activities Submitting a Storm Water Pollution Prevention Plan.* The applicant shall submit the required number of sets of the SWPPP and the applicable fees to the Summit Soil & Water Conservation District (SWCD) and the required number of sets of the SWPPP to the City Engineer as follows:
 - (a) For subdivisions: After the approval of the preliminary plans by the Planning and Zoning Commission and with the submittal of the improvement plans to the City Engineer.
 - (b) For other construction projects: 30 days prior to soil disturbing activity.
 - (c) For general clearing projects: 30 days prior to soil disturbing activity.
 - (2) The Summit SWCD shall review the plans submitted pursuant to 1100.02E(a) or 1100.02E(b) for conformance with current National Pollutant Discharge Elimination System (NPDES) permit requirements and this Section and approve, or return with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan. An approved SWPPP shall serve as a permit to commence soil disturbing activities following a pre-construction meeting.
 - (3) Soil disturbing activities shall not begin, and final plat approvals will not be issued, without an approved SWPPP.
 - (4) A pre-construction meeting must be held with the SWCD inspector and the City prior to earthwork activities. The applicant, contractor, and applicant's engineer should be in attendance at the pre-construction meeting.
 - (5) A SWPPP for individual sublots in a subdivision may not be approved unless the larger common plan of development or sale containing the subplot is in compliance with this Section.
 - (6) Approvals issued in accordance with this Section shall remain valid for two (2) years. If regulations concerning erosion and sediment control or storm water quality change prior to the beginning of active construction, a new SWPPP may be requested.
- F. Storm Water Pollution Prevention Plan.
- (1) The applicant shall submit a Storm Water Pollution Prevention Plan (SWPPP) consistent with the requirements of the most recent Ohio EPA NPDES General Construction Permit. For specific requirements of a SWPPP the designer shall refer to the NPDES Ohio General

Construction Permit and the Summit SWCD SWPPP Check List. The SWPPP must address erosion and sediment control during construction as well as post construction water quality practices. Post construction practices must meet the requirements of the NPDES Ohio General Construction Permit and the City.

- (2) The SWPPP shall be certified by a Qualified Individual.
 - (3) The SWPPP shall incorporate measures as recommended by the most current edition of the Rainwater and Land Development Manual as published by the Ohio Department of Natural Resources or other technical manuals approved by the Summit SWCD.
 - (4) *Trapping Efficiency.* All sediment basins and traps must maintain a minimum 75% trapping efficiency throughout the construction period as determined by engineering calculations contained within the Summit County Water Quality and Trapping Efficiency Program. The approved program to determine trapping efficiency is available through the Summit SWCD.
 - (5) *Soils Erodibility Reports.* The Summit SWCD may require the SWPPP to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion. This report shall contain all the information listed below:
 - (a) Data regarding the nature and erodibility of existing soils.
 - (b) If applicable, data regarding the nature and erodibility of the soil to be placed on the site.
 - (c) Conclusions and recommendations for grading procedures.
 - (d) Conclusions and recommended designs for interim soil stabilization devices and measures, for permanent soil stabilization after construction is completed.
- G. Compliance With Local, State, and Federal Regulations. All submittals are required to show proof of compliance with all state and federal regulations. Approvals issued in accordance with this Section do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the U.S. Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below.
- (1) *Ohio EPA NPDES Permits Authorizing Storm Water Discharges Associated with Construction Activity or the Most Current Version Thereof.* Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
 - (2) *Section 401 of the Clean Water Act.* Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other

waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Section.

- (3) *Ohio EPA Isolated Wetland Permit.* Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Section.
- (4) *Section 404 of the Clean Water Act.* Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - (a) A statement from a qualified wetland professional who has determined that Section 404 of the Clean Water Act is not applicable.
 - (b) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this Section.
- (5) *Ohio Dam Safety Law.* Proof of compliance shall be a copy of the Ohio Department of Natural Resources Division of Water permit application tracking number, a copy of the project approval letter from the Ohio Department of Natural Resources Division of Water, or a letter from the applicant's engineer certifying and explaining why the Ohio Dam Safety Law is not applicable.
- (6) *Section 1100.01 Riparian Setback Development Regulations of the City of New Franklin Zoning Code.* Proof of compliance shall be a copy of the Summit SWCD approval letter, and/or a zoning certificate from the Zoning Administrator. Riparian setbacks must be shown on the SWPPP.

H. Performance Standards.

- (1) The SWPPP must contain a description and location of all appropriate best management practices (BMPs) for each construction operation. Prior to the start of grading and within seven (7) days from the start of grubbing the applicant must implement such controls. The SWPPP must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the person(s) responsible for implementation. The time frame for SWPPP implementation shall be consistent with the current Ohio EPA NPDES Construction Permit. No project subject to this Section shall commence without a SWPPP approved by the Summit SWCD and the City. No project subject to this Section shall commence without a

pre-construction meeting being held with the Summit SWCD. It will be the applicant's responsibility to contact the SWCD and the City.

- (2) The applicant shall inform all contractors and subcontractors not otherwise defined as "operators" as defined in the Ohio EPA's NPDES Permit, who will be involved in the implementation of the SWPPP of the terms and conditions of the SWPPP. The applicant shall maintain a written document containing the signatures of all contractors and subcontractors involved in the implementation of the SWPPP as proof acknowledging that they have reviewed and understand the conditions and responsibilities of the SWPPP. The written document shall be created and signatures shall be obtained prior to commencement of work on the construction site. A copy shall be provided to the Summit SWCD and the City prior to commencing with the project.
- (3) All projects regardless of the area of disturbance must utilize best management practices (BMPs) to minimize and control erosion and off site sedimentation. The controls shall include the following minimum components:
 - (a) During Active Construction
 1. *Non-Structural Preservation Measures.* The applicant must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.
 - a. Stream protection. The requirements of Section 1100.01 shall be followed.
 - b. Wetland protection. The setback requirements of the New Franklin Subdivision Regulations shall be followed in addition to state and federal regulations.
 2. *Erosion Control Practices.* The applicant must make use of erosion controls that are capable of providing cover over 70% of disturbed soils. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWPPP. The SWPPP must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.
 3. *Runoff Control Practices.* The applicant must make use of measures that control the flow of runoff from disturbed areas so as to prevent erosion. Such practices may include rock check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These

practices shall divert runoff away from disturbed areas and steep slopes where practicable.

4. *Sediment Control Practices.* The applicant must install structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than seven (7) days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. All sediment control practices must be capable of ponding or filtering runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.
5. *Non-Sediment Pollutant Controls.* No solid or liquid waste, including building materials and concrete wash out water shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands.
6. *Compliance With Other Requirements.* The SWPPP shall be consistent with applicable state and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.
7. *Trench and Ground Water Control.* There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.
8. *Applicant Inspections.* An initial inspection of all erosion and sediment control practices shall be conducted by a qualified individual to certify that the installations comply with the approved SWPPP. All controls on the site shall be inspected by the applicant's agent at least once every seven (7) calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. The applicant shall assign a qualified individual to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWPPP is adequate, or whether additional control measures are required. Internal inspections and documentation of corrective actions taken must be made available upon request.

9. *Maintenance.* The SWPPP shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the Summit SWCD and the City.

a. When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

i. When practices require repair or maintenance. If an inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment-settling ponds must be repaired or maintained within ten (10) days of the inspection.

ii. When practices fail to provide their intended function. If an inspection reveals that a control practice fails to perform its intended function as detailed in the SWPPP and that another, more appropriate control practice is required, the SWPPP must be amended and the new control practice must be installed within ten (10) days of the inspection.

iii. When practices depicted on the SWPPP are not installed. If an inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

10. *Final Stabilization.* All soil disturbing activities are complete and a uniform perennial vegetative cover with a density of 70 percent coverage for the area has been established on all unpaved areas and areas not covered by permanent structures. In addition, all temporary erosion and sediment control practices have been removed and disposed of in an acceptable manner.

(b) Post Construction Water Quality Practices.

1. *Non-Structural Water Quality Practices.* Non-structural post construction best management practices include preservation, planning, or procedures that direct development away from water resources or limit creation of impervious surfaces. Practices such as conservation easements, riparian and wetland setbacks, and conservation subdivision design are all non-structural controls.

1100.02H(3)(b)1a – 1100.02K(1)

- a. All non-structural water quality practices must be protected from disturbance through the construction phase of the project.
 - b. All non-structural water quality practices must be protected in perpetuity through the use of appropriate legal tools. All easement or conservation areas must appear on the final plat and be disclosed to potential buyers.
2. *Structural Water Quality Practices.* Structural post construction best management practices are permanent features constructed to provide treatment of storm water runoff either through storage, filtration, or infiltration.
- a. All structural water quality practices must be established prior to the completion of the project. Structural water quality practices should be made functional once the disturbed areas on site are stabilized. If detention/retention facilities were used for sediment control during development, sediments must be removed prior to the basin being used for post construction storm water quality.
 - b. Maintenance. The post construction water quality practice must be maintained in perpetuity by those parties identified in the SWPPP or the Storm Water Management Maintenance Agreement.
- I. Fees.
1. *Application Fees.* A Storm Water Pollution Prevention Plan and Abbreviated Storm Water Pollution Plan review and filing fee is part of a complete submittal to Summit SWCD as described in Section 1100.02E above. Fees are required to be submitted to the Summit SWCD before the review process begins. Contact Summit SWCD for their current fee schedule.
 2. *Inspection Fees.* During active construction as defined under Section 1100.02H(3)(a), periodic inspections may be required as listed. Summit SWCD shall be the primary inspector shall be the primary inspector for the City. In the event Summit SWCD is unavailable to perform the required inspections, the City shall have another qualified individual perform the inspection and reporting services on behalf of the City. The landowner shall be responsible for the inspection costs. Contact the City for the current fee schedule. After performing the inspection, the City shall bill the landowner for the cost of the City's inspection.
- J. Bond. If a Storm Water Pollution Prevention Plan is required by this Section, then a performance and maintenance bond shall be posted according to the New Franklin Subdivision Regulations. No project will be released from Bond if there is failure to comply with an approved SWPPP.
- K. Enforcement.
- (1) All development areas will be subject to inspections by the Summit SWCD and/or the City to ensure compliance with the approved SWPPP.

- (2) After each inspection the Summit SWCD and/or the City may prepare and distribute a status report to the applicant.
- (3) If an inspection determines that operations are being conducted in violation of the approved SWPPP, the City may take action as detailed in Section 1100.02L.

L. Violations.

- (1) No person shall violate or cause or knowingly permit to be violated any of the provisions of this Section, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this Section, or knowingly use or cause or permit the use of any lands in violation of this Section or in violation of any permit granted under this Section.
- (2) If the SWCD and/or the City determines that a violation of the rules adopted under this section exists, the City shall issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity. In addition, if the SWCD or the City determines such a rule violation exists, regardless of whether or not the violator has obtained proper permits, the SWCD or the City shall authorize the issuance of a notice of violation.
- (3) If, after a period of not less than thirty (30) days has elapsed following the issuance of the notice of violation, the violation continues, the City shall issue a second notice of violation. Except as provided in Section 1100.02L(6), if, after a period of not less than fifteen (15) days has elapsed following the issuance of the second notice of violation, the violation continues, the City shall issue a stop work order after first obtaining written approval from the City Law Director if, in the opinion of the Law Director, the violation is egregious.
- (4) Once a stop work order is issued, the City shall request, in writing, the City Law Director to seek an or other appropriate relief in the Summit County Court of Common Pleas to abate excessive erosion or sedimentation and secure compliance with the rules adopted under this Section.
- (5) If the City Law Director seeks an injunction or other appropriate relief, then, in granting relief, the Summit County Court of Common Pleas may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred (\$100.00) or more than five hundred (\$500.00) dollars. Each day of violation of a rule or stop work order issued under this Section shall be considered a separate violation subject to a civil fine.
- (6) No stop work order shall be issued under this section against any public highway, transportation, or drainage improvement or maintenance project undertaken by a government agency or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the City or the chief of the Division of Soil and Water Resources in the Ohio Department of Natural Resources.

1100.02L(7) – 1100.02O(2)

- (7) Notwithstanding subsections (2) through (6) hereof, if the Mayor determines that a violation of any rule adopted or administrative order issued under this Section exists, the Mayor may request, in writing, the City Law Director to seek an injunction or other appropriate relief in the Summit County Court of Common Pleas to abate excessive erosion or sedimentation and secure compliance with the rules of order. In granting relief, the Court may order the construction of sediment control improvements or implementation of other control measures and may assess a civil fine of not less than one hundred (\$100.00) or more than five hundred (\$500.00) dollars. Each day of violation of a rule adopted or administrative order issued under this Section shall be considered a separate violation subject to a civil fine.
 - (8) The New Franklin Planning and Zoning Commission may deny the issuance of any further plat approvals for the property in question until the site is brought into compliance with this Section.
 - (9) The Summit County Department of Building Standards may suspend the issuance of occupancy certificates within developments that are not in compliance with this Section.
 - (10) The City Engineer may suspend the inspection of site improvements and/or refuse the release of Bonds on developments that are not in compliance with this Section.
- M. Appeals. Any person aggrieved by any order, requirement, determination or any other action or inaction by the City in relation to this Section may appeal to the New Franklin Board of Zoning Appeals. The aggrieved party may appeal the decision of the Board of Zoning Appeals to the Summit County Court of Common Pleas. Written notice of the appeal to the Court of Common Pleas shall be served on the City and a copy shall be provided to the Summit SWCD.
- N. SWCD Agreement. The Mayor is hereby authorized to negotiate an agreement with the Summit SWCD on behalf of the City to ensure the Summit SWCD performs its duties in accordance with this Section. City Council's authorization is required prior to execution or amendment of such agreement.
- O. Cost as Lien. Inspection fees as defined under Section 1100.02I Fees and fines defined under Section 1100.02L Violations shall be billed to the landowner.
- (1) If the bill is not paid within thirty days or if the address of the landowner is not known, the Zoning Administrator shall refer the matter to the City Finance Director, including a statement of all charges for the City's services, the amount paid for the performance of the labor and the fees of the officers who made the service of the notice and return.
 - (2) Upon receipt of such statement of expenses incurred, the City Finance Director shall make written return to the Summit County Fiscal Officer of the action taken pursuant to this Section, with a statement of the charges for the City's services, the amount paid for the performance of the labor, the fees of the officers who made the service of the notice and return, and a proper description of the premises, to be entered upon the tax duplicate of the County for the purpose of making the same a lien upon such lands, to be collected as other taxes and returned to the City general fund in accordance with Ohio Revised Code Section 731.54.

ARTICLE 12 OFF-STREET PARKING, LOADING AND ACCESS MANAGEMENT

Off-street parking and loading facilities shall be developed to meet the following minimum standards for number of spaces, location, design, and access. All off-street parking, loading, and access designs shall be reviewed for conformance to the requirements of this Article prior to the issuance of a Zoning Permit.

1200.01 OFF-STREET PARKING

Off-street parking facilities are required for any proposed new development or conversion for which a Zoning Permit is required. No parking on the right-of-way of any publicly dedicated thoroughfare shall be used to satisfy these requirements.

A. Minimum Number of Required Parking Spaces.

- (1) The minimum number of required parking spaces for a land use shall be sufficient to meet the average parking needs of the proposed use. Where the off-street parking requirement for a use is not specified in the following Parking Spaces Matrix, the Zoning Administrator shall apply a standard developed for a similar land use. Minimum parking spaces for unique land uses not specified or similar to land uses listed in the Parking Spaces Matrix shall be determined by the Planning and Zoning Commission. The number of handicapped parking spaces shall be in accordance with federal, state and local law.
- (2) For the purpose of determining parking space requirements in the Parking Space Matrix, the following applications are intended:
 - (a) *Square Feet* means the "usable floor area" of the principal building on a lot used for service to the public and excludes area used principally for nonpublic purposes such as storage, incidental repair, processing, show window, rest rooms and dressing rooms.
 - (b) *Employee* refers to the total number of employees during the shift of greatest employment.
 - (c) Any derived number with a fractional value of more than one-half ($\frac{1}{2}$) shall be rounded to the next highest whole number.

B. Parking Space Matrix. The following standards shall be used in order to determine the minimum number of parking spaces required for the specified use:

Parking Space Matrix	Number of Spaces	Unit of Measurement	
Types of Uses			
Residential			
Single-family dwellings	2	per	dwelling unit
Two-Family dwellings	2	per	dwelling unit
Multifamily dwellings	1	per	bedroom
Hotel, motel, lodging, boarding or rooming houses, dormitories, and other sleeping accommodations	1	per	bedroom
Bed and breakfast facilities	2 + 0.75	per per	facility bedroom
Community Facilities			
Cemeteries	1	per	employee
Child day care home Type A and Child day care centers, pursuant to ORC 5104	4 +1	per	employee
Churches and other buildings for the purpose of worship	0.25	per	seat
Clubs, lodges, fraternal, charitable or social organizations	1	per	150 sq. ft.
Educational institutions	2	per	classroom
Government owned buildings (public, or municipal/county/state or federal)	1 +1	per per	employee vehicle stored on-site
Hospitals, clinics, and other institutions for human medical care	0.5	per	bed
Institutions (other than halfway houses) where mentally ill persons receive care	0.33	per	bed
Libraries, museums, art galleries, art centers, and similar uses	1	per	1,000 sq. ft.
Nursing homes and care institutions, intermediate care institutions, handicapped or infirm institutions, or child care institutions	0.5	per	bed
Penal and correctional facilities	0.05	per	inmate
Recreation and Entertainment			
Auditoriums, stadiums, or indoor theaters	0.25	per	seat
Bowling establishments	4	per	lane
Recreational areas and facilities including: government owned and/or other operated parks and playgrounds and wildlife refuges and game preserves.	10 +2	per	acre
Office and Professional Services			
Medical or dental offices	5	per	doctor or dentist
Personal Services	1	per	200 sq. ft.
Post Offices	1	per	400 sq. ft.
Professional offices, banks, and studios	1	per	300 sq. ft.

Retail and Service Uses			
Funeral homes, crematories, or mortuaries	1 +25	per per	employee viewing parlor
Open-air markets	1	per	600 sq. ft.
Retail businesses less than 5,000 square feet	4	per	1,000 sq. ft.
Retail businesses more than 5,000 square feet	4 +3.5	per per	1,000 sq. ft. up to 5,000 1,000 sq. ft. over 5,000
Roadside stands selling only agricultural products produced on site.	2		
Shopping Center under 15,000 square feet	4	per	1,000 sq. ft.
Shopping Center over 15,000 square feet	4 +3.5	per per	1,000 sq. ft. up to 15,000 1,000 sq. ft. over 15,000
Wholesale establishments, warehouses, distribution centers, and all uses, facilities, and activities as listed under the <i>Storage and Distribution</i> heading in the Land Use Matrix or similar to those uses listed	1	per	1,000 sq. ft.
Vehicular-related Sales and Services			
Automobile, truck, trailer, boat and farm implement sales and/or rental, services, and/or storage, both new and used	1 +1	per per	200 sq. ft. service bay
Sales, repair, maintenance, or installation of motor vehicle parts or accessories (e.g. tires, mufflers, oil and lube) and motor vehicle painting and body work	1	per	500 sq. ft.
Gasoline service stations/repair garage	0.5 +2	per per	filling pump service bay
Gasoline filling station/convenience store	0.5	per	filling pump
Industrial, Manufacturing Facilities			
All uses, facilities, and activities as listed under this heading in the Land Use Matrix or similar to those uses listed.	1	per	1,000 sq. ft.

C. Parking Area Design. The design and construction of parking areas and driveways shall be approved by the Zoning Administrator, unless a Site Plan is required for approval by the Planning and Zoning Commission. Parking area design shall meet the following requirements:

(1) Location

(a) Off-street parking for multifamily or non-residential uses shall be located in a row or multiple rows of individually-marked parking spaces.

1. Each row of parking spaces shall have access from a parking aisle.

2. Parallel parking designs along a parking aisle shall require preliminary approval by the Planning and Zoning Commission.

1200.01C(1)(b) – 1200.01C(3)(b)

- (b) The parking spaces required for residential uses shall be located on the lot with the principal building.
 - (c) Parking spaces required for non-residential uses shall be located on the lot or within five hundred (500) feet of the use measured along lines of public access to the property, but non-adjacent, off-site parking spaces shall not be allowed in residential districts.
 - (d) Off-street parking facilities in C-D and R districts shall not occupy any part of any required front yard and may not be located closer than five (5) feet to a property line.
 - (e) In zoning districts other than C-D and R districts, off-street parking facilities are permitted in the required front yard (provided a minimum of twenty (20) foot wide landscaped strip is located between the parking area and the street right-of-way line), side yard, and rear yards pursuant to buffer and screening landscaping requirements set forth in Article 10 (Landscaping Regulations). *(Revised 3-3-10)*
- (2) Minimum Parking Space Size. The required minimum size of a parking space is indicated in the following table:

Minimum Parking Space Size			
Parking Angle	Width	Length	Width of Parking Aisle
90° parking	9 feet	18 feet	25 feet
60° parking	9 feet	18 feet	17.5 feet
45° parking	12 feet	19 feet	13 feet
Parallel parking	9 feet	23 feet	12 feet
All dimensions for parking spaces shall be exclusive of driveways, aisles, and other circulation areas.			

- (3) General Design Standards. The following standards shall apply to the design of off-street parking areas for all new or converted multifamily, commercial, industrial or quasi-public uses:
- (a) *Construction Materials*. All parking areas, regardless of size, shall be improved with hard surface materials (excluding gravel). Pavement type and thickness shall be approved by the Zoning Administrator prior to construction, taking into consideration soil conditions and traffic loadings.
 - (b) *Turning Radii*. Parking areas shall be designed to allow for sufficient turning radii in accordance with approved engineering standards so as to be adequate for all vehicle movement, including that of fire and safety vehicles, school buses, or other oversize vehicles which may make use of the area.

- (c) *Storm Water Management.* Storm water runoff created as a result of improvements to a parking area shall be controlled in such a manner so as to reduce and/or eliminate drainage onto neighboring properties.
 - (d) *Slope.* Parking area gradients shall not exceed five (5) percent.
 - (e) *Landscaping.* Parking lots shall have landscaping pursuant to Article 10 (Landscaping Regulations).
 - (f) *Lighting.* Lighting shall be installed pursuant to Section 600.03H (Lighting Regulations).
 - (g) *Maintenance.* All off-street parking areas shall be continually maintained in satisfactory condition so as to be safe, attractive and free of any hazard, nuisance or other unsafe condition.
- D. Conditional Use Parking Area Extension into Contiguous Residential Zoning Districts. In all zoning districts, the extension of parking into a contiguous residential zoning district shall be a conditional use subject to the following additional conditions and criteria:
- (1) The proposed extension is on land owned, rented or leased by the owners of the lot containing the use or structure.
 - (2) The extension of a parking area may not extend more than one hundred and fifty (150) feet into a zone other than in which the structure or use is located.
 - (3) The proposed extension shall be on land contiguous to the lot containing the use or structure.
 - (4) Parking shall conform to all screening, setbacks and other requirements of this Zoning Code.
 - (5) The proposed extension does not adversely affect adjacent or surrounding properties and will contribute to the orderly development and function of the area.
 - (6) Entrances and exits shall be at least twenty (20) feet distance from any adjacent property located in any residential district.
 - (7) Such parking lot shall be used solely for the parking of passenger vehicles and no commercial repair work or service of any kind shall be conducted on such parking lot.
 - (8) No sign of any kind, other than those designating entrances, exits, and conditions of use shall be maintained on such parking lot.
 - (9) Such parking lot shall be screened pursuant to Section 1000.09 (Screening and Buffering of Residential Areas).
 - (10) The Board of Zoning Appeals may modify the foregoing requirements in specific cases where desirable or warranted, owing to unusual topography, physical conditions, and the use and

character of adjacent properties. The Board of Zoning Appeals may also impose such additional requirements as it may deem necessary in view of the aforesaid consideration.

E. Joint Use of Off-Street Parking Areas. In all zoning districts, the joint use of an off-street parking area to meet or facilitate the minimum parking space requirements shall require the owner of the off-street parking area to execute an easement granting or transferring use of specified access drives, aisles, and a specified number of existing parking spaces in perpetuity to all parties who will collectively and jointly share the use of the facility to meet minimum parking space requirements and/or shared aisle or access drives. Such a joint use of an off-street parking area is subject to the following additional conditions and criteria:

- (1) This easement shall be in a form acceptable to the City;
- (2) The conveyance must contain appropriate provision for assignment of the easement to any other entity which succeeds the original beneficiaries of the easement;
- (3) The proposed arrangement shall not adversely affect adjacent or surrounding properties and must contribute to the orderly development and function of the area.

F. Deferred Off-Street Parking Requirements. Due to variations in access and distance to public transit, ride-sharing patterns, and/or shared-parking facilities, and in situations where the Planning and Zoning Commission is satisfied that the location, uniqueness, or expected need for off-street parking facilities for a particular use is uncertain, or in circumstances where the need for off-street parking facilities is assessed to be less than the minimum requirements set forth in this Article, authorization for deferred completion of the parking requirement prior to issuance of an Occupancy Permit may be provided by the Planning and Zoning Commission subject to the following:

- (1) Up to fifty percent (50%) of the required parking area may be deferred from construction and remain unimproved. The Planning and Zoning Commission, at any future time it deems appropriate, may determine that some or all of the deferred parking requirements shall be reinstated to meet increasing parking demands.
- (2) The area of the deferred required parking shall be maintained in an open space reserve and shall be landscaped pursuant to an approved landscaping plan and all regulations and requirements set forth in Article 10 (Landscaping Regulations).

1200.02 LOADING REQUIREMENTS

Every building over five thousand (5,000) square feet of gross floor area used for non-residential purposes and which customarily receive or distribute goods by motor vehicle shall provide sufficient space on the premises for all loading, unloading, and service purposes. No loading or servicing of these buildings shall be performed on the right-of-way of any publicly dedicated thoroughfare.

A. Minimum Number of Loading Spaces. Buildings over five thousand (5,000) square feet of gross floor area shall provide at least one (1) truck loading and unloading space. An additional loading space shall be provided for every additional twenty thousand (20,000) square feet of gross floor area in the building.

- B. Location. Truck loading spaces shall be provided in a building service location with direct access from a public street access point or alley/service drive.
- C. Dimension. Loading spaces shall be, at a minimum, twelve (12) feet in width, forty (40) feet in length, and have fourteen (14) feet of height clearance.
- D. Loading spaces as required under this section shall be provided as area additional to off-street parking spaces and shall not be considered for satisfaction of minimum off-street parking space requirements.
- E. Construction Materials. Each loading area shall be improved with hard surface materials (excluding gravel) from the street apron to the entrance of the parking area. Pavement type and thickness shall be approved by the Zoning Administrator prior to construction, taking into consideration soil conditions and traffic loadings.
- F. Landscaping. Loading spaces shall be completely screened from any residential use by a bufferyard pursuant to Article 10 (Landscaping Regulations).

1200.03 ACCESS MANAGEMENT STANDARDS FOR OFF-STREET PARKING AND LOADING

- A. Number of Property Access Points.
 - (1) Each parcel is permitted to have a single, two-way access from the public right-of-way or an alley/service drive that will not interfere with public convenience and that will permit the orderly and safe movement of vehicles except in cases where an Access Management Plan required as part of Section 300.07 (Site Plan Review) clearly demonstrates that an additional access point:
 - (a) Would not adversely affect the safety and operation of the highway and minimize traffic congestion;
 - (b) Is necessary for the safe and efficient use of the property;
 - (c) Avoids undue interference with pedestrian access at street intersection corners; and
 - (d) Would not adversely affect access to adjacent properties.
 - (2) Examples of where a second access point may be justified include large frontage parcels where access points meet minimum spacing distances, where a property has the option of a second access point off an alley/service drive, and corner lots where access to both streets meet minimum intersection setback requirements. There shall not be more than two (2) access ways abutting any one street.
- B. Location of Property Access Points.
 - (1) *Setback from Intersection*. Each property access point on a street shall not be closer than thirty (30) feet to an intersecting street right-of-way line.

(2) *Spacing of Adjacent Access Points*

- (a) Adjacent property driveway access points shall not require spacing when separate driveways are located along a mutual property separated only by required side yard setbacks at the access points.
- (b) Adjacent access points shall not be located closer than the following specified distances at the right-of-way line:

<u>Posted Speed</u>	<u>Minimum Spacing</u>
25 to 35 mph	50 feet
36 to 45 mph	100 feet

- (3) *Driveway Alignment.* New driveways shall be aligned with existing driveways across a street unless such alignment is shown to be undesirable in an Access Management Plan required as part of Section 300.07 (Site Plan Review). Where such alignments are shown to be undesirable, the centerlines of opposing driveways shall be offset at least thirty (30) feet.

(C) Dimensions

- (1) *Access Apron.* An access apron shall be so designed so as to provide adequate turning and maneuvering for emergency and service vehicles.
 - (a) Each curb cut opening shall have a minimum width of twenty (20) lineal feet and shall not exceed a maximum width of thirty (30) feet unless otherwise approved.
 - (b) The ODOT Driveway Access Manual should be consulted to ensure that adequate driveway openings are provided and calculations based on this manual shall be provided as justification for driveway and curb opening widths in excess of thirty (30) feet.
- (2) *Driveways*
 - (a) Residential use driveways shall have a width of not less than ten (10) feet.
 - (b) Commercial and industrial use two-way drives shall have a width of not less than twenty (20) feet. One-way driveway widths shall be a minimum of twelve (12) feet.
 - (c) The minimum length of a driveway located in the front yard shall allow for at least one vehicle to fully enter the driveway before encountering a parking space.

ARTICLE 13 SIGN REGULATIONS

1300.01 PURPOSE

This article is adopted under the authority of the City of New Franklin, Ohio in furtherance of the more general purposes set forth in the Zoning Code. The City of New Franklin hereby establishes the following sign regulations and provisions:

- A. To preserve and promote the public health, safety and welfare of the citizens of the City;
- B. To afford the business community equal and fair opportunity to advertise and promote products and services without discrimination;
- C. To maintain and enhance the visual environment, and to preserve the right of the citizens to enjoy the rural character of the City;
- D. To ensure that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment;
- E. To minimize reductions in property values and reduce the possible adverse effect of sign clutter on nearby public and private property;
- F. To enable the fair and consistent enforcement of these sign regulations;
- G. To prohibit all signs not expressly permitted by this Zoning Code;
- H. To provide more open space and protect the natural environment.

1300.02 SIGN DEFINITIONS

For the purposes of these regulations, a sign shall include any identification, description, illustration or device which is affixed to or integrated into a building, structure or land, or otherwise situated on a lot and which is intended to direct or attract attention to, or announce or promote a product, place, activity, person, institution or business by means of letters, words, designs, colors, symbols, flags, banners, fixtures, images or illuminations. Signs shall be further classified by physical design or structure, and function or purpose based on the following:

- A. Physical Characteristics
 - (1) Awning Sign – A sign painted on, printed on, or attached flat against the surface of an awning, which is defined as a shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework.
 - (2) Changeable Copy Sign - A portion of a sign with letters, characters, or graphics that are not permanently affixed to the structure, framing, or background allowing the letters, characters or graphics to be modified manually or by electronic or mechanical devices from time to time as situations change, such as a bulletin board or announcement board.

1300.02A(3) – 1300.02B(3)

- (3) Freestanding Sign – A sign which is supported from the ground or a structure, other than a building.
 - (a) Monument Sign - Any sign identifying a housing or commercial development or business made of brick, masonry or stone, the bottom of which is attached directly and permanently to the ground and physically separated from any other building or structure.
 - (b) Pole Sign – A free standing sign supported by a pole, post or other structure and having more than 50 percent of the bottom of the sign separated from the ground by air.
- (4) Marquee/Canopy Sign – A sign attached to or supported by a marquee structure, defined as a permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building.
- (5) Mobile and/or Portable Sign - A sign that is on wheels, runners, casters, or has a frame to which wheels, runners, or casters may be affixed, parked trailers, parked vehicles, or other mobile devices, including tethered and/or anchored balloons.
- (6) Projecting Sign - A sign that is attached to a building wall and extending 12 inches or more beyond the face of the wall.
- (7) Roof Sign - A sign erected, constructed or maintained wholly upon or over the roof or parapet wall of any building with the principal support on the roof structure. A roof sign is prohibited within the City.
- (8) Wall Sign – A sign which is erected parallel to or is placed on the surface of the outside wall of any building and which does not extend more than 12 inches therefrom and shall not project above the roof line or beyond the corner of the building.
 - (a) Wall Panel Sign – A sign consisting of letters, figures, or elements placed on a panel which is attached to the surface of the outside wall of any building.
 - (b) Building Face Sign – A non-panel sign consisting of individual letters, figures, or elements on a wall.

B. Functional Characteristics

- (1) Community Directional Sign - A sign located at or near the public right-of- way to provide directions to public and quasi-public facilities in the City.
- (2) Construction Sign - A temporary sign identifying the name of a subdivision, building or public works project or facility during the time of construction. Such signs may include a description of the project, and may list the project's professional firms (such as architects, engineers, developers and contractors).
- (3) Directional Sign - A sign located at the driveway entrance or exit and intended to provide for safe ingress and egress.

- (4) Identification Sign - A sign intended to identify the principal use of a lot, building or building unit according the following:
- (a) Business Identification Sign - A sign indicating the business name or logo of a commercial or industrial enterprise and limited to identification purposes.
 - (b) Institution Identification Sign - A sign displaying the name and/or organization occupying the premises of a public or quasi-public use restricted to: church or other place of religious worship; hospital; nursing home; public or non-profit corporation owned and operated recreational facilities; governmentally owned and/or operated facilities; schools and cemeteries.
 - (c) Subdivision Identification – A sign which identifies the name and address of a completed residential subdivision or a multi-family development.
- (5) Instructional Sign - A sign that has a purpose secondary to the use on the lot that is intended to instruct employees, customers or users as to specific parking requirements; the location or regulations pertaining to specific activities on the site or in the building; specific services offered, or methods of payments accepted. Examples of instructional signs include "Honk Horn for Service", "Restrooms Inside", "Parking for Customers Only", "Parking for Residents Only", menu boards, drive-up tellers, "self-serve." In residential districts, instructional signs may include security identification, no trespassing signs, signs identifying presence of animals, directing deliveries, etc.
- (6) Memorial Sign - A sign indicating the name of a building, the date of construction and/or incidental information about its construction or historical significance, which sign is cut into a masonry surface or made of bronze or other permanent material, and mounted at the time the building was constructed or affixed subsequent to a structure being designated as a historical landmark.
- (7) Nameplate Sign - A sign attached to the wall of the principal building indicating only the name and address of the person or business occupying the lot or building.
- (8) Political Sign - A temporary sign advocating the action on a public issue, promotion of a candidate for public office, or other ballot-oriented objectives.
- (9) Product and Service Sign - A sign which advertises the services, products, merchandise or prices of commodities produced, stocked or sold on the premises.
- (10) Real Estate Sales Sign - A temporary sign which directs attention to the rental, sale or lease of the property on which the sign is located.
- (11) Required (Public Safety) or Public Service Sign – A sign erected by a public authority, utility, public service organization or private industry upon the public right-of-way or on private property which is required by law or otherwise intended to control traffic, direct, identify or inform the public, or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy.

1300.02B(12) – 1300.03A(6)

- (12) Temporary Promotional Sign - A temporary sign of any type (other than a construction, real estate or political sign) intended to announce special events, promotions or sales, including garage sales in residential districts.
- (13) Temporary Sign - A sign that is used only for a limited time and is not permanently mounted.
- (14) Unified Directory Sign - A wall sign erected to identify each business or tenant located within the building.
- (15) Abandoned Sign - Any sign that no longer identifies a bona fide business, lessor, service, owner, product, or activity, time of event passed, and/or for which no legal owner can be found. This definition shall also include any sign structure, which no longer supports the sign for which it was designed.

1300.03 MEASUREMENT STANDARDS

Sign face area, sign heights, and sign location shall be measured according to the following standards:

A. Determining Sign Face Area or Dimension.

- (1) For a sign which is framed, outlined, painted and otherwise prepared and intended to provide a background for a sign display, the area shall include the entire portion within the outside dimensions of the background or frame.
- (2) For a sign comprised of individual letters, figures, or elements on a wall or similar surface, or an irregularly shaped freestanding sign, the area of a sign shall encompass a regular, or a combination of regular geometric shapes which form, or approximate, the perimeter of all the elements in the display. When separate elements are organized to form a single sign but the elements are separated by open space, the area shall be calculated by determining the geometric form or combination of forms which comprise all the display area including the space between the elements.
- (3) The sign area shall include the frame, but shall not include the pole or other unadorned structural support unless such pole or structural support is illuminated or otherwise so designated to constitute a display surface or device.
- (4) A freestanding sign or a projecting sign shall have no more than two display surfaces provided that the two display surfaces are arranged back-to-back and are parallel to each other.
- (5) Three-dimensional object signs or any signs with three or more sides used as sign panels shall be measured to include all surface area which forms a part of the message conveyed by the sign.
- (6) In the event there is a dispute in determining the sign area or any sign dimension, the Planning and Zoning Commission shall have the final responsibility for making such determination.

- B. Determining Sign Height. The height of a freestanding sign shall be measured from the base of the sign or supporting structure at normal grade to the top of the highest element. Normal grade shall be (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, or mounding solely for the purpose of locating the sign.
- C. Determining Eligible Locations for Wall Signs.
- (1) For multi-tenant buildings, the tenant wall area shall be that portion of the building frontage so occupied by a single activity and calculated in the same manner as the building wall area.
 - (2) For lots or building units fronting on two or more streets, main entry drives or off-street parking areas, building wall area shall be calculated separately for each building frontage and the sign area that is oriented toward a particular street, main entry drive or parking area shall not exceed the portion of the building wall area fronting on that street, main entry drive or parking area.
- D. Determining Maximum Sign Area Permitted. The maximum area permitted for each business shall be the sum of the areas of the following identification signs: wall signs, second floor tenant signs, awning signs, permanent window signs and instructional signs unless the Zoning Administrator determines such instructional signs which are clearly intended for instructional purposes and are not larger than necessary to serve the intended instructional purpose nor are in locations or possess design characteristics which constitute or serve the purposes of an identification sign shall not be considered an identification sign and the area of which shall be exempt from the maximum area permitted for identification signs.
- (1) Memorial signs shall be approved as part of the building construction and shall not be regulated in area provided such signs comply with the definition and intent of memorial signs.

1300.04 DESIGN AND CONSTRUCTION STANDARDS

Signs as permitted in the various zoning districts, shall be professionally designed, constructed and installed so as to be compatible in character with regard to the architecture of the building on which they are located, to the materials, color and size of signs designed or located on the same building and on adjoining buildings in order to produce an overall unified effect in accordance with the standards set forth in this section.

In addition to ensuring compliance with all of the provisions of these regulations, the Zoning Administrator shall consider the proposed general design, arrangement, and placement of the sign as well as the appropriateness of the proposed sign in relationship to other signs and other structures both on the premises and in the surrounding areas, and shall only approve signs which are consistent with the intent, purposes, standards and criteria of these sign regulations. Specific standards for determining the appropriateness of the sign shall include, but not be limited, to the following conditions:

- A. The lettering should be large enough to be easily read but not out of scale with the building, site or streetscape.

1300.04B – 1300.04N

- B. The number of items (letters, symbols, shapes) should be consistent with the amount of information which can be comprehended by the viewer, reflect simplicity, avoid visual clutter and improve legibility.
- C. Signs, if seen in series, should have a continuity of design with the style of sign generally consistent throughout the building or block. Continuity of design means uniformity of background color or harmonious use of a limited range of complementary background colors.
- D. The sign should complement the building and adjacent buildings by being designed and placed to enhance the architecture. The sign shall reflect the primary purpose of identifying the name and type of establishment.
- E. No part of a sign shall project above the parapet line.
- F. Illuminated signs shall be prohibited within all residential zoning districts.
- G. Signs in commercial and industrial districts may be internally or externally illuminated, however all light sources that illuminate such signs shall be shielded from all adjacent residential buildings and streets, and shall not be of such brightness so as to cause glare hazardous to pedestrians or motorists, or as to cause reasonable objection from adjacent residential districts.
- H. No moving parts shall be permitted for any sign or advertising display within the City, except for those portions of a sign that indicate time/temperature only and is an integral part of a permitted sign.
- I. Signs shall have no secondary or other signage added to the sign face or sign structure unless approved by the Planning and Zoning Commission.
- J. No sign shall project into or above a public right-of-way. This includes all public sidewalks or roadways.
- K. Freestanding signs shall be designed and located so as not to obstruct a driver's visibility entering or exiting a lot or to be a safety hazard to pedestrians or vehicles, and shall maintain clear line of sight at an intersection.
- L. All sign structures larger than 32 square feet must carry the name and address of the owner, advertising agency, the erector, or agent who is responsible for the maintenance or removal of the sign. All freestanding permanent business and industrial signs must include the street address number at the sign location as part of the business identification.
- M. Wall Signs. Wall signs shall not project more than twelve (12") inches from the building wall to which it is attached and shall be set back from the end of a building or party wall line for a distance of at least three (3') feet and shall not project above the building wall.
- N. Signs On Corner Lots. No freestanding sign shall be permitted within a triangle formed between points on the front and side street right of way lines within thirty (30') feet from their intersection.

- O. Continuity. Signs and their placement shall be considered in relation to their surroundings, and if seen in series on a building wall or walls, shall have a continuity of design with respect to shape, materials and colors.
- P. Style and Color. The style or design of signs shall be consistent throughout a particular building or group of buildings; the colors of signs shall be compatible with the color of the building façade and other existing signs.
- Q. Graphics. The lettering on a sign shall be clearly legible and in scale with the sign surface upon which it is placed.
- R. Materials. Signs shall be constructed of materials which are of appropriate quality and durability, and which are compatible with the materials of the building upon which the signs are placed. A sign should be constructed with a minimum of different types of elements and materials so as to provide a consistent overall appearance. All signs shall be designed, constructed, and erected in a professional and workmanlike manner, in conformance with all applicable building codes, and with materials which are durable for the intended life of the sign.
- S. Changeable Copy. Changeable copy may be included as part of the sign message. Changeable copy may be in the form of manually-operated reader boards or electronic message centers. The maximum height limit shall be twelve (12) inches on electronic message copy and a limit of fifty percent (50%) of total signage may be used for changeable copy with manually-operated copy. All free-standing signage featuring electronic message centers shall be ground-mounted with a maximum height of ten (10) feet, not to exceed thirty (30) square feet per sign face (including the message portion). Such signage may be expanded to a maximum of fifty (50) square feet per sign face when located on a corner or large lot with a linear frontage of greater than three hundred (300) feet. Electronic message centers shall be legible and shall not move or flash in such a manner (i.e. in speed or intensity) as to be a distraction or disturbance to passing pedestrians or motorists or to adjacent residential districts, but in no instance any faster than once every four (4) seconds. Electronic message centers are not permitted as stand-alone entities and must be incorporated with a free-standing identification sign. No moving parts are permitted on any sign within the City.
- T. Instructional signs shall contain the minimum information and the minimum area necessary to convey the message and instruct the viewer in the safe and efficient use of the facility.
- U. The Zoning Administrator and/or the Planning and Zoning Commission may prepare from time to time or authorize the preparation of illustrations which interpret these design and construction standards. Such illustrations may include drawings, photographs of signs within the City and elsewhere, and drawings or photographs of signs which have been approved pursuant to these regulations. Any such interpretive illustrations shall be approved by a majority vote of the Planning and Zoning Commission, and when approved, shall be considered administrative guidelines which assist in the interpretation of these design and construction standards. Any sign proposed which is consistent with these illustrations shall be in prima facie compliance and be subject to further review by the Zoning Administrator with final review and approval only by the Planning and Zoning Commission to ensure full compliance with these regulations.

1300.05 SUPPLEMENTAL REGULATIONS

The following sign regulations are in addition to the maximum sign area and height regulations as set forth in Section 1300.12.

- A. Residential Subdivision Identification Signs. A freestanding residential identification sign shall be permitted for each entrance to a subdivision pursuant to the maximum sign area and height limitations as prescribed by the following provisions:
- (1) Such freestanding sign shall be placed on private property no closer than 10 feet to the right-of-way and shall be located no closer than 20 feet to a side lot line.
 - (2) A freestanding identification sign may be placed in the right-of-way provided such sign shall be located on the center island of a boulevard entrance, placed no closer than 25 feet to the intersecting street's right-of-way.
 - (3) A maximum of two sign faces shall be permitted per entrance: either as a double-sided freestanding sign or as two single-sided signs either freestanding or mounted on a wall or other entrance feature. In any case, the sign and its supporting structure shall comply with all City sign regulations.
- B. Requirements for Freestanding Identification Signs. Freestanding identification signs for institutions and commercial and industrial establishments shall comply with the following regulations:
- (1) Such signs shall be monument signs unless otherwise permitted.
 - (2) Such signs shall be permitted only when the principal building conforms to the minimum building setback and lot width requirements specified in the district regulations.
 - (3) Such signs shall be located no less than 10 feet from the right-of-way and no less than 20 feet from a side lot line.
 - (4) For a corner lot, one freestanding sign shall be permitted per street frontage provided that the lot has at least 100 feet of lot frontage on each street and the signs are located a minimum of 30 feet from the intersection.
- C. Content of Freestanding Signs
- (1) *Multiple-Tenant Facilities*. When a freestanding sign is permitted on a site with more than one tenant, it is the property owner's responsibility to determine if the sign area shall be devoted to identification of the building(s), be a directory for all or only a select group of tenants, or some combination thereof.
 - (2) *Product and Service Signs*. Up to a maximum of 50 percent of the area of the freestanding identification sign may be devoted to advertising using a Product and Service Sign.

- (3) *Changeable Copy.* Changeable copy may be included as part of the sign message. Changeable copy may be in the form of manually-operated reader boards or electronic message centers.
- (4) Illuminated signs shall be prohibited within all residential zoning districts.
- (5) *Directional Signs.* A maximum of two directional signs shall be permitted per access drive for institutional, commercial and industrial uses pursuant to the maximum sign area limitations and height limitations. Such signs shall be located no less than five feet from a side lot line, and may be located at or near the right-of-way but shall not be in the right-of-way. Directional signs shall not obstruct the line of sight for vehicular or pedestrian traffic.
- (6) *Pump Island Signs.* Retail outlets having fuel pump islands may have, for pricing and service information only, not more than one (1) double-faced sign or 2 single-faced signs per pump island. Such sign shall not be greater than 24 inches by 48 inches be confined to the pump islands, shall be permanently attached, and may be illuminated. No zoning certificate or fee shall be required.
- (7) *Construction Signs.* A non-illuminated construction sign shall be permitted in all districts pursuant to the maximum sign area limitations and height limitations:
- (a) There shall be not more than one construction sign per lot located no less than 10 feet from the right-of-way and 20 feet from a side lot line.
 - (b) A zoning certificate for a construction sign shall be valid for a period of one year. The construction sign shall be erected on the lot only during the period of time that the building project is under construction and while a valid building permit is in force. Such sign shall be removed within 14 days.
 - (c) In the event construction extends beyond the one year time period, a request for an extension of the construction sign permit shall be submitted to the Zoning Administrator for review and approval.
- (8) *Political Signs.* Political signs are permitted on private property with the owner's permission in all districts pursuant to the maximum sign area limitations and height limitations provided that they:
- (a) Shall not be illuminated.
 - (b) Shall not be placed on utility poles or on public property or street right-of- ways, but may adjoin the right-of-way line provided such signs do not obstruct vehicular and pedestrian line of sight distance.
- (9) *Real Estate Sales Signs.* Real estate sales signs are permitted in all districts pursuant to the maximum sign area limitations and height limitations provided that they comply with the following provisions:

1300.05C(9)(a) – 1300.05C(11)(c)

- (a) One such sign shall be permitted per street frontage located no less than 10 feet from the right-of-way and 20 feet from a side lot line.
 - (b) Such signs shall not be illuminated.
 - (c) May be located at or near the right-of-way, shall be no less than twenty (20) feet from a side lot line, and shall not be placed upon or in a street right-of-way or attached to or upon any street identification or utility pole.
 - (d) Real estate signage shall only be allowed on the property listed for sale.
 - (e) Off premises, directional "open house" signs pertaining to sale, auction, lease or rental of property may be used provided they are posted no sooner than 5:00 PM on Friday and removed by 7:00 AM on the following Monday.
- (10) *Community Programs and Activities.* Signs promoting community programs and/or activities within the City of New Franklin and sponsored by public or quasi-public organizations shall be permitted pursuant to the maximum sign area limitations and the height limitations as well as the following provisions:
- (a) Shall be posted on private property with the owner's permission for a period not to exceed thirty (30) days.
 - (b) Any freestanding sign proposed to be located on or over a public right-of-way or other publicly owned land shall only be approved by the Zoning Administrator.
 - (c) Banners over the public right-of-way may be erected to promote a public activity sponsored by a community group and that will be held within the City. The Zoning Administrator shall have the authority to approve the erection of banners proposed for locations on or over a public right-of-way, subject to the restrictions as outlined above. No banner shall be erected for a period of greater than two weeks. Furthermore the Zoning Administrator shall have the authority to impose additional requirements not in conflict with this Zoning Code.
- (11) *Seasonal Sales Signs.* Signs for periodic sales or promotions by commercial or business uses and non-profit or quasi-public organizations shall be permitted pursuant to the maximum sign area limitations and height limitations with the following provisions:
- (a) One freestanding sign or one banner shall be permitted to be placed on the premises where the sale is to occur.
 - (b) A temporary freestanding sign shall be located no less than 10 feet from the right-of-way and no less than 20 feet from any side lot line. A temporary banner shall be placed only on the building's front wall.
 - (c) Such temporary sign or banner shall be intended to advertise a special event or promotional sale activity.

(d) Such temporary sign or banner shall be permitted a maximum of four times a year in increments of 15 days each. There shall be no more than one temporary sign per each 15 day period.

(12) *Community Directional Signs.* Community directional signs for the purpose of providing directions to public, quasi-public, religious, educational, and major recreational facilities within the City may be permitted as a conditional use when reviewed and approved by the Board of Zoning Appeals and subject to the following conditions:

(a) Shall not be illuminated.

(b) The area and height of the sign shall be a function of the number of facilities being addressed and may be limited by the Board of Zoning Appeals.

(c) Application for a community directional sign shall include an agreement signed by the owner of the proposed site authorizing the erection and continuing maintenance of the sign and landscaping. The sign proposal shall indicate proposed landscaping of the site in the area of the sign.

(13) *Future Location Signs.* Signs indicating the site of the future location of a business may be temporarily placed at said location. Such sign must be maintained in a good state of repair. The fee for a temporary sign indicating the site as the future location of a business shall be a set by City Council. Upon completion of construction, this fee shall be applied toward the fee for a permanent sign at the location of the completed business.

(14) *Portable Signs.* Portable Signs are permitted in all districts for a period not to exceed thirty (30) days, with not more than four (4) periods, each separated from the other by not less than forty-five (45) days, being permitted in any twelve (12) month period. Portable signs must be removed from sight after each permitted time period.

(15) *Home Sale Signs.* Home Sale Signs shall have a maximum size of 8 square feet and a maximum height of 4 feet and permitted during the duration of the sale.

1300.06 SIGNS EXEMPT FROM REGULATION

The following signs shall be exempt from regulation under this Zoning Code:

- A. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- B. Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the building in which such sign is located;
- C. Works of art that do not include a commercial message;
- D. Religious and other holiday lights and decorations containing no commercial message when displayed during the appropriate time of the year;

1300.06E – 1300.08A(1)(c)

- E. Required public purpose/safety signs as needed to achieve the intended public purpose and which contain no commercial message of any sort;
- F. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting these conditions shall be considered a sign and shall be subject to regulations as such.
- G. All federal, state, county or City government owned signs.

1300.07 SIGNS PROHIBITED UNDER THIS ZONING CODE

All signs not expressly permitted under this Zoning Code or exempt from regulation hereunder in accordance with the previous section are prohibited within the City. Such signs shall include, but are not limited to:

- A. Animated, flasher, blinker, racer type, moving or revolving signs, inflatable signs and tethered balloons, streamers, exposed light bulbs, strings of lights not permanently mounted to a rigid background, except those exempt under the previous section; and other similar features.
- B. Signs containing any words or symbols that would cause confusion because of their resemblance to highway traffic control or directional signals.
- C. Outdoor advertising (billboards)

1300.08 ADMINISTRATIVE PROCEDURES

Except as otherwise stated herein, a zoning certificate or conditional use certificate shall be required for all signs. The procedures for obtaining a certificate are as follows:

- A. Review Procedures. Signs shall be erected, modified, or replaced only upon the submission of proper plans and specifications and upon review and approval by the Zoning Administrator according to the following:
 - (1) A zoning certificate shall not be required for the following signs when such signs are in full compliance with these sign regulations:
 - (a) Home occupation nameplate signs consisting of only one unlighted nameplate of not more than two (2) square feet in area announcing the name and the home occupation shall be permitted;
 - (b) Open house, auction, yard sale and garage sale signs shall be placed on premises only and shall be prohibited on utility poles, and in road right of ways;
 - (c) Political signs with an area of six (6) square feet or less shall be permitted within all zoning districts, whereas political signs of sixteen (16) square feet or less shall only be permitted within the B-1, B-2 and I-1 and I-2 zoning districts;

- (d) Real estate signs with an area of six (6) square feet or less shall be permitted within all zoning districts, whereas real estate signs of sixteen (16) square feet or less shall only be permitted within the B-1, B-2, I-1 and I-2 zoning districts;
 - (e) Memorial signs;
- (2) The Zoning Administrator shall have the responsibility to review and approve (or disapprove):
- (a) Business identification signs including free standing, wall signs, awning signs, canopy signs, unified directory, secondary tenant and home occupation signs;
 - (b) Real estate signs having an area greater than 16 square feet;
 - (c) Changeable copy signs;
 - (d) Construction signs;
 - (e) Directional signs;
 - (f) Seasonal sales signs;
 - (g) Product and service signs;
 - (h) Instructional signs;
 - (i) Temporary promotional signs for community programs and activities that do not involve banners and signs in the public right-of-way; and,
 - (j) Replacement of a previously approved sign for an existing business provided only a change in the sign face is proposed.
 - (k) Institutional signs;
 - (l) Shopping Center signs;
 - (m) Multiple tenant directory signs;
 - (n) Portable signs; and
 - (o) Residential identification signs.

However, the Zoning Administrator may refer the decision on any of the above signs to the Planning and Zoning Commission for consideration if the Zoning Administrator determines that the sign, as proposed, is more appropriately the responsibility of the Planning and Zoning Commission.

1300.08A(3) – 1300.08C(2)

- (3) Community directional signs shall be subject to the review and approval of the Board of Zoning Appeals.
- B. Application Requirements. The sign company providing the permanent or freestanding sign shall be considered the applicant for all sign applications and shall be so noted on the application. Submission of a zoning certificate application for a proposed sign shall include the following:
- (1) The full name and full address of the owner of the lot on which the sign is to be located, the owner of the sign, and the sign provider;
 - (2) The signature of the sign company as the applicant;
 - (3) A detailed site plan drawn to scale showing:
 - (a) The exact dimensions of the lot or property, the location of all dwellings and/or buildings on the lot, the location and size of all driveways and access drives, and the identification of and distances to all adjacent dwellings, buildings and/or land uses;
 - (b) The exact location of the proposed sign(s) on the site;
 - (4) Elevations and plans drawn to scale showing the exact type and size dimensions and structure for the proposed sign(s), the proposed location and type of lighting, and the associated landscaping and plantings;
 - (5) A drawing or description indicating the exact sign coloration, logos, shape, text and/or message;
 - (6) Any other pertinent data necessary for the determination of compliance with the purposes and objectives of this Zoning Code and Comprehensive Land Use Plan;
 - (7) Payment of any required application and sign fees, bonds, or other performance and/or maintenance guarantees.
- C. Site Plan Review
- (1) All signs will be subject to site plan review by the Planning and Zoning Commission when included with any major non-residential development.
 - (2) *Sign Policy for Multi-Tenant Buildings*. For multi-tenant buildings in commercial or industrial districts, and individual buildings located in business and industrial parks, the applicant shall submit with the application for site plan review basic sign parameters as to the location, size and style of proposed signs. The Planning and Zoning Commission shall approve with the site plans for new buildings, or at the time a specific sign request is made for a tenant identification sign in an existing building, the basic sign policies for each tenant sign. The Zoning Administrator may approve the subsequent individual tenant signs upon specific application when such proposed signs comply with the sign policy established by the

Planning and Zoning Commission. Such approved sign policy shall be made part of all leases or sales of stores or other tenant space.

- D. Modification to Existing Sign. Any proposed change in an existing sign, sign structure or lighting, shall be approved according to the review procedure set forth in this section prior to said change being made.
- E. Variances. Regardless of any provisions of these sign regulations, the Board of Zoning Appeals shall have the exclusive power to grant variances to the requirements and provisions contained herein. Said variances shall be based on the Board of Zoning Appeals consideration of the sign proposed, the general characteristics of the proposed site and surrounding area, and any unique or unusual circumstances which, in the exercise of their sound judgment, justify a modification of any requirement, or specification while maintaining the overall purpose and integrity of the sign regulations.
 - (1) Variances shall be non-assignable and shall expire one year from the date of enactment, unless prior thereto, the applicant commences the actual construction or placement of the sign in accordance with the granted variance.
 - (2) Granting of a variance shall be in response to a unique set of conditions, circumstances, or characteristics and shall not be construed as having general application to other sign proposals or be the basis for other variance requests.
- F. Fees. Concurrent with the filing of an application for any sign, unless specified otherwise in these sign regulations, an application fee shall be paid to the City of New Franklin in the amount established by ordinance. No refund of any part of an application fee shall be made to an applicant in cases of denial of the requested sign(s).

1300.09 MAINTENANCE

All signs shall be maintained in accordance with the following standards:

- A. The property owner, owner of the sign, tenant, and agent are required to maintain the sign in a condition fit for the intended use and in good repair, and such person or persons have a continuing obligation to comply with all building code requirements.
- B. A sign in good repair shall be free of peeling or faded paint, shall not be stained, show uneven soiling or rust streaks; shall not have chipped, cracked, broken or bent letters, panels or framing; shall not otherwise show deterioration; and shall comply with all other applicable maintenance standards of the City.
- C. The Zoning Administrator may order any sign to be painted or refurbished at least once a year, if needed, to keep the sign in a neat and safe condition.
- D. If the sign is deemed by the Zoning Administrator not to be in good repair or in an unsafe condition, such sign shall be considered an unsafe building and structure and all City regulations applicable for the repair or removal of such sign shall apply.

- E. Whenever any awning, freestanding, marquee/canopy, projecting and/or wall sign, either conforming or nonconforming to these regulations, is required to be removed for the purpose of repair, re-lettering, or repainting, the same may be done without a certificate, or any payment of fees, provided there is no alteration or enlargement to the structure or the mounting of the sign itself, and the sign is accessory to a legally permitted or nonconforming use. This regulation shall not apply to mobile, portable and/or temporary signs.

1300.10 ALTERATION AND REMOVAL OF UNSAFE, OBSOLETE AND NONCONFORMING SIGNS

- A. Every sign or other advertising structure, including supporting materials, in existence upon adoption of these regulations, that violates or does not conform to the provisions herein shall be altered, or replaced only in conformance with the provisions of these regulations, and only upon the review and approval of the Zoning Administrator, except that signs that are damaged to 50 percent or less of the current fair market value may be restored to their former condition. However, in recognition of the desirability of the upgrading of existing signage and as an incentive to the nonconforming sign owner, the Board of Zoning Appeals may consider and grant variances to any of the provisions contained in these sign regulations, if the nonconforming sign owner is willing to agree to achieve sign compliance within a specified and agreed upon number of years.
- B. Any conforming or nonconforming sign and supporting materials existing which no longer advertises a bona fide business, or which no longer serves the purpose for which it was intended, or which is not maintained in accordance with these sign regulations shall, within thirty (30) days of business termination or the time such sign becomes obsolete or not properly maintained, be removed by the certificate holder, property owner, sign owner, sign provider, or person having the beneficial use of the building or structure upon which such sign may be found. Signs which are not so removed are hereby declared to be a nuisance subject to abatement by the City.
- C. Written notification from the Zoning Administrator concerning the removal of a sign shall be complied with within thirty (30) days. Failure to comply with the abatement order shall result in the Zoning Administrator having authorization to cause removal of such sign and supporting material. Any expense incidental to this removal shall be paid by the owner of the property upon which said sign is located. Failure to pay the cost for such removal shall result in a lien upon the premises, which lien shall be filed with the County Recorder's office, to remain a lien or record, until paid. The lien shall accrue interest at the maximum rate permitted by Ohio law prior to payment.
- D. If the Zoning Administrator shall find that any sign or other advertising structure is unsafe or insecure, or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this Zoning Code, notice shall be given in writing by the Zoning Administrator to the certificate holder thereof, sign owner, property owner or sign provider. If the certificate holder, sign owner, property owner or sign provider fails to remove or alter the structure so as to comply with the standards herein set forth within thirty (30) days after such notice, such sign or other advertising structure may be removed or altered to comply with these regulations at the expense of the certificate holder or the owner of the property upon which it is located, sign owner or sign provider. The Zoning Administrator shall refuse to issue a certificate to any certificate holder, sign owner, property owner or sign provider who refuses to pay costs so assessed. The Zoning Administrator may cause any sign or advertising structure which is in immediate peril to persons or property to be removed summarily and without notice.

1300.11 VIOLATIONS AND PENALTIES

- A. It shall be the responsibility of the sign owner, sign erector, the owner of the business being identified or advertised and/or the owner of the property upon which the sign is to be placed to ensure that any sign erected, altered, modified or maintained is in compliance with all applicable provisions of these sign regulations and any other conditions specified in the approval of a sign. Failure to come into compliance after notice as specified in this section shall be a violation.
- B. The Zoning Administrator shall declare any violations a nuisance and order in writing the correction of all conditions which are found to be in violation of these regulations.
- C. Where the sign regulations provide that a zoning certificate or approval of the Zoning Administrator is required prior to the erection of a sign, and no certificate or approval has been obtained, violations shall be corrected within ten (10) days after the written order is issued or the sign in question shall be removed by the City.
- D. Any violation involving temporary signs, excluding temporary promotional signs shall be corrected within ten (10) days after the written order is issued or the sign in question shall be removed by the City. If the permit holder, sign owner, property owner or sign provider fails to remove or alter the temporary sign within ten (10) days after such notice, such sign or other advertising structure may be removed or altered by the City to comply with these regulations at the expense of the permit holder, the owner of the property upon which it is located, the sign owner or the sign provider. The Zoning Administrator may refuse to issue a permit to any permit holder, sign owner, property owner or sign provider who refuses to pay costs so assessed. The Zoning Administrator may cause any sign or advertising structure which is in immediate peril to persons or property to be removed summarily and without notice.
- E. In the case of a sign that poses an immediate danger to the public health or safety, such sign shall be removed immediately upon notification of such pending danger or the sign in question shall be removed by the City.
- F. All other violations shall be corrected within ten (10) days after the written order is issued or the sign in question shall be removed by the City.
- G. Notwithstanding any other provision of this chapter, any temporary promotional sign placed in the right-of-way may be immediately removed by the City. Any sign removed under this subsection by the City shall be stored at a designated location by the City for a period not to exceed ten (10) days. If the owner of the temporary promotional sign does not remove the sign from storage within ten (10) days, the sign will be deemed abandoned and disposed of by the City.
- H. Any violation not corrected within the period of time specified above shall be referred to the law director for the City for commencement of formal legal proceedings against the violator or violators.

1300.12 MAXIMUM SIGN AREA AND HEIGHT REGULATIONS

Maximum Sign Area and Height Regulations

TYPE OF SIGN	Maximum Area [Sq. Ft.]	Maximum Height [Feet]	Other
Nameplate	2	N/A	
Wall Signs			
Home Occupation	2	N/A	1 per dwelling unit
Multi-Family Developments	32	N/A	[A]
Commercial, Industrial & Institutional Uses	Lineal feet of building or business unit frontage X 1.5 up to 100 sq. ft.	For buildings located in commercial districts with a building wall area of 1,000 sq. ft. or more and located 400 ft. or more from the R.O.W., the maximum area shall be 7.5% of wall area. For buildings in industrial districts with a wall area of 1,000 sq. ft. or more, the maximum shall be 5% of wall area.	
Monument Sign			
Residential Subdivision	32	6	Per sign face, max. of 2 sign faces per subdivision
Multi-Family Developments	32	6	[A]
Commercial, Industrial & Institutional Uses	50	8	
Changeable Copy/Electronic Message			See Section 1300.04S
Canopy	10	N/A	
Unified Directory	16	N/A	
Directional	4	3	
Construction			
Single Family Lot	16	N/A	
Major Subdivision/Multi-Family Uses	32	N/A	
Political			
Residential District	6	N/A	
All Other Districts & Institutional Properties	16	N/A	
Real Estate			
Less than 1 acre	8	N/A	
Between 1-5 acres	16	N/A	
More than 5 acres	32	N/A	
Temporary Promotional			
Residential District	8	N/A	
Commercial/Industrial	32	N/A	
[A] Only one sign per street frontage permitted. It shall be a wall or free-standing sign, but not both.			

ARTICLE 14

DEFINITIONS

1400.01 INTERPRETATION

For purposes of this Zoning Code, certain terms are herewith defined and clarified. Words used in the present tense shall include the future tense; the singular number shall include the plural, and the plural number shall include the singular; the word "shall" is to be taken to be mandatory or imperative; the words "can" or "may" are permissive; the word "should" is suggestive and not compulsory; the word "building" shall include the word "structure"; the word "used" shall include the words "arranged", "designed", "constructed", "altered", "converted", or "intended to be used"; the word "person" shall include the words "individual", "firm", "partnership", "limited partnership", "corporation", "association", "subdivider", "syndicate", "organization", non-profit entity, limited company, trust, as well as an Individual, or Developer (as defined herein) or any legal entity which may own and/or use land, structures, or buildings; the word "lot" shall include the words "plot", "parcel", "sublot" and "site"; the word "dwelling" shall include the words "home", "residence", "abode", "domicile", and "habitation"; the word "erect" shall include the words "build" and "construct"; the word "street" shall include the words "road", "highway", "thoroughfare", "alley", "avenue", "boulevard", "drive", "lane", "circle", "court", "terrace", "trail", "spur", and "cul-de-sac". Words not defined herein shall be as defined in Black's Law Dictionary and/or Webster's II New Collegiate Dictionary and/or The Latest Illustrated Book of Development Definitions, published in 2004.

1400.02 DEFINITIONS

Abut or Abutting - To touch along a common boundary. Also includes the words "contiguous", "adjacent" and "adjoining".

Access Management - The process of providing and managing access to land development while preserving and regulating the flow of all modes of traffic in terms of design, public safety and welfare, capacity, speed, and the prevention of congestion. This traffic can include but is not limited to: automobile, truck, mass transit, bicycle and pedestrian forms.

Accessory Building – See "Building, Accessory".

Acre - See "Land, Acre".

Addition - The process of adding area and cubic content to an existing building or structure.

Adult Arcade – Any place to which the public is permitted or invited wherein coin-operated or token-operated, or electronically, electrically or mechanically controlled, still or motion picture machine projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, where the images displayed are distinguished or characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Bookstore or Adult Video Store – A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, which depict or describe specified sexual activities or specified anatomical areas; or

- B. Instruments, devices or paraphernalia, other than medical or contraceptive devices, which are designed for use in connection with specified sexual activities.

Adult Cabaret – A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances which are characterized by the exposure of specified anatomical area or by specified sexual activities; or
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Motion Picture Theater – A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown and are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

Adult Theater – A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified sexual activities or specified anatomical areas.

Adverse Impact – Any deleterious effect on receiving waters, including their quality, quantity, surface area, aesthetics or usefulness for human or natural uses. Such deleterious effect is or may potentially be harmful or injurious to human health, welfare, safety or property, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Agriculture - The use of land for farming; dairying; pasturage; ranching; aquaculture; apiculture; horticulture; silviculture, viticulture; animal husbandry, including but not limited to, the care and raising of livestock, equine and fur-bearing animals; poultry husbandry and the production of poultry and poultry products; the production of field crops, fruits, vegetables, nursery stock, ornamental shrubs and trees, flowers, sod or mushrooms; any combination of the foregoing; the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, such husbandry or production. The above agricultural pursuits shall not include the feeding of garbage or refuse to animals. A use shall be considered agricultural if it is the primary use of the property.

Aircraft – Any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" includes helicopters and lighter-than-air dirigibles and balloons.

Alteration – Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change of ingress or egress, or any enlargement to or reduction of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Animals, Animal or Poultry Husbandry - The production, care, control, management and marketing of animals and/or poultry.

Animals, Domestic - Tame, domesticated; capable or being kept near or about the dwellings of humankind; species such as horses, cows, sheep, goats, hogs and poultry; household pets not included.

Animals, Household Pets - Species such as dogs or cats, which are commonly kept within the dwellings of humankind.

Animals, Poultry - Domesticated birds kept for eggs or meat.

Apartment - A room or suite of rooms designed to live in and generally located in a building occupied by more than one household.

Applicant – Any person who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

Area - See "Building, Area of Floor", "Land, Acre" and "Lot, Area".

Authorized Private Receptacle – A litter storage and collection container.

Automobile Service Station - The use of a lot for the retail sale of gasoline, oil, grease, batteries, tires, accessories and other related products to the traveling public; the effecting of adjustments, replacements and repairs to motor vehicles excluding painting and body work; the washing, waxing and polishing of motor vehicles by means other than automatic conveyors.

Automobile Wash - A building or portion thereof devoted to an automatic conveyor-type cleaning, washing and waxing process, or a building or portion thereof having individual bays with rental cleaning, washing and waxing devices.

Bar, Tavern, or Saloon – An area primarily devoted to the sale and serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

Basement - The lowest story of a building, partly or wholly underground, having more than one-half (1/2) of its height below the average finished grade at the exterior front face of the building.

Bed & Breakfast Inn - A building, or part thereof, other than a motel, hotel or restaurant, where meals and/or lodging are provided for compensation and containing a minimum of four (4) guestrooms and a maximum of eight (8) guestrooms.

Bed & Breakfast Residential Facility – A building, or part thereof, other than a motel, hotel or restaurant, where meals and/or lodging are provided for compensation and containing no more than three (3) guestrooms.

Best Management Practices (BMPs) – Conservation practices or protection measures which reduce impacts from a particular land use. Best Management Practices for construction are outlined in "Rainwater and Land Development, Ohio's Standard for Storm Water Management, Land Development, and Urban Stream Protection" prepared by the Ohio Department of Natural Resources. Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Bi-Level - A building that has its finished floor level for the lowest occupied or living floor at some dimension below the average finished grade at the exterior front face of the building, and which consists of two occupied or living floors or stories.

Board - The New Franklin Board of Zoning Appeals. (Also known as the B.Z.A.) or the New Franklin Property Maintenance Enforcement Board (Also known as the PMEB).

Boathouse, Private - A building devoted to the purpose of housing and/or storing watercraft of any nature, which are owned by the occupants of the dwelling which the boathouse serves.

Buffer - A naturally vegetated area or vegetated area along the exterior boundaries of a development which is landscaped and maintained as a traditional open space in order to eliminate or minimize conflicts between such development and adjacent land uses or to protect a natural feature from development.

Buffer Zone - An area separating two different zoning districts, designed and intended to cause each to blend more easily with the other.

Build - See "Erect".

Buildable Area - The area remaining on a zoned lot after the minimum yards and open space requirements have been met.

Building - A structure enclosed within exterior walls and having a roof of more or less permanent construction, which is separated from other buildings by open space, and is intended to be used for sheltering persons, animals, property or business activity.

Building, Accessory - A building which is subordinate in nature and purpose, and serves a principal building on the same lot, and contributes to the comfort, convenience or necessity of occupants or users of the principal building. Types of accessory buildings include boathouses, garages, carports, roadside stands, stables, storage buildings and temporary buildings.

Building, Area of Floor - The sum of the areas of all floors of a building as measured from the outside faces of the exterior walls, or from the centerline of walls separating two (2) occupancies. This shall also include the area of a covered patio where the roof structure has support posts attached to the ground. In the case of dwellings or dwelling units, the area of unfinished basement space and attached garages shall be deducted from the overall area to yield the resulting area of living space for zoning considerations.

Building, Clearances From - The clear distance, as measured from the exterior face of a wall of a building, to another building wall or to a lot line.

Building, Coverage - The area of land covered or permitted to be covered by buildings, expressed as percentages of the lot area.

Building, Detached - One that is separate, unconnected, standing alone.

Building, Dilapidated - The neglect of necessary repairs to a building, allowing it to fall into such a state of disrepair, ruin or decay that it is no longer adequate for its intended purpose.

Building Envelope - The portion of a lot or parcel that contains the principal building and accessory structures, required setbacks and on-site wastewater system and water well, if required.

Building, Height - The vertical distance from the finished grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or the mean height level between the eaves and ridge of gable, hip, or gambrel roof.

Building (Insecure, Unsafe, Structurally Unsound) - Dangerous, damaged, decayed, rotten, liable to give way or collapse.

Building, Principal - The building that is used for the primary purpose to which a lot and zoning district are devoted.

Building Setback Line - A line establishing the limits of a yard which abuts a street and in which no building may be located.

Building, Story - See "Story" and "Story, Half".

Business - Activity, employment, trade, occupation or profession having to do with the operation or details of barter, trade, industry, commerce or other activities for financial gain or livelihood.

Business Center - A building complex which contains multiple compatible business uses.

Carport, Private - An accessible and usable permanent, roofed parking structure of not less than ten (10) by twenty (20) feet (inside dimensions), and open on one or more sides. A canopy carport is a carport structure made of canvass or mesh type materials supported by a fixed or movable frame which is securely fixed to a foundation or wall and used to shelter motor vehicles, trailers, equipment, or implements from the sun or weather.

Centralized Sewer and Water Systems - Systems by which individual lots are connected to common sewer and water collection or distribution networks.

Certified Professional In Erosion and Sediment Control (CPESC) – A professional who has met the requirements of and has been certified by CPESC Inc. *(Added 4-20-11)*

Child Day Care Center and Child Day Care Home – A facility as defined in Ohio Revised Code Section 5104.

Church - See "Religious Land Use for Public Worship".

City – The City of New Franklin.

Clean Water Act – The federal Water Pollution Control Act (33 U.S.C. '1251 et seq.), and any subsequent amendments thereto.

Clean Wood – Wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products. *(Added 11-26-11)*

Clearcutting – The removal of trees and other vegetation from a site in preparation of the development of same.

Clearing - Any activity which removes the trees and/or vegetative ground cover.

Co-Location - The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

Commercial - Of, occupied with or relating to commerce.

Commercial Handbill – Any printed or written manner, including any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or other printed or otherwise reproduced original or copies of any matter of literature:

- A. Which advertises for sale any merchandise, product, commodity or thing;
- B. Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- C. Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit;
- D. Which, while containing reading matter other than the advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

Commercial Recreational Use (Indoor) – Indoor recreation and entertainment facilities including but not limited to those required for indoor court sports, shooting ranges, athletic clubs, bowling alleys, theaters, auditoriums, lodge halls, and social clubs.

Commercial Recreational Use (Outdoor) – Outdoor recreation and entertainment facilities including but not limited to drive-in theaters, golf driving ranges, miniature golf ranges, excluding rifle ranges, skeet shooting or pistol ranges, or other ranges for the use of firearms.

Commission – The New Franklin Planning and Zoning Commission.

Community – The City of New Franklin and its designated representatives, boards, or commissions. *(Added 4-20-11)*

Compatible - The characteristics of differing uses or activities that permit them to be located near each other in harmony and without conflict.

Complete Application – An application for a zoning request that contains the following: (1) submittal and completion of all applicable application forms; (2) submittal of all required supporting application information; and (3) submittal of all required fees.

Composting - The biological decomposition of organic waste materials.

Comprehensive Development Plan - Mapped and/or written proposals for the future development of New Franklin.

Conditional Use - A use, subject to certain conditions, that may be granted on terms other than "as of right" (use granted on the basis of an application alone). Conditional uses are granted only by the Board of Zoning Appeals.

Construction Activity – Activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Construction Commencement - The placing of construction materials in permanent position and fastened in a permanent manner except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction commencement; and provided that work shall be diligently carried on until completion of the building involved.

Construction Entrance – The permitted points of ingress and egress to development areas. *(Added 4-20-11)*

Convalescent Home - A "rest home" or "boarding home" for the aged or mentally or physically infirmed, conducted within any adobe, building, institutional residence, or home used for the reception and care, for a consideration, of three (3) or more persons, who, by reason of age or mental or physical infirmities, are not capable of properly caring for themselves, for which a license has been issued by the Department of Public Welfare of the State of Ohio.

Cul-De-Sac - See "Street, Cul-de-sac".

Damaged or Diseased Trees – Trees that have split trunk, broken tops, heart rot, insect or fungus problems that will lead to imminent death, undercut root systems that put the tree in imminent danger of falling, lean as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling into or along a stream, roadway or onto a structure.

Deck - A raised from grade flat-floored roofless area adjoining a dwelling, usually having handrails all around, and usually built of wood.

Defined Channel – A natural or man-made depression in the terrain which is maintained and altered by the water and sediment it carries.

Development Area – A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics. *(Added 4-20-11)*

Diameter/Diameter-breast-height (d.b.h.) – The diameter of any tree trunk, measured at 4 1/2 feet above average grade. For species of trees whose normal growth habit is characterized by multiple stems (e.g. hazelnut, vine maple) diameter shall mean the average diameter of all stems of the tree, measured at a point six inches from the point where the stems digress from the main trunk. In no case shall a branch more than six inches above average grade be considered a stem. For the purposes of enforcement, if a tree has been removed and only the stump remains, the size of the tree shall be the diameter of the top of the stump.

Dish Antenna - See "Earth Station".

District - See "Zoning District".

Disturbed Area – An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities. *(Added 4-20-11)*

Domestic Animal - See "Animal, Domestic".

Drainage – The removal of excess surface water or groundwater from land by surface or subsurface drains. *(Added 4-20-11)*

Drainage Area - That area contributing runoff to a single point, and/or its watershed.

Drip line – The ground line around a tree that defines the limits of the tree canopy.

Dwelling - Home; residence; abode; domicile; habitation; the building or buildings occupied by a family as a place or residence. Commercial establishments such as motels are not included in this definition.

Dwelling, Single-Family - A dwelling designed for or used exclusively for residence purposes by one (1) family.

Dwelling, Two-Family - A building designed for and used exclusively by two (2) families living independently of each other.

Dwelling, Multifamily - A dwelling designed for or occupied by three (3) or more families living independently of each other.

Dwelling Unit - One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping, and eating.

Earth Station - A device used for the purpose of transmitting or receiving satellite signals.

Eminent Domain - The legal right of government to acquire or "take" private property for public use or purpose upon paying just compensation to the owner.

Enclosure - An area of confinement, typically outlined by fencing.

Erect - To cause to have built or put up by the fitting together of materials, parts or elements; construct.

Erosion - The removal of soil particles by the action of water, wind, ice or other geological factors.

Erosion and Sediment Control - The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces. *(Revised 4-20-11)*

Essential Services - The erection, construction, alteration or maintenance by public utilities or municipal departments, or commissions, of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communications, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduit, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare.

Family - One or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from a group occupying a boarding house, lodging house, hotel, tourist dwelling, sorority, or fraternity. A family may also include domestic servants and gratuitous guests.

Federal Emergency Management Agency (FEMA) – The agency with overall responsibility for administering the National Flood Insurance Program.

Fence or Wall - Any structure composed of wood, steel, iron, masonry, stone, plastic, vinyl, or other material erected in such a manner and positioned as to enclose or partially enclose any property or any part of any property. Structures erected other than on lot lines or in close proximity to lot lines, which have solely an ornamental purpose and which do not in fact serve the purpose of enclosing or partially enclosing property or of separating property from adjoining property, shall not be included within the definition of the word fence or wall.

Fence - Vision Impairing - Includes any type fence, wall or grouping of bushes, shrubs or plants, which impede, bar, block or obscure vision.

Final Stabilization – All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 70% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed. *(Added 4-20-11)*

First Flush - The delivery of a large load of pollutants during the early part of storms due to rapid runoff of accumulated pollutants. The first flush in these guidelines is defined as the runoff generated from a one-year 24-hour storm event from land which has been made impervious from pre-development conditions through land grading and construction/development activities.

Fiscal Officer - The Fiscal Officer of Summit County or their successor.

Flood or Spot Light – Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

Floor Area - See "Building, Area of Floor".

Frontage - See "Lot, Frontage".

Frontage, Lot - That portion of a lot line abutting on a road right-of-way.

Fully Shielded Light Fixture – A light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below the horizontal.

Garage, Motor Vehicle Repair - A building, or portion thereof, in which motor vehicles are repaired, and in which vehicle painting and body and fender work are incidental.

Garage, Private - A building or portion of a dwelling, devoted to the purpose of sheltering or storing motor vehicles, trailers, equipment or implements..

Garage, Public - A building, or portion of a building, in which more than four (4) motor vehicles are, or are intended to be, housed under arrangements made with patrons for renting or leasing such space and accommodation, and in which no repair work is carried on.

Garbage – The matter, substance or waste resulting from the growing, handling, storage, preparation, cooking and/or consumption of food, including animals (including fat and bones), fowl, fish, fruits and vegetables, including animal and bird feeds.

Gas - Natural gas and all other fluid hydrocarbons not defined as oil.

Gasoline Service Station - See "Automobile Service Station".

Grade, Finished - The datum or reference level obtained by averaging the elevation of the finished surfaces along the front face of a building.

Grade, Natural - The elevation of the undisturbed natural surface of the ground prior to any excavation or fill.

Hazardous Materials – Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Health Care Facility – An institution for human medical care such as a hospital, clinic, sanitarium, convalescent home, nursing home and home for the aged.

Height of Building - See "Building, Height".

Heliport - An area, at ground level or elevated on a structure, intended to be used by helicopters for takeoffs and landings.

Home - See "Dwelling".

Home Occupation - An accessory use for a revenue-producing art, craft or profession, which is conducted entirely within the confines of a dwelling and/or an accessory building solely by the inhabitants thereof, which use is clearly incidental to the use as a dwelling. Motor vehicle repair or adjustment of any nature whatsoever shall be specifically excluded.

Hospital - A building containing beds for four (4) or more patients, devoted to the diagnosis and treatment of human ailments.

Hotel or Motel - A building in which lodging is provided to the public for compensation and is open to temporary or transient guests, as distinguished from a boarding house or a lodging house.

House, Housing or Housed (Animals) - To provide with shelter and sustenance.

Impervious Cover – Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks and other areas not covered by vegetation.

Incidental - Likely to arise from, and of secondary importance to, the principal permitted use of a building or lot.

Industrial Activity – Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

Institution - A building occupied by a non-profit establishment or a non-profit corporation for public use.

Junk Yard - More than twenty-five (25) square feet of land or building where discarded or salvaged materials of any nature whatsoever are sold, stored for more than fifteen (15) days, bought, exchanged, baled, packed, sorted, dismantled or handled.

Kennel - An establishment for breeding, training or boarding dogs or cats.

Land, Acre - Horizontal area measure of land, consisting of 1/640 square mile or 43,560 square feet.

Land, Lot - See "Lot".

Land, Parcel - A tract or plot of land.

Land, Section - A parcel of land consisting of one square mile or 640 acres.

Landscape Architect – A Professional Landscape Architect registered with the State of Ohio. *(Added 4-20-11)*

Larger Common Plan of Development or Sale – A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. *(Added 4-20-11)*

Landscaping - Changing, rearranging, and/or adding to the original vegetation or scenery of a parcel of land to produce an aesthetic effect appropriate for the use to which the land is devoted. Landscaping may include the reshaping of the land. Cultivation of grass may constitute landscaping.

Lattice Tower - A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.

Light Cutoff – The point at which all light ray emitted by a lamp, light source or luminaire are completely eliminated (cut-off) at a specific angle above the ground.

Light Cutoff Angle – The angle formed by a line drawn from the light source to a line perpendicular to the ground beyond which no light is emitted from the light source.

Light Trespass – The shining of direct light produced by a light fixture beyond the boundaries of the property on which it is located.

Litter – Garbage, refuse, and rubbish, as defined herein, and all other waste material, including appliances, roofing material, siding material, broken concrete, broken asphalt, bricks, drywall, tree and shrub stumps, limbs, clippings, branches and other waste building material, which, if thrown, stored or deposited, as herein prohibited, tends to create a danger to public health, safety and welfare.

Living Space - The dwelling area that results from deducting the area of unfinished basement space and attached garage from the overall floor area of a dwelling.

Loading Space - An off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial motor vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot - A parcel of land, legally surveyed, described and platted, having fixed boundaries, used for placement for principal and accessory buildings, or utilized for principal and accessory uses, together with such open spaces and frontage on a dedicated public street as are required.

Lot, Area - The area contained within the lot lines. No area within the confines of road right-of way shall be included for purposes of any of these regulations.

Lot, Building Line - The line, parallel to the front property line, described by the minimum front setback distance.

Lot, Corner - A lot at the point of intersection of any 2 intersecting streets.

Lot, Coverage - The portion of a lot that is covered by any buildings.

Lot, Depth - The mean horizontal distance between the road right-of-way line of the street and the rear lot line.

Lot, Double-Frontage - A lot, other than a corner lot, that abuts more than one (1) street.

Lot, Flag/Irregularly Shaped – A lot not meeting the minimum frontage requirements and where access to the public road is by an easement or driveway.

Lot, Frontage - The width of a lot as measured along the road right-of-way line. Corner lots shall be construed as having frontage on both streets that they abut.

Lot, Interior - A lot other than a corner lot.

Lot of Record - A lot which is part of a recorded subdivision, or which has been individually legally recorded with the appropriate Summit County offices.

Lot Lines - The property lines defining the limits of a lot.

Lot Line, Front - The line separating a lot from the street upon which it fronts.

Lot Line, Rear - The lot line opposite and most distant from the front lot line.

Lot Line, Side - A lot line other than the front lot line or rear lot line.

Lot, Parcel - A division of land separated or proposed to be separated from other divisions of land by description on a recorded Subdivision Plat, recorded survey map, or by metes and bounds for purposes of sale, lease, or separate use.

Lot, Principal Use - The primary use of a lot as stipulated for the various zoning districts.

Lot, Width of - The width of a lot as measured at the minimum building setback line, and parallel to the front lot line, and to a distance equal to the minimum rear yard setback from the rear of the principal building. Not applicable to accessory buildings.

Lot, Yard - See "Yard".

Major Thoroughfare and Collector Thoroughfare - Thoroughfares designated as such on the adopted Land Use and Thoroughfare Plan.

Manufactured Home - A home which is factory-assembled, non self-propelled, transportable in one (1) or more sections, meets all zoning criteria, and is designated for and placed upon permanent foundations at the building site.

Maximum Extent Practicable – The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as the National Pollutant Discharge Elimination System (NPDES) Storm Water Phase II must meet. *(Added 4-20-11)*

Mean - A point midway between two extremes in number or quantity; average; medium.

Metes and Bounds - A system for describing and identifying land by measures (metes) and direction (bounds) from a point of reference. Surveyors apply this system.

Mobile Home - A non self-propelled vehicle so designed and constructed as to 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 exceeding an overall length of 30 feet. Such mobile homes are not permitted in any zoning district except in existing trailer parks.

Mobile Home Park - A lot or parcel of land under single ownership, upon which 3 or more mobile homes are parked, either free of charge or for revenue purposes. Such mobile home parks are not permitted in any zoning district.

Monopole - A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Motel - See "Hotel or Motel".

Motor Vehicle – As defined in Ohio Revised Code Section 4501.01(B).

Motor Vehicle, Junk – Any motor vehicle which meets any three (3) of the following requirements:

- A. Is three (3) years old or older;
- B. Is extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motors or transmission;
- C. Does not comply with all safety laws and requirements provisions as found in Chapter 4513 et seq. of the Ohio Revised Code;
- D. Has a fair market value of one thousand five hundred dollars (\$1,500.00) or less;
- E. Is not running and not operable ("operable" meaning able to be started and driven under its own power).

National Pollution Discharge Elimination System (NPDES) – A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit. *(Revised 4-20-11)*

Natural Succession – A gradual and continuous replacement of one kind of plant and animal group by a more complex group. The plants and animals present in the initial group modify the environment through their life activities thereby making it unfavorable for themselves. They are gradually replaced by a different group of plants and animals better adapted to the new environment.

Newspaper – Any newspaper of general circulation, as defined by general law, any newspaper duly entered with the Post Office of the United States, in accordance with Federal statute regulation, and any newspaper filed and recorded with any recording officer as provided by general law, and, in addition thereto, means and includes any periodicals or current magazines regularly published with not less than four issues per year, and sold to the public.

Noncommercial Handbill – Any printed or written matter, including any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or other printed or otherwise reproduced original or copies of any matter of literature not included in the definitions of commercial handbill and newspaper.

Nonconforming Sign - Any sign which lawfully occupied a building or land as of the effective date of the Zoning Code, or any amendment thereto, that does not conform to the regulations of the district in which it is located.

Nonconforming Use: - A use which lawfully occupied a building or land at the effective date of this Zoning Code, or amendments thereto, and that does not conform to the provisions of the Zoning Code in the district in which it is located.

Noxious Weed – Any plant defined as a “noxious weed and rank vegetation” in Section 521.10 in the Codified Ordinances of the County of Summit, Ohio.

NPDES Permit – National Pollution Discharge Elimination System Permit, issued by Ohio EPA for construction activities.

Nude Model Studio – Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided solely to be sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons.

Nudity or a State of Nudity:

- A. The appearance of a human bare buttock, an anus, genitals or an areola of a female breast; or
- B. A state of dress which fails to cover opaquely a human buttock, an anus, genitals or an areola of a female breast.

Nuisance - An act or circumstance which causes annoyance or offense to another or to the community at large, is offensive to the senses, or endangers personal health or safety.

Ohio EPA NPDES General Construction Permit – A permit issued by the Ohio Environmental Protection Agency to an applicant for the discharge of storm water from sites where construction activity is being conducted with discharges to subsequent receiving waters. (Permit Number OHC000003 as amended) *(Added 4-20-11)*

Ohio Rapid Assessment Method – A multi-parameter qualitative index established by the Ohio Environmental Protection Agency to evaluate wetland quality and function.

One Hundred (100) -Year Floodplain – Any land susceptible to being inundated by water from a base flood, which is the flood that has a one percent or greater chance of being equaled or exceeded in any given year. For the purposes of these regulations, the 100-year floodplain shall be defined by FEMA and approved by the County of Summit Department of Building Standards.

Ordinary High Water Mark – The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic. The ordinary high water mark defines the channel of a stream.

Outdoor Wood-Fired Boiler – A fuel burning device specified by the manufacturer for outside installation and designated to heat interior building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture. Outdoor wood-fired boiler is also known as an outdoor wood-fired hydronic heater or outdoor wood heater or outdoor wood burning furnace. *(Added 11-26-11)*

Parcel – A tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a “Permanent Parcel Number” assigned by the Summit County Fiscal Office. *(Added 4-20-11)*

Park – A park, reservation, playground, beach, recreation center or other public area in the City owned by any governmental agency and devoted to active or passive recreation.

Parking Space - An off-street parking space shall consist of an area of 180 square feet or more, together with properly related access to a public street and adequate maneuvering room.

Peak Flow – The maximum rate of flow of water at a given point and time resulting from a storm event.

Permitted Use - A use by right as specifically authorized in a particular zoning district.

Person - Any individual, firm, partnership, association, corporation, company or organization of any kind.

Pets, Household - Small animals, such as dogs or cats, that may customarily live within a dwelling.

Phasing – Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next. *(Added 4-20-11)*

Plat – A map showing the location, boundaries and ownership of individual properties.

Plot - Included with the words “Lot”, “Parcel”, and “Site”.

Plot Plan - See “Site Plan”.

Pole Barn - A non-residential structure where posts and trusses (typically made of wood) not utilizing a concrete or masonry foundation are used as the main structural support for roof and walls, which are typically covered

with a metal skin. Such structures are normally used for agricultural purposes, for construction trade storage, or for general storage and are not intended for human habitation.

Pollutant – Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; floatables, pesticides, herbicides, and fertilizers; hazardous substances and wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Pollution – Any contamination or alteration of the physical, chemical, or biological properties of any waters that will render the waters harmful or detrimental to: public health, safety or welfare; domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; livestock, wildlife, including birds, fish or other aquatic life.

- A. "Point Source" is pollution traceable to a discrete point or pipe.
- B. "Non-Point Source" is pollution generated by various land use activities rather than from an identifiable or discrete source, and is conveyed to waterways through natural processes, such as rainfall, storm runoff, or ground water seepage rather than direct discharge.

Portable Storage Unit - Any enclosed unit of any type construction or material, designed for permanent or temporary storage, which can be transported by a vehicle and left on-site.

Principal Use - The primary use of land and structures, as distinguished from secondary or accessory use.

Private Premises or Premises – Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, sidewalk and abutting property between the property line and the curb line, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Private Use - Belonging to and intended for the use of an individual person, group, company or interest.

Professional Engineer/Surveyor – A professional registered in the State of Ohio by the appropriate board.
(Added 4-20-11)

Property - The term "Property" as referenced in these Regulations shall include land, real property and/or real estate except as otherwise indicated.

Public Use - Belonging to, accessible to, and intended for the use of the entire community.

Public - Open to common use, whether or not under public ownership.

Public Place – Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

Public Utility - As defined by the Ohio Revised Code Section 4905.02 and sections referenced therein.

Public Way - An alley, avenue, boulevard, bridge, channel, ditch easement, express freeway, highway, land, parkway, right-of-way, road, sidewalk/walkway, street subway, tunnel, viaduct, walk or other ways in which the general public or a public entity have been granted an interest, privilege or a right, or which are dedicated, whether improved or not to use such property for its intended purposes.

Qualified Individual – Professional engineers, professional surveyors, and landscape architects registered in the State of Ohio or a Certified Professional in Erosion and Sediment Control as recognized by CPESC Inc. ***(Added 4-20-11)***

Quasi-Public Use - Belonging to and intended for the use of a church, private school, hospital or other non-profit institution.

Rainwater and Land Development Manual (RWLD) – A publication of the Ohio Department of Natural Resources that contains Ohio's minimum technical standards for post construction storm water quality and erosion and sediment control standards. ***(Added 4-20-11)***

Raised patio – A non-ground level patio that is at least three (3) feet in height above the natural grade. ***(Added 11-6-13)***

Refuse – All putrescible and nonputrescible solid wastes (except body wastes), including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

Religious Land Use For Public Worship - A building and/or lot used for public religious worship and instruction; churches, chapels, temples, mosques and synagogues are included in this definition.

Removal – Removal of a tree(s), through either direct or indirect actions including, but not limited to, clearing, cutting, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation, grading, or trenching in the drip line area of a tree which has the potential to cause irreversible damage to the tree, or relocation of an existing tree to a new planting location.

Repair - Reconstruction or renewal of part of an existing structure.

Residence - Included with the words "Dwelling", "Home", "Abode", "Domicile", and "Habitation".

Restaurant - An establishment where meals are served, to the public, for payment.

Retaining Wall – A wall or similar structure, three (3) feet or over in height, specifically intended to be used at a grade change for the purpose of holding soil on the up-hill side from slumping, sliding or falling. Retaining walls that are not laterally supported at the top and that retain in excess of 24 inches of unbalanced fill shall be designed to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Retaining walls shall be designed for a safety factor of 1.5 or greater as determined by the design engineer. ***(Added 4-1-11)***

Retention – A practice designed to store storm water runoff by collection as a permanent pool of water without release except by means of evaporation, infiltration, or attenuated release when runoff volume exceeds the permanent storage capacity of the permanent pool.

Riparian Area – A transitional area between flowing water and terrestrial ecosystems, which provides a continuous exchange of nutrients and woody debris between land and water. This area is at least periodically influenced by flooding. Riparian areas, if appropriately sized and managed, help to stabilize banks, limit erosion, reduce flood size flows and/or filter and settle out runoff pollutants, or perform other functions consistent with the purposes of these regulations.

Riparian Corridor – The landscape features on both sides of a stream, including soils, slope, and vegetation, whose alteration can directly impact a stream's physical characteristics and biological properties.

Riparian Setback – The area set back from each bank of a stream to protect the riparian area and stream from impacts of development, and streamside residents from impacts of flooding and land loss through erosion. Riparian Setbacks are those lands within the County of Summit that fall within the area defined by the criteria set forth in these regulations.

Riprap – A combination of large stone, cobbles and boulders used to line channels, stabilize storm sewer outfalls and reduce runoff velocities.

Rubbish – Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Runoff – The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands. *(Added 4-20-11)*

Satellite Television Antenna - See "Earth Station".

Secretary - The secretary of the New Franklin Planning and Zoning Commission, New Franklin Board of Zoning Appeals or the New Franklin Property Maintenance Enforcement Board.

Sediment – The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion. *(Added 4-20-11)*

Sedimentation – The deposition or settling of sediment. *(Added 4-20-11)*

Setback - The distance from a lot line to the nearest face of a principal or accessory building. Lot lines at abutting roads shall occur at the nearest edge or line of the road right-of-way.

Sexually Oriented Business – An adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater or adult theater. A sexually oriented business does not include a nude model studio.

Silviculture – The care and cultivation of forest trees.

Site - Included with the words "Lot", "Plot", and "Parcel".

Site Plan - A drawing, to scale, showing all elements of uses proposed for a parcel of land.

Soil and Water Conservation District (SWCD) – An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employees, hereinafter referred to as the Summit SWCD.

Soil Disturbing Activity – Clearing, grading, grubbing, excavating, filling or other alteration of the earth's surface where natural or human made ground cover is destroyed and which may result in, or contribute to, erosion and sediment pollution. *(Revised 4-20-11)*

Soil Erodibility – The susceptibility of soil to erosion and the amount and rate of runoff, as measured under the standard unit plot condition. Soil erodibility factors are available in the Summit County Soil Survey. *(Added 4-20-11)*

Specified Anatomical Areas – Human genitals.

Specified Sexual Activities – Any of the following:

- A. The fondling or other erotic touching of human genitals, the pubic region, buttocks, an anus or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- C. Masturbation, actual or simulated.

Stabilization – The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces. *(Added 4-20-11)*

Stable, Private - A building devoted to the housing of horses, cattle or other domestic animals, which are owned by the occupants of the dwelling or dwellings which the stable serves.

Staff - The Staff of the New Franklin Planning and Zoning Commission.

Stealth Facility - Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles, clock towers, bell steeples, barn silos, etc.

Storage Building - A building devoted to the purpose of housing of chattels and possessions of any and every kind.

Storm Drainage System – Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and man-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water Management - A site plan depicting the dispersal of runoff storm water from a property at a rate calculated to eliminate erosion and flooding.

Storm Water Pollution Prevention Plan (SWPPP) - A plan which includes appropriate structural and non-structural conservation best management practices that address all minimum components of the NPDES Permit and conform to the specifications of Natural Resource Conservation Service handbook, Rainwater and Land Development and subsequent updates.

Storm Water Quality Treatment – The removal of pollutants from urban runoff and improvement of water quality, accomplished largely by deposition and utilizing the benefits of natural processes.

Story - That portion of a building included between the surface of any floor and the surface of the next floor above it, or from floor space to roof surface at the topmost floor level.

Story, Half - The topmost floor level of a building having a roof structure such as gable, hip or gambrel that limits the amount of usable floor space attainable therein. A half-story is limited to two-thirds (2/3) or less of the overall floor space of said floor level.

Stream – A surface water course with a well defined bed and bank, either natural or artificial, which confines and conducts continuous or periodical flowing water in such a way that terrestrial vegetation cannot establish roots within the channel. *(Added 4-20-11)*

Street, Cul-De-Sac - A local street having one end open to vehicular traffic and the other end permanently closed with a vehicular turnaround.

Street, Private – A road or thoroughfare which affords the principal means of access to abutting property, but which has not been dedicated to the public and become subject to easements therefore.

Street, Public – A road or thoroughfare which has been dedicated to the public for public use or subject to public easements therefore, and which affords the principal means of access to abutting property.

Street, Right-Of-Way - A strip of land dedicated for use as a public road or thoroughfare.

Street, Right-Of-Way Line - The dividing line between a lot and the street upon which it abuts.

Street, Road or Thoroughfare - The full width between property lines; lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic.

Structure - Anything built, constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. A structure may include a principal building, an accessory building, or an accessory structure.

Structure, Accessory - A structure that may be attached to or detached from the principal building or use of the same lot or parcel, and serves a purpose clearly subordinate and customarily incidental to the use of the principal structure or use of land. Accessory structures include, but are not limited to porches, decks, raised patios, pergolas, arbors, gazebos, pavilions, chimneys, outdoor fireplaces, retaining or decorative walls, fences, signs, playhouses, play forts and antennas. *(Revised 11-6-13)*

Structural Alteration - An addition to a building or structure, or a change to any component of its structural system.

Sublot - See Lot, Parcel.

Summit County Storm Water Management Manual – Summit County's storm water management requirements developed and updated by the County Engineer. *(Added 4-20-11)*

SWCD - The Soil and Water Conservation District of Summit County.

Swimming Pool, Commercial - A body of water in an artificial receptacle or container, whether located indoors or outdoors, used or intended to be used for public, semi-public or private swimming by adults or children, or both adults and children, whether or not any charge or fee is imposed upon adults or children, operated and

maintained by any person as defined herein and shall include all structures, appurtenances, equipment, appliances and other facilities appurtenant to and intended for the operation and maintenance of a swimming pool, and also all swimming pools operated and maintained in conjunction with or by clubs, motels, hotels, and community associations.

Swimming Pool, Family – A swimming pool used or intended to be used solely by the owner or lessee thereof and his family, and by friends invited to use it without payment of a fee.

Telecommunications - The technology that enables information to be exchanged through the transmission of voice, video, or data signals by means of electrical or electromagnetic systems.

Temporary Building – A structure that shall be used for a limited amount of time. A structure that is not permanently anchored to another structure or the ground.

Thoroughfare Plan - A mapped and/or written proposal for future road development of New Franklin and its affected area. (O.R.C. 711.10)

Tree – A self-supporting woody plant characterized by one main trunk or, for certain species, multiple trunks, with a potential at maturity for a trunk diameter of two (2) inches and potential minimum height of ten (10) feet.

Trash – Any broken, discarded or worthless things, rubbish, or refuse.

Unstable Soils – A portion of land that is identified by the City Engineer, Summit County Building Standards and/or the Summit SWCD as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength. *(Added 4-20-11)*

US EPA Phase 2 Program Qualified Model – A heater that is certified by the US EPA to meet a particulate matter emission limit of 0.32 pounds per million British thermal units (lb/MMBtu) heat output. A white hangtag indicates that a unit meets the Phase 2 emission performance level. These heaters are 90 percent cleaner than unqualified models. *(Added 11-26-11)*

Use - The purpose or activity for which a parcel of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.

Used Car Lot - Any lot on which 2 or more motor vehicles (which have been titled in a name other than the manufacturer or original dealer) in operating condition are offered for sale or displayed for the public.

Variance - A modification of the terms of the relevant regulations which is not contrary to the public interest and where, due to conditions peculiar to this property and not the result of any action by the applicant, a literal enforcement of the Regulations would result in unnecessary and undue hardship to the applicant.

Variance (Riparian Setback) – A modification of the enforcement of the Riparian Setback regulations which will not be contrary to the public interest and where, due to conditions peculiar to this property and not the result of the action of the applicant, a literal enforcement of the regulation would result in undue hardship to the applicant.

Veterinary Animal Hospital or Clinic - A building devoted to the care, grooming, diagnosis and treatment of animals, and may include overnight accommodations for observation.

Wastewater – Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Water Resource – Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing. *(Added 4-20-11)*

Watershed – An area of land that drains into a particular watercourse, usually divided by topography.

Well - Any bore hole, whether drilled or bored, for the production, extraction or injection of any gas or liquid mineral, excluding potable water to be used as such, but including natural or artificial brines and oil field waters.

Wetland – Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. *(Added 4-20-11)*

Wetland Professional – An individual with training and experience in wetland delineation acceptable to the U.S. Army Corps of Engineers. *(Added 4-20-11)*

Wireless Telecommunications Antenna - The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.

Wireless Telecommunications Equipment Building - The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.

Wireless Telecommunications Facility - A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

Wireless Telecommunications Tower - A structure intended to support equipment used to transmit and/or receive telecommunications signals, including monopoles, guyed and lattice construction steel structures.

Yard - A required open space included as part of a lot unoccupied and unobstructed by any structure or portion of any structure.

Yard, Front - A yard extending across the full width of a lot and being the perpendicular distance between the street right-of-way line and the nearest portion of any building or structure existing or proposed for construction on said lot. Where the right-of-way line is not established, the right-of-way shall be assumed to be sixty (60) feet. Where a major or collector thoroughfare is designated on the Land Use and Thoroughfare Plan, the front yard depth shall be measured from the proposed street right-of-way.

Yard, Rear - A yard extending across the full width of a lot between the side lot lines and being the perpendicular distance between the rear lot line and the nearest portion of the principal building.

Yard, Side - A yard between the nearest portion of any building or structure existing or proposed to be constructed on said lot and the property line, in a yard area that is not classified as either a front yard or a rear yard of the lot.

Zoning - The legal right for local governments to regulate the use of real property to prevent conflicting land uses and promote orderly development. Such rights include, but are not limited to regulating: the use, height, bulk, and location, including percentage of lot occupancy, building setback lines, and other structures.

Zoning Administrator - The official responsible for granting zoning permits, exercising site inspections, effecting conditional permits and variances as granted by the New Franklin Board of Zoning Appeals, and administering and enforcing these zoning regulations.

Zoning Certificate – See “Zoning Permit”

Zoning Department - The New Franklin Planning and Zoning Department. The administrative department or staff responsible to the New Franklin Planning and Zoning Commission for day-to-day administration.

Zoning District - A portion of New Franklin designated in the zoning regulations and delineated on the zoning districts map, in which uniform requirements for land and building use and development standards are prescribed.

Zoning Permit - The written document, granted and issued by the Zoning Administrator after finding that an applicant's use of structures and land, as evidenced by the application, complies with the requirements of these zoning regulations, or meets the permitted conditions of a variance or conditional use. A zoning permit is also known as a zoning certificate.

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