



City of Mount Vernon Planning and Zoning Code

Partial Draft – February 23, 2023

Chapter 1101: General Provisions

1101.01 PURPOSE (REVISED 1131.01 AND 1151.02)¹

It is the purpose of this planning and zoning code to promote and protect the public health, safety, comfort, prosperity, convenience, and general welfare of the people of the City of Mount Vernon through the establishment of minimum regulations governing the subdivision, development, structures, and use of land. Furthermore, the more specific purpose of this planning and zoning code is to:

- (a) Implement the City of Mount Vernon Comprehensive Plan and other policies or plans adopted or approved by the City as they relate to the development of land;
- (b) Encourage and facilitate orderly, efficient, and appropriate growth and development;
- (c) Ensure and encourage the proper use of land to stabilize and preserve property values, to protect against congested and unsafe traffic conditions, to provide safety from hazards such as fire, flood, water and air contamination, and to guarantee adequate light, air, and open space to all residents, property owners, and businesses of the City;
- (d) Facilitate development of land uses according to a comprehensive design that ensures the availability of and provision for adequate traffic capacity, water and sewer service, schools, public parklands and other such public facilities;
- (e) Specify and regulate uses of land and the type, size and use of structures within each separate zoning district; and
- (f) Delineating zoning district boundaries in a manner which is comprehensive and includes all land and structures similar in nature and circumstance to the extent feasible.
- (g) Provide for adequate access to all areas of the City by people of all abilities and by varied modes of transportation;
- (h) Preserve unique historical and natural features of structures and land within the City;
- (i) Encourage interconnectivity of developments in order to provide multiple access points in and out of developments for safety purposes and traffic dispersion;
- (j) Improve the quality of life through protection of the City's total environment including, but not limited to, the prevention of air, water and noise pollution;
- (k) Avoid the inappropriate subdivision or development of lands and provide for adequate drainage, curbing of erosion, and reduction of flood damage;
- (l) Foster a more rational pattern of relationship between recreation, conservation, residential, business, commercial, industrial, and institutional uses for the mutual benefit of all.;
- (m) Implement the provisions of Ohio Revised Code Chapter 713; and
- (n) Implement any other common law rulings.

1101.02 AUTHORITY (REVISED 1131.02, 1151.01, & 11510.03)

(a) General Authority

- (1) The authority for the preparation, adoption, and implementation of this code is derived from Ohio Revised Code (ORC) Chapters 711 and 713, which permit the adoption of uniform rules and regulations governing the zoning and subdivision of land.
- (2) Nothing in this code shall be construed to limit City Council in the exercise of all of its powers to zone or redistrict now or hereafter authorized by the Ohio Constitution or Ohio statutes.

(b) References to the Ohio Revised Code (ORC) or the Ohio Administrative Code (OAC)

Whenever any provision of this code refers to or cites a section of the ORC (as amended) or the OAC (as amended), and that section is later amended or superseded, this code shall be deemed amended to refer to the amended section, or the section that most nearly corresponds to the superseded section.

¹ The parenthetical references in the main headings are temporary cross-references to language in the existing planning and zoning code to show where the language in this draft was drawn from, revised, or where the language is new.

1101.03 TITLE (NEW)

These regulations shall be known and may be cited as the “Planning and Zoning Code of the City of Mount Vernon,” or may be referred to as the “planning and zoning code,” the “zoning code,” or the “code.” This code may also be referred to as Part 11 of the Codified Ordinances of the City of Mount Vernon, Ohio.

1101.04 APPLICABILITY (REVISED 1131.02, 1151.01, 11510.03, & 1151.05)

- (a) No structure or part thereof shall be placed upon or moved onto land, erected, constructed, reconstructed, enlarged or structurally altered, nor shall any building or land be used or occupied which does not comply with the district regulations established by this code for the district in which the building, structure or land is located.
- (b) The provisions of this code shall apply to all land, buildings, structures, and uses of land, buildings, and structures, or portions thereof, located within the municipal boundaries of the City of Mount Vernon in Knox County, Ohio. The provisions of this code are the minimum requirements adopted to meet the purposes of this code as established in Section [1101.01: Purpose](#).
- (c) The regulations of this code shall also govern all subdivision of land and public improvements within the corporate limits of the City of Mount Vernon.³
- (d) The regulations established for each district in this code shall apply uniformly to each class or type of use, land, building, or structure, unless modified, varied or waived as provided herein.
- (e) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

1101.05 EFFECTIVE DATE (REVISED 1151.08)

This code was originally adopted by City Council on <>⁴, as amended. Any amendment to this code shall become effective from and after the date of its approval and adoption, as provided by law.

1101.06 CONSISTENCY WITH ADOPTED PLANS (NEW)

The administration, enforcement, and amendment of this code should be consistent with the most recently adopted version of the City of Mount Vernon’s Strategic Plan, parks master plan, active transportation plan, downtown plan, and Knox County Comprehensive plan, as such plans may be amended. Such plan, or references to such plan, shall also include other adopted or approved plans within the City that relate to development including, but not limited to, a comprehensive plan, land use plan, thoroughfare plan, parks and recreation plan, etc. Amendments to this code should maintain and enhance the consistency between this code and the City of Mount Vernon Strategic Plan or any other adopted or approved City plans.

1101.07 INTERPRETATION AND CONFLICTS

- (a) **Interpretation of Provisions (Existing 1151.06)**
The provisions of this code shall be held to be the minimum requirements, adopted for the promotion of the public health, safety, comfort, convenience, prosperity, and general welfare.
- (b) **Conflict with Other Public Laws, Ordinances, Regulations, or Permits (Revised 1151.06)**
This code is intended to complement other City, State, and Federal regulations that affect land use and the division of land. This code is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this code are more restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions of this code shall govern.

³ We had to remove the three-mile subdivision review provision in the current code because the city no longer qualifies to review such subdivision (all of the townships have zoning, there is a regional planning commission, and county subdivision standards).

⁴ This is an amendment to the code so it would be good if we could include the date for the original code. Note that the <> symbol is a placeholder for future cross-references or other pieces of information.

(c) **Repeal of Conflicting Ordinance (Revised 1151.08)**

All ordinances or parts of ordinances in conflict with this code or inconsistent with the provisions of this code are hereby repealed to the extent necessary to give this code full force and effect.

1101.08 RELATIONSHIP WITH THIRD-PARTY PRIVATE AGREEMENTS (NEW)⁵

- (a) This code is not intended to interfere with or abrogate any third-party private agreements including, but not limited to, easements, covenants, or other legal agreements between third parties. However, where this code proposes a greater restriction or imposes higher standards or requirements than such easement, covenant, or other private third-party agreement, then the provisions of this code shall govern.
- (b) Nothing in this code shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this code.
- (c) In no case shall the City be obligated to enforce the provisions of any easements, covenants, or other agreements between private parties, even if the City is a named party in and has been granted the right to enforce the provisions of such agreement.

1101.09 SEPARABILITY CLAUSE (REVISED 1151.07)

- (a) If any court of competent jurisdiction invalidates any provision of this code, then such judgment or ruling shall not affect the validity and continued enforcement of any other provision of this code.
- (b) If any court of competent jurisdiction invalidates the application of any provision of this code to a particular property, structure, or situation, then such judgment or ruling shall not affect the application of that provision to any other property, structure, or situation not specifically included in that judgment or ruling.
- (c) If any court of competent jurisdiction invalidates any condition attached to the approval of a development review application, then such judgment or ruling shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment or ruling.

1101.10 TRANSITIONAL RULES (NEW)

(a) **Purpose**

The purpose of these transitional rules is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, on the effective date of this code amendment.

(b) **Violations Continue**

- (1) Any violation that existed at the time this amendment became effective shall continue to be a violation under this code and is subject to penalties and enforcement under Chapter <> (Enforcement and Penalties) unless the use, development, construction, or other activity complies with the provisions of this code.
- (2) Payment shall be required for any civil penalty assessed under the previous regulations, even if the original violation is no longer considered to be a violation under this code.

(c) **Nonconformities Continue**

- (1) Any nonconformity that was legally established and that existed at the time this amendment became effective shall continue to be a legal nonconformity under this code as long as the situation that resulted in the nonconforming status under the previous code continues to exist. All such nonconformities shall be controlled by Chapter <> (Nonconformities).
- (2) If a legally established nonconformity that existed at the time this amendment became effective becomes conforming because of the adoption of this amendment, then the situation will be considered conforming and shall no longer be subject to the regulations pertaining to nonconformities.
- (3) Any nonconformity that was not legally established in accordance with the provisions of this code shall not be protected and shall be considered a violation of this code.

⁵ This section is not necessary but does provide language the staff can point to when someone asks the city to enforce a deed restriction.

(d) Processing of Applications Commenced or Approved Under Previous Regulations

(1) Pending Projects

- A.** Any complete application that has been submitted or accepted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this code, shall be reviewed in accordance with the provisions of the regulations in effect on the date the application was deemed complete by the City.
- B.** If a complete application is not filed within the required application filing deadlines in effect prior to the adoption of this code, the application shall expire and subsequent applications shall be subject to the requirements of this code.
- C.** Any re-application for an expired project approval shall meet the standards in effect at the time of re-application.
- D.** An applicant with a pending application may waive review available under prior regulations and request review under the provisions of this code by requesting such waiver, in writing, to the Zoning Enforcement Officer.

(2) Approved Projects

- A.** Approved planned developments, variances, certificates of appropriateness, conditional uses, zoning permits, or other approved plans or permits that are valid on the effective date of this code shall remain valid until their expiration date, where applicable.
- B.** Any building or development for which a permit or certificate was granted prior to the effective date of this code shall be permitted to proceed to construction, even if such building or development does not conform to the provisions of this code, as long as the permit or certificate remains valid.
- C.** If the development for which the permit or certificate is issued prior to the effective date of this code fails to comply with the time frames for development established for the permit or certificate, the permit or certificate shall expire, and future development shall be subject to the requirements of this code.

(e) Vested Rights

The transitional rule provisions of this section are subject to Ohio's vested rights laws.

1101.11 RESTORATION OF UNSAFE BUILDINGS (NEW)

Nothing in this 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 an official charged with protecting the public safety, upon order of such official.

1101.12 USE OF GRAPHICS, TABLES, ILLUSTRATIONS, FIGURES, AND CROSS-REFERENCES (NEW)

- (a)** Graphics, illustrations, and figures are provided for illustrative purposes only and shall not be construed as regulations. Where a conflict may occur between the text and any graphic, illustration, or figure, the text shall control.
- (b)** In some instances, cross-references between chapters, sections, and subsections are provided that include the number along with the name of the referenced chapter, section, or subsection. Where a conflict may occur between the given cross-reference number and name, the name shall control.
- (c)** A table shall be considered text for the purposes of this code, unless specifically identified as a figure.

1101.13 BURDEN OF PROOF (NEW)

- (a)** The burden of demonstrating that an application, development, structure, or use of land or structures subject to this code complies with applicable review and approval standards rests with, and is the responsibility of, the applicant.
- (b)** The burden of proof also rests with, and is the responsibility of, any person claiming that a nonconformity was established legally under a previous amendment of this code.

- (c) The burden of proof is not the responsibility of the City or other parties to demonstrate that the standards have (or have not) been met by the applicant or person responsible for the application, development, use of land or structure, or nonconformity with this code.

Chapter 1102: Decision-Making Roles and Authorities

1102.01 PURPOSE (NEW)

The purpose of this chapter is to set forth the powers and duties of the City of Mount Vernon's various review boards and administrative staff with respect to the administration and enforcement of the provisions of this code.

1102.02 REVIEW AUTHORITY NAMES, REFERENCES, AND DELEGATION (NEW)

(a) Review Authority Names and References

For the purposes of this code, the formal names of the administration and decision-making authorities identified above may also be referred to abbreviated names as identified below:

- (1) The City of Mount Vernon City Council may be hereafter also be referred to as "City Council" or "Council."
- (2) The City of Mount Vernon Municipal Planning Commission may be hereafter also be referred to as the "Planning Commission" or "MPC."
- (3) The City of Mount Vernon Board of Zoning Appeals may be hereafter also be referred to as the "Board" or "BZA."
- (4) The City of Mount Vernon Historical Review Commission may be hereafter also be referred to as the "Historical Review Commission" or "HRC."
- (5) The City of Mount Vernon Zoning Enforcement Officer may be hereafter also be referred to as the "Zoning Enforcement Officer" or "ZEO."

(b) Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the City to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

1102.03 CITY COUNCIL (REVISED 1155.04)

In addition to any other authority granted to the City Council by ordinance or State law, the City Council shall have the following powers and duties, as it relates to this code:

- (a) Initiate, hear, review, and make decisions related to amendments to the text of this code or the zoning map;
- (b) Hear, review, and make decisions related to Planned Developments in accordance with Chapter <> (Planned Developments);
- (c) Review and accept, where appropriate, any proposed dedication of streets, utilities, and other public improvements required by this code;
- (d) Establish fees for development review procedures, certificates, and permits outlined in this code;
- (e) Perform any other duties related to the administration and enforcement of this code as authorized by this code and the ORC.

1102.04 REVIEW BOARDS

For the purposes of this code, there shall be review boards established for the administration and enforcement of this code including the Planning Commission, BZA, and HRC.

(a) General Rules and Regulations for All Review Boards

The following shall apply to the Planning Commission, BZA, and HRC

- (1) All members of a review board, at the date of their respective appointments, shall be residents of the City and shall continue to be residents of the City during the terms of their office with the exception of the Safety Service Director.
- (2) Members of the review boards shall not be employed or appointed to any Mount Vernon department or office except where the ORC mandates such or the requirements of this chapter allow for.

- (3) Members of any review board shall be removable for nonperformance of duty, misconduct in office or other cause, by the Mayor, upon written charges having been filed with the Mayor and after a public hearing by City Council has been held regarding such charges. A copy of the charges shall be served upon the member at least 10 days prior to the hearings, either personally, by registered mail or by leaving the same at their usual place of residence. The member shall be given opportunity to be heard and answer such charges.
- (4) The Chairperson of each review board shall advise City Council, by letter, if any member of the applicable review board has been absent from all meetings held during any period of 90 consecutive days or who has been absent from a total of one-fourth of the regular meetings during a calendar year. City Council shall consider removing such member.
- (5) A vacancy occurring during the term of any member of a review board shall be filled through the same manner as the position was originally filled, for the unexpired term in a manner authorized for the original appointment.
- (6) The review boards may, by a majority vote of its entire membership at the time of consideration, adopt bylaws or rules for the governance of said board, provided they are consistent with State law and with any ordinances of the City.
- (7) The review boards shall keep a record of their meetings and hearings, which shall be a public record.
- (8) All meetings of the review boards shall be open to the public, except as exempted by law.
- (9) The departments, divisions, and agencies of the City shall cooperate with and assist the boards in implementing the purposes for which they are formed.
- (10) **Meetings**
 - A. Each review board shall hold such meetings as it may require for conducting its business. Prior to the end of each year, the members shall, by motion, determine the dates of its regular meetings for the succeeding year.
 - B. The Chairperson of each board or the ZEO may cancel a meeting if there is no pending business to be conducted.
 - C. Special meetings may be called by the Chairperson or by a vote of the applicable review board at its regular meeting.
 - D. At either the first meeting or the last regular meeting of each year, or when practical, each review board shall elect a Chairperson who shall serve for a one-year term. The boards may also elect a Vice-Chairperson, who shall also serve for a one-year term. These officers shall be elected from among the members of the applicable boards. During the temporary absence of the Chairperson, the Vice-Chairperson, where elected, shall fulfill the duties of the Chairperson.

(b) Organization and Roles of the Municipal Planning Commission (MPC) (Revised 1155.03)

(1) Establishment

The City of Mount Vernon MPC is hereby established by City Council pursuant to Chapter 713 of the ORC.

(2) Membership and Terms

Membership of the MPC shall be in accordance with Chapter 713 of the ORC, including the length of terms.

(3) Alternates

- A. The Mayor may appoint up to two alternate members, with approval from City Council, for a term of one year each. Such appointments shall only be for people who may serve as alternates for members of the MPC that are not the Mayor or the Director of Public Service.
- B. The Mayor and the Director of Public Service are authorized to designate a person to serve as an alternate on their behalf.
- C. An alternate member shall take the place of an absent regular member at any meeting of the MPC. An alternate shall also take the place of a regular member that has to recuse themselves or abstain from a discussion or action.

- D. An alternate member shall meet the same appointment criteria as a regular member for all members except the Mayor and Director of Public Service.
- E. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter the absent member is authorized and eligible to vote for provided the member attended all pertinent public meetings or hearings.
- F. When a vacancy occurs, alternate members do not automatically become full members of the MPC. Alternate members have to be appointed by the Mayor to replace a full member upon a vacancy.

(4) Roles and Powers of the MPC

The MPC shall have the following roles and powers:

- A. Initiate, hear, review, and make recommendations to City Council for the approval of a plans for the future physical development and improvement of the City, based upon utility, convenience and beauty, physical needs, density and the social welfare and physical well-being of the people;
- B. Initiate, hear, review, and make recommendations to City Council related to amendments to the text of this code or the zoning map;
- C. Hear, review, and make decisions on conditional use permits⁸ in the respective zoning district;
- D. Hear, review, and make recommendations or decisions related to Planned Developments in accordance with [Chapter <> \(Planned Developments\)](#);
- E. Review and make decisions on the preliminary subdivision plats and final subdivision plats for major subdivisions;
- F. Review and make decisions on requests for subdivision modifications;
- G. Hear, review and make decisions on alternative equivalency review applications, when the proposed alternative equivalency review provision is not related to a certificate of appropriateness application;
- H. Consider, investigate, and report upon any special matter or question coming within the scope of its work as requested by City Council, or the administration; and
- I. Perform any other duties related to the administration and enforcement of this code as authorized by this code, by ordinance of City Council, and/or by the ORC.

(5) Quorums and Decisions

- A. Any combination of three or more regular or alternate members of the MPC shall constitute a quorum.
- B. A motion made on a decision shall carry when at least three members of the MPC concur.
- C. General business items that do not include decisions on applications, such as continuances or approval of minutes, shall only require a majority of the quorum to concur.
- D. A member of a MPC shall not be qualified to vote if that member did not attend the public hearing or meeting of the applicable case subject to a decision unless he or she has read or listened to the transcript of the public hearing or meeting, as applicable.
- E. A member of the MPC shall not be qualified to vote if they have a direct or indirect interest in the issue subject to the application or any other conflict of interest.

(c) Organization and Roles of the Board of Zoning Appeals (BZA) (Revised 1155.05)

(1) Establishment

The City of Mount Vernon Board of Zoning Appeals is hereby established.

(2) Membership and Terms

- A. The BZA shall be composed of a total of five members appointed by the Mayor and approved by City Council.

⁸ After discussions with staff, a change was made to have the Planning Commission review conditional use permit applications rather than the BZA, a common practice by many communities across the state.

- B. The term of all members shall be five years and their terms shall be so arranged that the term of one member shall expire each year.

(3) Alternates

- A. The Mayor may appoint up to two alternate members, with approval from City Council, for a term of one year each.
- B. An alternate member shall take the place of an absent regular member at any meeting of the BZA. An alternate shall also take the place of a regular member that has to recuse themselves or abstain from a discussion or action.
- C. An alternate member shall meet the same appointment criteria as a regular member.
- D. When attending a meeting on behalf of an absent member, the alternate member may vote on any matter the absent member is authorized and eligible to vote for provided the member attended all pertinent public meetings or hearings.
- E. When a vacancy occurs, alternate members do not automatically become full members of the BZA. Alternate members have to be appointed by the Mayor to replace a full member upon a vacancy.

(4) Roles and Powers of the BZA

The BZA shall have the following roles and powers to:

- A. Hear, review, and decide on appeals of any administrative decision where it is alleged there is an error in any administrative order, requirement, decision, or determination made by the Historical Review Commission, ZEO, or other staff member¹⁰ authorized to make such decisions or orders, unless another appeals board is established by this code;
- B. Hear, review, and decide on variance requests in accordance with the applicable provisions of this code;
- C.
- D. Hear, review and make decisions on requests for substitution of nonconforming uses in accordance with Section <>;
- E. Resolve any disputes with respect to the precise location of a zoning district boundary, using, where applicable, the standards and criteria of Section <>;
- F. To permit the completion, restoration, reconstruction, expansion or extension of a nonconforming use where the enforcement of the regulations pertaining to nonconforming lots or buildings will result in unnecessary hardship (See Section <>.); and
- G. Perform any other duties related to the administration and enforcement of this code as authorized by this code or the ORC.

(5) Quorums and Decisions

- A. Any combination of three or more regular or alternate members of the BZA shall constitute a quorum.
- B. A motion made on a decision shall carry when at least three members of the BZA concur.
- C. General business items that do not include decisions on applications, such as continuance or approval of minutes, shall only require a majority of the quorum to concur.
- D. A member of a BZA shall not be qualified to vote if that member did not attend the public hearing of the applicable case subject to a decision unless he or she has read or listened to the transcript of the public hearing.
- E. A member of the BZA shall not be qualified to vote if they have a direct or indirect interest in the issue subject to the application or any other conflict of interest.

(6) Special Provisions for BZA Hearings

- A. the BZA has appellate jurisdiction relative to conditional uses, appeals, and variances.

¹⁰ Depending on later discussions related to administrative decisions made by the Planning Commission or HRC and appeals, this may have to be altered to allow for appeal to BZA if that is what the City wants versus going straight to court.

- B. The BZA shall make findings and conclusions which support all of its decisions. The findings and conclusions shall set forth and demonstrate the manner in which the decision carries out and helps administer and enforce the provisions of this code, including the application of any review criteria for the subject application.
- C. The BZA shall have the power to subpoena and compel the attendance of witnesses, to administer oaths, to compel testimony and to produce reports, findings and other evidence pertinent to any issue referred to it for decision.
- D. Any person may appear and testify at a hearing, either in person or by duly authorized agent or attorney. Comments may also be submitted in writing or verbally to the Community Development Department, and provided to the BZA in advance of the hearing.
- E. The privilege of cross-examination of witnesses shall be accorded all interested parties or their attorney.

(7) Record of Decisions

Immediately following the BZA's decision, the applicant shall be notified of the decision, in writing, including any conditions of approval.

(d) Organization and Roles of the Historical Review Commission (HRC) (Revised 1172.04)

(1) Establishment

The City of Mount Vernon Historical Review Commission (HRC) is hereby established.

(2) Membership and Terms

- A. The HRC shall be composed of the members of the MPC plus two additional members appointed annually by the Mayor and confirmed by City Council. These two additional members shall represent the historical districts and at least one of them shall be a resident freeholder from within the districts.
- B. An attempt shall be made to appoint such additional members from fields or professions related to historic preservation, architecture, building inspection, City planning, or similar directly related fields.
- C. The term of the MPC members of HRC shall be that established by Section <>. For the two additional members, their terms shall be one year.

(3) Alternates

- A. Only alternates approved for the MPC may used as alternates for the MPC members on HRC. See Section <>. No alternates may be appointed for the two additional members appointed who are not members of the MPC.
- B. An alternate member of MPC shall take the place of an absent MPC member at any meeting of the HRC. An alternate shall also take the place of a regular MPC member that has to recuse themselves or abstain from a discussion or action.
- C. When attending a meeting on behalf of an absent MPC member, the alternate MPC member may vote on any matter the absent MPC member is authorized and eligible to vote for provided the member attended all pertinent public meetings or hearings.
- D. When a vacancy occurs, alternate members do not automatically become full members of the HRC. Alternate members have to be appointed by the Mayor to replace a full member upon a vacancy.

(4) Roles and Powers of the HRC

The HRC shall have the following roles and powers to:

- A. Review and make decisions with respect to certificates of appropriateness regarding any change, demolition, construction, preservation, restoration, reconstruction, and rehabilitation of any structure or property within its jurisdiction;
- B. Review and make decisions on certain alternative equivalent compliance applications as it relates to historic district guidelines;
- C. Make recommendations regarding amendments to this code as they affect historic districts and related guidelines and standards;

- D. Act in an advisory role to other officials and departments of local government regarding the protection of local cultural resources; and
- E. Perform any other duties related to the administration and enforcement of this code as authorized by this code or by ordinance of City Council.

(5) Quorums and Decisions

- A. Any combination of four or more regular or alternate members of the HRC shall constitute a quorum.
- B. A motion made on a decision shall carry when at least four members of the HRC concur.
- C. General business items that do not include decisions on applications, such as continuances or approval of minutes, shall only require a majority of the quorum to concur.
- D. A member of a HRC shall not be qualified to vote if that member did not attend the public hearing or meeting of the applicable case subject to a decision unless he or she has read or listened to the transcript of the public hearing or meeting, as applicable.
- E. A member of the HRC shall not be qualified to vote if they have a direct or indirect interest in the issue subject to the application or any other conflict of interest.

1102.05 ADMINISTRATIVE STAFF¹³

(a) Zoning Enforcement Officer (ZEO) (Revised 155.01 and 155.02)

(1) Establishment

The position of City of Mount Vernon ZEO shall be established to aid in the administration and enforcement of this code. The ZEO may be provided with the assistance of such other persons as the Safety Service Director may direct.

(2) Roles and Powers of the ZEO

The ZEO shall have the following roles and powers to:

- A. Enforce the provisions of this code. The ZEO shall have all necessary authority on behalf of the City to administer and enforce the provisions of this code. Such authority shall include the ability to order, in writing, the remedy of any condition found in violation of this code and the ability to bring legal action to ensure compliance with the provisions including injunction, abatement, or other appropriate action or proceeding. All officials and employees of the City may assist the ZEO by reporting to the ZEO any new construction, reconstruction, land uses, or violations that are observed;
- B. Review and provide comments and reports, as needed, for the various procedures where the MPC, HRC, BZA, or City Council reviews an application;
- C. Review and make administrative decisions on zoning permits and administrative waiver applications;
- D. Review and make decisions on questions of interpretation related to this code;
- E. Accept, review for completeness, and respond to questions regarding review procedure applications established in this code;
- F. Participate in any pre-application meetings as may be requested by a property owner or potential applicant in accordance with this code;
- G. Coordinate the City's administrative review of applications required by this code, including, but not limited to, rezoning applications, conditional use applications, and subdivision plats;
- H. Review and make decisions on minor subdivision applications;
- I. Maintain in current status the official zoning map;
- J. Serve as the Secretary of the MPC, BZA, and HRC;
- K. Refer requests for appeals of decisions to the BZA pursuant to the procedures established in Section [202](#);

¹³ Depending on discussion regarding staff level decision-making, we may need to add in references to the Secretary of the Planning Commission and/or the City Engineer.

- L.** Provide such technical and consultation assistance as may be required by the BZA, HRC, the MPC, and City Council, in the exercise of their duties relating to this code;
- M.** Maintain permanent and current records of all applications and the decisions related to those applications;
- N.** Review, inspect property, and make decisions on compliance with the provisions of this code;
- O.** Investigate complaints and issue citations or other forms of enforcement and penalties for any violations and keep adequate records of all violations;
- P.** Order discontinuance of any illegal work being done;
- Q.** Revoke a zoning permit issued contrary to this code or based on a false statement or misrepresentation on the application;
- R.** Recommend to the MPC revocation of conditional use permits where they believe the terms of permits have been violated;
- S.** Take any other action authorized by this code to ensure compliance with or to prevent violation(s) of this code;
- T.** Prepare and submit an annual report to the City Council and MPC on the administration of this code, setting forth such information as may be of interest and value in advancing and furthering the purpose of this code. Such report shall include recommendations concerning the schedule of fees; and
- U.** Undertake any additional work as specified by this code or as directed by the review boards or City Council.

(3) Decisions of the ZEO

A decision of the ZEO may be appealed to the BZA in accordance with Section <> (Appeals) unless another appeals board is established by this code.

Chapter 1103: Review Procedures

1103.01 PURPOSE (NEW)

This chapter establishes the various administrative and board level review procedures used for the administration, interpretation, and enforcement of this code along with the review criteria used for decision-making purposes on individual applications.

1103.02 COMMON REVIEW REQUIREMENTS (NEW)¹⁵

The requirements of this section shall apply to all applications and procedures subject to development review procedures established in this code, unless otherwise stated.

(a) Summary of Review Procedures

[Table 1103-1](#) provides a list of all review procedures utilized in the administration and enforcement of this code, the applicable review authority, the type of review hearing or meeting, and the decision-making responsibility of each review authority.

TABLE 1103-1: SUMMARY OF REVIEW PROCEDURES						
Review Procedure	See Section:	City Council	MPC	BZA	HRC	Staff
Code and Text Amendment	1103.03	PH/D	PH/R			
Alternative Equivalency Review	1103.04		PH/D		PH/D	
Certificate of Appropriateness (COA)	1103.05				PM/D	
Conditional Use Permit	1103.07		AH/D			
Variance	1103.07			AH/D		
Appeals	1103.07			AH/D		
Zoning Permit	1103.08					D
Administrative Waiver	1103.08(f)					D
Minor Subdivision	1103.09					D
Major Subdivision: Preliminary Plat	1103.10		PM/D			
Major Subdivision: Subdivision Modification	1103.10		PM/D			
Major Subdivision: Final Plat and Improvement Plans	1103.10		PM/D			
Major Subdivision: Acceptance of Improvements	1103.10	PM/D				
Interpretation of the Code	1103.11					D
Abbreviations						
PH = Public Hearing AH = Adjudication Hearing PM = Public Meeting R = Recommendation D = Decisions						

¹⁵ This is a new section, proposed in the code audit, that will consolidate all information that is generally applicable to all review procedures.

(b) Authority to File Applications

- (1) Unless otherwise specified in this code, applications for development review procedures defined in this code may be initiated by:
 - A. An owner of the property that is the subject of the application; or
 - B. An agent authorized, in writing, by the owner, which may include a lessee of the property, manager, attorney, or other representative.
- (2) The MPC or City Council may initiate code text and map amendments under this code, with or without written authorization or application from the property owners who may be affected.

(c) Application Submission Schedule

The schedule for the submission of applications in relation to scheduled meetings and hearings of the review bodies shall be established by the ZEO, and made available to the public.

(d) Application Contents

- (1) Applications required under this code shall be submitted to the Development Services office ZEO.
- (2) All applications shall be in a form and in such numbers as established by the ZEO, and made available to the public as part of application forms.
- (3) Applications shall be accompanied by a fee, if required, in accordance with the fee ordinance adopted by City Council pursuant to Section [1103.02\(g\): Fees](#).
- (4) **Complete Application Determination**
 - A. The ZEO shall only initiate the review and processing of applications submitted under this code if such application is determined to be complete.
 - B. An application shall be determined to be complete if the applicant has submitted all of the forms, maps, and other submittal requirements required for the specified application. The ZEO may waive the submission of requirements if such requirements are not needed due to the type or scale of development, or are unnecessary for determining compliance with this code. Such waiver shall be provided to the applicant in writing as part of the record.
 - C. The ZEO shall make a determination of application completeness within five business days of the application filing.
 - D. If the application is determined to be complete, the application shall then be processed according to the procedures and timelines set forth in this code.
 - E. If an application is determined to be incomplete, the ZEO shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected and the ZEO determines that the application is complete.
 - F. The City shall not be required to process an incomplete application, forward an incomplete application to any decision-making body, or be subject to any required timelines of review for incomplete applications.
 - G. If the applicant fails to correct all deficiencies and submit a complete application within 60 days of the notice provided by the ZEO, the incomplete application shall not be reviewed, the applicant's original filing fee shall be forfeited, and the incomplete application shall be deemed withdrawn. The ZEO may grant one 60-day extension if just cause is shown, upon written request by the applicant.
 - H. No reconsideration of an incomplete application shall occur after expiration of the 60-day period, and an applicant in need of further development approval under the code shall, pursuant to all of the original requirements this chapter, submit a new application, and submit a new filing fee.
 - I. If any false or misleading information is submitted or supplied by an applicant on an application, that application shall be deemed incomplete.

(e) Simultaneous Processing of Applications

- (1) Whenever two or more forms of review and approval are required by review boards under this code, the ZEO shall determine the order and timing of review.

- (2) The ZEO may authorize a simultaneous review of applications, so long as all applicable requirements are satisfied for all applications.

(f) Pre-application Conferences or Meetings

- (1) Prior to filing an application, an applicant may request a meeting with the ZEO for a pre-application conference to discuss the proposed application or project.
- (2) An applicant may request a pre-application meeting with a review board for any review procedure in this chapter. The applicant may request such meeting by submitting a written request to the ZEO for placement on the agenda of the next regularly scheduled meeting or any special meeting that may be called by the applicable review board.
- (3) The purpose of the pre-application conference or meeting shall be to discuss the proposed application or project, review submittal requirements, and discuss compliance with the provisions of this code and any applicable plans prior to the submission of an application.
- (4) No action can be taken by the administrative staff and/or any review boards until the applicant submits an actual application and/or plan to the City pursuant to the laws and policies of the City. Therefore, all discussions that occur between the applicant and/or applicant's representative(s) and staff, and/or City review boards, that occur prior to the date the applicant submits an actual application and/or plan including, but not limited to, any informal meetings with City staff, review boards, any pre-application conferences or meetings, are not binding on the City and do not constitute official assurances or representations by the City or its officials regarding any aspects of the plan or application discussed.

(g) Fees

- (1) Any application for a review procedure under this code shall be accompanied by such fee as shall be specified from time to time by ordinance of City Council. There shall be no fee, however, in the case of applications filed by the Mayor, City Council, or any of the review boards.
- (2) The fees shall be in addition to any other fees that may be imposed by the City, Knox County, State, or other agency having jurisdiction.
- (3) Such fees are adopted to cover the cost to the City for investigations, legal advertising, postage, and other expenses resulting from the administration of planning, subdivision, and zoning activities.
- (4) Unless otherwise identified in the fee schedule adopted by City Council, no application shall be processed or determined to be complete until the established fee has been paid.
- (5) If the City determines that the costs on a particular application will exceed the filing fee as established by City Council as a result of preparation of legal descriptions, maps, studies, or other required information, or as a result of the need for professional expert review, study, or testimony, the ZEO is authorized to collect such additional costs from the applicant.
- (6) Application fees are not refundable except where otherwise stated in this code or where the ZEO determines that an application was accepted in error, or the fee paid exceeds the amount due, in which case the amount of the overpayment will be refunded to the applicant.

(h) General Provisions for Attendance and Decisions

- (1) Whenever a provision of this code allows for or requires attendance at a meeting or hearing by the applicant, the applicant may attend in person, may have an authorized representative attend in their place, or may provide the ZEO written comments in advance of the meeting or hearing.
- (2) Whenever a provision in this code requires a decision to be provided in writing, or communication in writing, then such provision shall be interpreted to allow for such communication by e-mail unless otherwise stated, required by law, or requested by the applicant.

(i) Public Notification for Public Meetings

For all public meetings required by this code, the City shall comply with this code and all applicable State notice requirements.

(j) Public Notification for Public Hearings

- (1) Applications for development approval that require public hearings, including all adjudication hearings, shall comply with all applicable State requirements and the public meeting notice requirements established in Section [1103.02\(i\)](#), above.
- (2) The ZEO shall be responsible for providing the required notice as specified in [Table 1103-2](#).

(3) Content

Notices for public hearings, whether by publication or mail (written notice), shall, at a minimum:

- A.** Provide the name of the applicant or the applicant's agent;
- B.** Indicate the date, time, and place of the public hearing;
- C.** Describe the land involved by street address, Knox County parcel identification number (as applicable), or by legal description; and
- D.** Describe the nature, scope, and purpose of the application or proposal.

(4) Notice Requirements

Published and mailed notice for public hearings shall be provided as defined in [Table 1103-2](#).

TABLE 1103-2: NOTICE REQUIREMENTS		
Review Procedure	Published Notice	Written (Mailed) Notice
Code Text Amendment		No written notice is required for a text amendment.
Zoning Map Amendment	Published notice required a minimum of 7 days before the scheduled public hearing of MPC and 30 days before the scheduled public hearing of City Council	Written notice shall be sent to all applicant and all owners of property within, contiguous, and across the street from the boundary of all properties subject to the application. The notice shall be required a minimum of 7 days before the scheduled public hearing of MPC and 20 days before the scheduled public hearing of City Council Written notice shall not be required where the application involves more than 10 individual lots.
Planned Development Notification	To be added ²¹	To be added
Conditional Use Permit, Variances, Appeals, and Alternative Equivalency Reviews ²²	Published notice required a minimum of 10 days before the scheduled public hearing of BZA or MPC, as applicable.	Written notice to the applicant and "all parties of interest" that includes, but is not limited to, the applicant (or person making an appeal), and all adjacent property owners. The notice shall be required a minimum of 10 days prior to the scheduled public hearing of BZA or MPC, as applicable.

(5) Published Notice

- A.** Published notice shall be provided in a newspaper of general circulation. The City may also provide additional published notice by posting of the notice in City buildings or by electronic media including, but not limited to, posting online at the City's website.
- B.** The content and form of the published notice shall be consistent with the requirements of this section and State law.

(6) Written Notice

- A.** Written notice shall be provided by first class mail, unless otherwise stated.
- B.** Written notification of property owners shall apply only to the initial presentation of the application for the public hearing in front of the applicable review board.
- C.** Written notice shall be postmarked no later than the amount of days specified in [Table 1103-2](#) prior to the hearing date at which the item will be considered.
- D.** Where written notice is required, it shall be mailed to the address of such owners appearing on the County Auditor's current list or the County Treasurer's mailing list.

²¹ This will be added upon further discussion of the draft PD District.

²² DISCUSSION – We will be discussing which board should review the alternative equivalency review later in this chapter.

(7) Constructive Notice

- A.** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall direct the department having responsibility for notification to make a formal finding as to whether there was substantial compliance with the notice requirements of this code, and such finding shall be made available to the decision-making body prior to final action on the request.
- B.** When the records of the City document the publication, mailing, and/or posting of notices as required by this chapter, it shall be presumed that notice of a public hearing was given as required by this section.

(k) Conduct of Public Hearing

(1) Rights of All Persons at Public Hearings

Any person may appear at a public hearing and submit information or evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state their address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

(2) Continuance of a Public Hearing or Deferral of Application Review

- A.** An applicant may request that a review board's consideration of an application at a public hearing be deferred by submitting a written or verbal request for deferral to the ZEO prior to the publication of notice, as may be required by this code. The ZEO may grant such requests, in which case, the application will be considered at the next regularly scheduled meeting.
- B.** A request for deferral of consideration of an application received by the ZEO after publication of notice of a public hearing, as required by this code, shall be considered as a request for a continuance of the public hearing, and may only be granted by the applicable review board.
- C.** The review board conducting the public hearing may, on its own motion or at the request of the applicant, continue the public hearing to a fixed date, time, and place, provided the date, time, and place is publicly announced at the time of continuance. No additional written or published notice shall be required.

(l) Withdrawal of Application

- (1)** Any request for withdrawal of an application shall be either submitted in writing to the ZEO or made through a written request by the applicant prior to action by the City Council or applicable review board.
- (2)** After request for withdrawal has been received, the ZEO will then withdrawal the application from any agenda and no further action will be taken. Any future request for action will require a new application and fee in accordance with this code.

(m) Examination and Copying of Application and Other Documents

Documents and/or records related to applications may be inspected and/or copied as provided for by State law.

(n) Effect of any Approvals

- (1)** The issuance of any approval or permit under this code shall authorize only the particular development, alteration, construction, or use approved in the subject application.
- (2)** All approvals shall run with the land or use and shall not be affected by change in ownership provided there is no change in use and all conditions of approval continue to be met.

(o) Modifications or Amendments of Approved Applications

- (1) For any review procedure, the ZEO is authorized to allow minor changes related to design of an approved application where the change is insignificant and has minimal impact to the overall design of the development or subdivision, does not increase density, or is necessary to address minor technical issues. This shall not give the ZEO the authority to vary the requirements of this code or any conditions of approval.²³
- (2) Where the ZEO determines that the proposed modification, amendment, or change is not minor, as stated above, the applicant shall be required to resubmit an application and payment of additional fees for the application to be reviewed in accordance with the procedures and standards established for its original approval.

(p) Reapplication after Denial of an Application²⁴

If an application is denied, the applicant may:

- (1) Appeal the decision in accordance with the applicable appeals procedure established for the procedure in this code, or as granted by State Law; or
- (2) Make changes to the application that will fully address all issues and findings identified for the denial and resubmit a new application, including any required fees. Any such resubmission shall contain evidence that shows how the new application has substantially changed to address each of the findings of the original decision. The ZEO shall have the authority to determine if the evidence submitted substantially changes the application to address all issues as part of the complete application determination in [1103.02\(d\)\(4\)](#). If it does not, the ZEO shall return the application, with reasons for their determination in writing, along with any submitted fees;
- (3) Submit the same application after a 12-month waiting period; or
- (4) Submit a new application if the proposed use and design of the site will be entirely different than the denied application.

(q) Subsequent Development

- (1) Development authorized by any approval under this section and this code shall not be carried out until the applicant has secured all other approvals required by this code or any other applicable provisions of the City's Codified Ordinances.
- (2) The granting of any approval or permit shall not guarantee the approval of any other required permit or application.
- (3) The City shall not be responsible for reviewing the application for compliance with any permits, certificates, or other approvals that may be required by Knox County, the State, or other agencies having jurisdiction.

(r) Records

The City shall maintain permanent and current records of all applications and the decisions related to those applications in City Hall.

(s) Computation of Time

- (1) In computing any period of time prescribed or allowed by this code, the date of the application, act, decision, or event, from which the designated period of time begins shall not be included. The last date of the period of time to be computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday observed by the City of Mount Vernon where the City administrative offices are closed for the entire day, in which case the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.
- (2) When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation (i.e., business days and not calendar days).

²³ This is a new provision that would allow for very minor, technical adjustments after approval.

²⁴ This is an expanded clarification of the city's current re-submission provisions, which states that there is one-year time frame unless the application is revised.

- (3) When the City offices are closed to the public for the entire day which constitutes the last day of the period of time, then such application, act, decision, or event may be performed on the next succeeding day which is not a Saturday, a Sunday, or a legal holiday observed by the City of Mount Vernon in which the City administrative offices are closed for the entire day.
- (4) If a timeframe does not specify business or calendar days, such timeframe shall be interpreted to be calendar days.

1103.03 CODE TEXT AND MAP AMENDMENTS (REVISED CHAPTER 1156)

(a) Purpose

The purpose of the code text and zoning map amendment procedure is to provide a process for amending the zoning map and/or text of this code.

(b) Applicability

This section shall apply to requests to amend the text of this code or amend the Zoning District Map of the City of Mount Vernon, Ohio.

(c) Initiation

- (1) For a zoning map amendment of a specific property, any person who has authority to file an application (See Section [<>](#).) for such property may initiate an amendment by filing an application with the ZEO. Where the application involves multiple properties, at least one person having authority to file an application for each property shall be required to sign the application.²⁵
- (2) Only City Council or the MPC may initiate code text amendments, however, any member of the public may request that the MPC or City Council consider a text amendment during their respective public meetings.
- (3) City Council may initiate a code text or map amendment by adopting a resolution that refers the amendment to the MPC.
- (4) The MPC may initiate a code text or map amendment by adopting a motion to make such amendment.

(d) Code Text or Map Amendment Review Procedure

The review procedure for a code text or map amendment shall be as follows:

(1) Step 1 – Pre-Application Meeting (Optional)

An applicant may request to have a pre-application meeting with the ZEO and/or MPC to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1103.02\(f\)](#).

(2) Step 2 – Application

- A. For amendments that are not initiated by the MPC or City Council, the applicant shall submit an application in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.
- B. Amendments initiated by City Council shall be referred to the MPC for initiation of review.
- C. Once the application is determined to be complete, the ZEO shall fix a date for a public hearing before the MPC (Step 4).

(3) Step 3 – Administrative Staff Review

- A. Upon determination that a text or zoning map amendment application is complete, the ZEO shall forward the application to the MPC and may distribute the application to other departments or agencies for review and comment.
- B. The ZEO may³⁰ consolidate any comments from the public received in advance of the hearing and comments from the any City departments or other agencies into a report for the MPC to review as part of Step 4.

²⁵ The current language states one owner or lessee of property “within the area proposed to be change” is required but that could be interpreted to allow for one person to initiate an rezoning of someone else’s property so we have clarified that all property owners have to agree to the rezoning.

³⁰ Note that this provision uses the permissive “may” so that it is not an absolute that there will be a staff level report.

(4) Step 4 – MPC Review and Recommendation

- A. The MPC shall review the amendment application at a public hearing at the next regularly scheduled MPC meeting or at a special meeting.
- B. Notification of the public hearing shall be provided in accordance with Section [1103.02\(j\)](#).
- C. In addition to the general notification above, the ZEO shall give notice by registered or certified mail to the State Director of Transportation of the initiation of any proposed amendment that:
 - i. Affects any land within 300 feet of a proposed new highway; or
 - ii. Affects any land within 300 feet of any proposed changes to a highway as described in certification to local officials by the State Director of Transportation; or
 - iii. Affects any land within 500 feet from a proposed intersection of such a new highway and any existing public road or highway.
 - iv. If the Director of Transportation's response is negative, the MPC will stay their proceedings until the reason for the negative response is resolved.
- D. In reviewing the application, MPC shall, at a minimum, consider the review criteria of this section.
- E. The MPC shall make a recommendation to City Council regarding the application. In making its recommendation, the MPC may recommend approval, approval with some modification, or denial of the application.
- F. If the MPC fails to make a recommendation within 30 days following the close of the public hearing, or an extended timeframe approved by the applicant, the application will move forward to Step 5 without a specific recommendation.³¹

(5) Step 5 – City Council Review and Decision

- A. Following receipt of the recommendation from the MPC (Step 4), the application shall be placed on City Council's agenda for the next regularly scheduled meeting, if in compliance with notification requirements, or City Council shall set a time for a public hearing on the proposed amendment that is no more than 60 days³² from receipt of the MPC's recommendation, or an extended timeframe approved by the applicant.
- B. Notification of the public hearing shall be provided in accordance with Section [1103.02\(j\)](#).
- C. City Council shall review a text or zoning map amendment application during the public hearing. In reviewing the application, City Council shall, at a minimum, consider the recommendation from MPC, if made, and the review criteria of this section.
- D. Within 90 days of the close of the public hearing, City Council shall adopt, adopt with some modification, or deny the recommendation of the MPC.
 - i. If City Council moves to adopt the recommendation of MPC, such action shall only require concurring vote of four members of City Council.
 - ii. If City Council moves to adopt the recommendation of MPC with some modification, or deny the recommendation, such action shall require a favorable vote of six members of City Council.
- E. No such ordinance shall be passed unless it has been fully and distinctly read on three different days except that such ordinance may become emergency legislation if six members of City Council vote to dispense with this rule.

(e) Review Criteria³³

The review of code text or map amendment applications by MPC and City Council shall be based on consideration of the following review criteria. Not all criteria may be applicable in each case, and each case shall be determined on its own facts.

³¹ The current ordinance gives the Planning Commission 15 days to make a recommendation, I have suggested increasing that to 30 days to allow for a decision during the next regularly scheduled meeting. Also, it appears that City Council can hear the amendment even if the PC does not act so I have tried to clarify this.

³² This deadline is not in the current ordinance but many communities establish a base deadline just to provide some level of predictability.

³³ This language expands on some of the criteria established in the existing Chapter 1156.

- (1) The proposed amendment is compatible with the use of adjacent land, adjacent zoning, and with land use plans for the general area;
- (2) The proposed amendment is necessary or desirable because of changing conditions, new planning concepts, or other social or economic conditions;
- (3) The proposed amendment will promote the public health, safety, convenience, comfort, prosperity and general welfare;
- (4) The proposed amendment, if amending the zoning map, is consistent with the stated purposes of the proposed zoning district;
- (5) The proposed amendment, if amending the zoning map, follows lot lines or the centerlines of streets, railroads, or other rights-of-way, to the maximum extent feasible.
- (6) The proposed amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- (7) The proposed amendment will not constitute a significant impact on public facilities, general expansion plans of the City, and the City's schedule for improvement of capital facilities;
- (8) The proposed amendment will not constitute spot zoning where special treatment is given to a particular property or property owner that would not be applicable to a similar property, under the same circumstances; and/or
- (9) The proposed amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject tract including, but not limited to, traffic flow and pedestrian safety.

(f) Effective Date And Referendum

- (1) Any text or zoning map amendment adopted by City Council shall become effective 30 days after the date of such adoption unless within 30 days after the passage of the ordinance there is presented to the City Clerk a petition, signed by a number of qualified voters residing in the city equal to not less than 10 percent of the total vote cast in such area at the last preceding general election at which a Governor was elected, requesting the City Council to submit the zoning amendment to the electors of the City for approval or rejection at the next general election.
- (2) No amendment for which such referendum vote has been requested shall be put into effect unless a majority of the vote cast on the issue is in favor of the amendment has been approved by the voters, it shall take effect immediately.

1103.04 ALTERNATIVE EQUIVALENCY REVIEW (NEW)⁴⁰

(a) Purpose

The alternative equivalency review is a procedure that allows applicants to propose a unique design option as an alternative to a development standard established in this code, provided it meets or exceeds the intent of the design-related provisions of this code. It is not a variance, waiver, or weakening of regulations. Rather, this procedure permits a site-specific plan that is equal to or better than the strict application of a design standard specified in this code. An alternative equivalency review approval shall apply only to the specific site for which it is requested and does not establish a precedent for assured approval of other requests.

(b) Applicability

The alternative equivalency review procedure shall be available only for the following sections of this code:⁴¹

- (1) Section <>: [Outdoor Lighting](#);
- (2) [Chapter <>: Architectural Standards](#)
- (3) [Chapter <>: Landscaping](#)
- (4) [Chapter <>: Parking](#)
- (5) Any design standards or guidelines that apply to a historic district.

⁴⁰ This is the new procedure that was proposed as part of the code audit.

⁴¹ This list of sections may change after we review all the different standards that will be a part of this code as well as a final determination on where any historic standards and guidelines might be incorporated.

(c) **Review Timing and Review Board**

- (1) An alternative equivalency review that is not related to a COA application shall be reviewed by the MPC in accordance with the procedure below..
- (2) An alternative equivalency review that is related to a COA application shall be made concurrently with a COA application, if applicable, with notice for the public hearing as set forth in this section.

(d) **Alternative Equivalency Review Procedure**

The review procedure for any alternative equivalency review application shall be as follows:

(1) **Step 1 – Application**

The applicant shall submit an application in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.

(2) **Step 2 – Administrative Staff Review and Transmission to the MPC or HRC**

- A. Upon determination that an alternative equivalency review application is complete, the ZEO shall forward the application to the MPC or HRC, as applicable, and may distribute the application to other departments or agencies for review and comment.
- B. The ZEO may consolidate any comments from the public received in advance of the meeting and comments from any City departments or other agencies into a report for the MPC or HRC, as applicable to review as part of Step 4.

(3) **Step 3 – MPC or HRC Review and Decision**

- A. Within 30 days after the application is determined to be complete, or an extended timeframe approved by the applicant, the MPC or HRC, as applicable, shall review the application at a public hearing.
- B. Notification of the public hearing shall be provided in accordance with Section [1103.02\(j\)](#).
- C. In reviewing the application, the MPC or HRC, as applicable shall, at a minimum, consider the reports and opinions transmitted by the ZEO and the review criteria of this section.
- D. The MPC or HRC, as applicable, shall make a decision on the application. In making its decision, the MPC or HRC, as applicable, may approve, approve with modifications or supplementary conditions, or deny the application.
- E. If the MPC or HRC, as applicable, fails to act within 30 days after close of the public hearing, or an extended period as may be agreed upon by the applicable board, and applicant, then the application shall be considered denied.
- F. If approved, any zoning permit, COA, or other related applications shall demonstrate compliance with the alternative equivalency review approval.

(e) **Review Criteria**

Decisions on an alternative equivalency review application shall be based on consideration of the following criteria:

- (1) That the proposed alternative achieves the intent of the subject design or development standard to the same or better degree than the subject standard;
- (2) That the proposed alternative achieves the goals and policies of any adopted plans to the same or better degree than the subject standard;
- (3) That the proposed alternative results in benefits to the community that are equivalent to or better than compliance with the subject standard; and
- (4) That the proposed alternative imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this code.

(f) **Conditions**

The MPC or HRC, as applicable, may impose conditions on an approval for an alternative equivalency review, provided such conditions are related to ensuring the performance of the alternative equivalency review to meet or exceed the subject standard. Such conditions may include required timeframes, amendments or revisions to the proposal, or the ability to revoke an approval for an alternative equivalency review.

(g) **Decisions**

Any decision on an alternative equivalency review application shall not be binding on the City related to future applications requesting an alternative to any of the applicable standards. Each case shall be reviewed and decided upon based on the individual circumstances.

(h) **Time Limit**

- (1) An approval of an alternative equivalency review application shall expire if the zoning permit or COA approval, as applicable, expires.
- (2) Upon expiration of an alternative equivalency review approval, a new application, including all applicable fees, shall be required before a new application will be reviewed.

(i) **Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the MPC shall have the right to appeal the decision to the court of common pleas of the applicable county, as provided in ORC Chapters 2505 and 2506.

1103.05 CERTIFICATE OF APPROPRIATENESS (COA) (REVISED 1172.03)

(a) **Purpose**

The purpose of the COA is to provide a procedure by which to review construction, renovation, expansion, and demolition projects within a locally or nationally designated historic district or for locally or nationally designated historic properties. In an effort to preserve the character of these properties and districts, the City has established reasonable development standards and design guidelines for buildings and structures, and this procedure allows for a comprehensive review of the activities against the adopted standards and guidelines.

(b) **Applicability**

- (1) No person shall make any exterior construction, reconstruction, alteration, or demolition of a structure on any property within a Historic Overlay District unless a COA has been approved by the HRC and a zoning permit and building permit, if required, has also been issued.
- (2) Site improvements, such as the establishment of a parking lot, landscaping, or other site work, or any changes to components of a property not specifically identified by the code that applies to the subject property, shall not require a COA.
- (3) Projects and activities that are exempt from the COA review procedure include:⁴⁴
 - A. The reconstruction, alteration or demolition of a structure or feature which has been ordered by the Building Official upon certification of an unsafe condition constituting an emergency;
 - B. Painting or general maintenance of a structure that does not alter exterior architectural features;
 - C. Changes in occupancy not involving structural or exterior work; and
 - D. Any interior renovations which will not alter and/or affect the exterior elevations or facade of the building or structure or any architectural features that are visible from the outside.

(c) **COA Review Procedure**

The review procedure for a COA shall be as follows:

(1) **Step 1 – Pre-Application Meeting (Optional)**

An applicant may request to have a pre-application meeting with the ZEO or the HRC to informally discuss the application and any concept plans. Such meeting shall be subject to Section [1103.02\(f\)](#).

(2) **Step 2 - Application**

- A. The applicant shall submit an application in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.
- B. In making application, the ZEO or the HRC may request that the applicant provide exhibits, sketches, examples of materials, renderings, or other documentation to assist in their decision.

⁴⁴ These are new provisions common to historic preservation reviews.

(3) Step 3 - Administrative Staff Review

Upon determination that a COA application is complete, the ZEO shall refer the application to the MPC.

- A. Upon determination that an HRC application is complete, the ZEO shall forward the application to the HRC and may distribute the application to other departments or agencies for review and comment.
- B. The ZEO may consolidate any comments from the public received in advance of the meeting and comments from any City departments or other agencies into a report for the HRC to review as part of Step 4.

(4) Step 4 – Historical Review Commission Review and Decision

- A. The HRC shall review the COA application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.
- B. The HRC shall, at a minimum, consider the review criteria of this section.
- C. Notification of the public meeting shall be provided in accordance with Section [1103.02\(i\)](#).
- D. Within 30 days after the COA application is determined to be complete, or an extended timeframe approved by the applicant, the MPC shall hold a public meeting to review the application and make a decision on the application. In making its decision, the MPC may approve, approve with modifications, or deny the application. The MPC shall make every effort to work with the applicant within this time period to develop a proposal that the MPC can approve or approve with modifications.
- E. The time period shall be extended to 60 days from a public hearing, if the HRC is required to hold a hearing to undertake an alternative equivalency review (See Section [<>](#).)
- F. If a COA is denied, the City shall not issue any permits that would allow modifications for which the COA was denied. In cases where the HRC has denied a COA, the HRC shall state the reasons for such disapproval in writing and transmit the written statement to the applicant together with any recommendation the HRC may have made for appropriate changes.
- G. If the HRC fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.
- H. If a zoning permit is required for the subject work, the applicant may proceed with applying for the zoning permit following approval of the COA. Such zoning permit applications shall comply with the COA approval and any related modifications.

(d) Determining the Significance of a Structure (New)⁴⁶

- (1) When making decisions or recommendations about changes to structures in the applicable Historic Overlay Districts, the HRC shall have the authority to make a determination of the historical or architectural significance of the structure based on this section.
- (2) For structures that the HRC finds are not historically or architecturally significant, the HRC may relax or waive the standards or guidelines that apply to the project.
- (3) If the HRC finds that the structure is historically or architecturally significant, the standards and guidelines of this code shall be fully applied as determined by the HRC.
- (4) The HRC shall determine whether a structure or site is significant based on the structure's:
 - A. Value as a reminder of the cultural, historical, or archaeological heritage of the City, State, or nation;
 - B. Location as a site of a significant local, State, or national event;
 - C. Identification with a person or persons who significantly contributed to the development of the City, State, or nation;
 - D. Identification as the work of a master builder, designer, or architect whose individual work has influenced the City, State, or nation;

⁴⁶ This is a new section that the City might want to consider that allows the HRC to first consider how significant the structure is before making a decision. If they find that it is not a significant structure, they can be more lenient in their findings versus if it is a significant structure. For example, if someone is requesting to demolish an accessory building that has no architectural significance and is not visible, the HRC can approve the demolition quickly.

- E. Value as a building that is recognized for the quality of its architecture and that it retains sufficient elements showing such architectural significance;
- F. Example of an architectural style or period; and/or
- G. Character as a contributing element in a locally or nationally designated historic district.

(e) Review Criteria

Decisions on a COA application shall be based on consideration of the following criteria:

- (1) The proposed development is in compliance with all the requirements of this code and other related codes and ordinances enforced by the City;
- (2) The proposed development incorporates any applicable standards or guidelines (See Section [1110.03.](#)), to the maximum extent feasible;
- (3) The proposed development meets all the requirements or conditions of any applicable development approvals (e.g., conditional use permit approvals, variance approvals, etc.); and
- (4) There is no feasible and prudent alternative alteration or change which would conform to the guidelines, and adhering to the guidelines would deny the owner a reasonable rate of return on the real property or amount to a taking of property without just compensation.

(f) Time Limit

- (1) The applicant shall submit a completed application for a zoning permit within one year of the date that the COA was approved or the approval shall expire. The date of approval shall be the date the ZEO issues the COA.
- (2) Upon expiration of a COA, a new application, including all applicable fees, shall be required before a new application will be reviewed.
- (3) Upon written request, one extension of six months may be granted by the ZEO if the applicant can show good cause for a delay.
- (4) The HRC may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(g) Appeals

If the applicant and HRC do not come to any conclusion on an alternative plan, then any person or entity claiming to be injured or aggrieved by any final action of the HRC shall have the right to appeal the decision to the BZA as established in Section <>.

1103.06 CONDITIONAL USE PERMIT

(a) Purpose

The purpose of a conditional use permit procedure is to allow consideration for certain uses that, due to their unique and special nature relative to location, design, size, operations, circulation, and general impact on the community, need to be evaluated on a case-by-case basis.

(b) Conditional Use Permit Review Procedure

The review procedure for a conditional use shall be as follows:

(1) Step 1 – Application

The applicant shall submit an application in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.

(2) Step 2 – Administrative Staff Review

- A. Upon determination that a conditional use permit application is complete, the ZEO shall forward the application to the MPC and may distribute the application to other departments or agencies for review and comment.
- B. The ZEO may consolidate any comments from the public received in advance of the hearing and comments from any City departments or other agencies into a report for the MPC to review as part of Step 3.

(3) Step 3 – MPC Review and Decision

- A.** The MPC shall hold a public hearing within 30 days of the determination that the conditional use permit application is complete, provided adequate notification is provided pursuant to Section [1103.02\(i\)](#).
- B.** In reviewing the application, the MPC shall, at a minimum, consider the review criteria of this section.
- C.** The MPC may request that the applicant supply additional information that the MPC deems necessary to review and evaluate the application.
- D.** Within 30 days of the close of the public hearing, or an extended timeframe approved by the applicant, the MPC shall render a decision. In making its decision, the MPC may approve, approve with modifications or supplementary conditions, or deny the application.
- E.** The ZEO shall notify the applicant of the decision of the BZA.
- F.** If the MPC fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.
- G.** The decision of the MPC shall become effective immediately.
- H.** In approving a conditional use permit, the MPC may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to be ensure compliance with the standards of this section and the purposes of this code. Any conditions established by the MPC shall relate directly to the requested variance or conditional use permit, as applicable.
- I.** Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of [Chapter <>](#).

(c) Review Criteria

Decisions on a conditional use permit application shall be based on consideration of the following review criteria. All conditional use permit applications shall be subject to review under the criteria of this section, as applicable, and may also be subject to additional use-specific standards, as established in this code.

- (1)** The proposed conditional use is established as an allowed conditional use in the applicable zoning district;
- (2)** The proposed use is consistent with the spirit, purposes and intent of adopted plans, the general purposes of this code, and the purposes of the zoning district in which the conditional use will be located;
- (3)** The proposed use complies with any use-specific standards as may be established for the use as may be established in this code;
- (4)** The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, convenience, comfort, prosperity or general welfare;
- (5)** The proposed use will comply with all applicable development standards unless an alternative equivalency review or variance is approved in accordance with this code;
- (6)** The proposed use will be harmonious with the existing or intended character of the general vicinity, and such use will not change the essential character of the same area;
- (7)** The conditional use will not be hazardous or disturbing to the existing and future use and enjoyment of property in the immediate vicinity for the uses permitted, nor substantially diminish or impair property values within the neighborhood;
- (8)** The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (9)** Adequate public facilities and services such as highways, street, police and fire protection drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use will be or are being provided;
- (10)** Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets, and adequate consideration has been given to the proximity of access drives to street intersections relative to the anticipated volume of traffic;

- (11) The design of the buildings, structures, and site will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance;
- (12) The use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance;
- (13) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible; and
- (14) Wherever there are no use-specific standards for the proposed use related to street frontage, height, setbacks, or other lot and site regulations, then such use shall be subject to the lot and site regulations for the applicable zoning district.

(d) Time Limit

- (1) A conditional use permit approval shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than six months.⁴⁸
- (2) The applicant shall submit a completed application for a zoning permit and start work within one year of the date a conditional use permit was approved or the approval shall expire.
- (3) Upon expiration of a conditional use permit, a new application, including all applicable fees, shall be required before a conditional use permit application will be reviewed.
- (4) Upon written request, one extension of six months may be granted by the ZEO if the applicant can show good cause for a delay.
- (5) As part of the conditional use permit approval, the MPOC may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(e) Revocation of a Conditional Use Permit Approval

The breach of any condition, safeguard, or requirement shall automatically invalidate the conditional use permit approval, and shall constitute a violation of this code. Such violation shall be punishable as specified in Section <>.

(f) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the MPC shall have the right to appeal the decision to the court of common pleas of the applicable county, as provided in ORC Chapters 2505 and 2506.

1103.07 VARIANCES AND APPEALS⁴⁹

(a) Purpose

The purpose of this section is to define the procedures that are reviewed by the BZA and provide appropriate review criteria for each procedure. The specific purpose statements for each procedure are as follows:

(1) Purpose of the Variance Procedure

The purpose of a variance is to provide limited relief from the requirements of this code in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under this code. It is not intended that a variance be granted merely to remove inconveniences or financial burdens that the requirements of this code may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

(2) Purpose of the Appeals Procedure

The appeals process is the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision made in the administration or enforcement of this code.

⁴⁸ This is new to the City.

⁴⁹ This is a consolidation of several sections in the current Chapter 1555.

(b) Appeals Applicability, Initiation, and Forwarding of the Record

- (1) An appeal may be made regarding any administrative decision made in the administration and enforcement of this code including, but not limited to, administrative decisions by the ZEO.
- (2) Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the authority having jurisdiction who is charged with the administration or enforcement of this code.
- (3) An appeal may not be made to the BZA when the MPC is making a recommendation to City Council as part of a legislative action such as a code text or map amendment.
- (4) Within 20 days of an administrative order, decision, determination, or interpretation, the person appealing the decision or their authorized agent shall submit all required information to the ZEO in accordance Section [1103.02: Common Review Requirements](#).
- (5) Upon receiving the written appeal of an administrative order, decision, determination or interpretation, the ZEO shall transmit the written appeal with all papers, documents, and other materials related to the appealed order, decision, determination or interpretation to the BZA. This material shall constitute the record of the appeal.

(c) Review Procedure

The review procedure for all conditional use permits, variances, and appeals shall be as follows:

(1) Step 1 – Application

- A. Any application or submission for an appeal shall be undertaken in accordance with Section <>, above.
- B. For variance applications, the applicant shall submit an application in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.

(2) Step 2 – Administrative Staff Review

- A. For appeals, there shall be no internal staff review required outside of forwarding the record to the BZA in accordance with Section <>, above.
- B. Upon determination that a variance application is complete, the ZEO shall forward the application to the BZA and may distribute the application to other departments or agencies for review and comment.
- C. The ZEO may consolidate any comments from the public received in advance of the hearing and comments from any City departments or other agencies into a report for the BZA to review as part of Step 3.

(3) Step 3 – BZA Review and Decision

- A. The BZA shall hold a public hearing within 30 days of the filing of an appeal or the date the ZEO determines the variance application is complete, provided adequate notification is provided pursuant to Section [1103.02\(i\)](#).
- B. In reviewing the application, the BZA shall, at a minimum, consider the review criteria of this section.
- C. The BZA may request that the applicant supply additional information that the BZA deems necessary to review and evaluate the appeal or applications.
- D. Within 30 days of the close of the public hearing, or an extended timeframe approved by the applicant, the BZA shall render a decision. In making its decision, the BZA may approve, approve with modifications or supplementary conditions, or deny the application.
- E. In making its decision, the BZA shall make specific findings of fact, based directly on the particular evidence presented. The findings of fact shall state that the reasons set forth in the application and as presented by the applicant during the public hearing justify either:
 - i. Approval of the application;
 - ii. Approval with modifications or supplementary conditions; or
 - iii. Denial of the variance application.
 - iv. In approving any variance, the BZA must find that such approval will make possible a reasonable use of the land, building, or structure.
- F. The ZEO shall notify the applicant, in writing, of the decision of the BZA.

- G. If the BZA fails to make a recommendation within the established timeframe, or an extended timeframe approved by the applicant, the application shall be deemed denied.
- H. The decision of the BZA shall become effective immediately.
- I. In approving a variance, the BZA may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as it determines are required to ensure compliance with the standards of this section and the purposes of this code. Any conditions established by the BZA shall relate directly to the requested variance.
- J. Any violation of the conditions of approval shall be a violation of this code, subject to the enforcement and penalties of [Chapter <>](#).

(d) Variance Review Criteria⁵⁰

Variances shall not be granted on the grounds of convenience, financial hardship or profit, but only where strict application of the provisions of this Zoning Ordinance would result in a practical difficulty or unnecessary hardship as defined in more depth below.

(1) Area or Dimensional Variance

Where an applicant is seeking an area or dimensional variance, the following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify approval of the variance. However, no single factor listed below may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts. The application for a variance shall not be based exclusively upon a desire to increase the value or income potential of the parcel of land or any structures or uses thereupon. The BZA shall take into consideration:

- A. Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district. Examples of such special conditions or circumstances are exceptional irregularity, narrowness, shallowness or steepness of the lot, or proximity to nonconforming and inharmonious uses, structures or conditions;
- B. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- C. Whether the variance is the minimum necessary to make possible the reasonable use of the land or structures;
- D. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
- E. Whether the variance would adversely affect the delivery of governmental services such as water, sewer, or trash pickup;
- F. Whether special conditions or circumstances exist as a result of actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- G. Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- H. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance;
- I. Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district; and
- J. Whether a literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code.

(2) Use Variance

In order to grant a use variance, the BZA shall determine that strict compliance with the terms of this code will result in unnecessary hardship to the applicant. The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

⁵⁰ This is a greatly expanded set of standards for both area/dimensional variances and use variances that builds off of the current standards but is also reflective of standards found in case law. The area/dimensional variance is based off of a finding of a practical difficulty while the use variance is based off of a finding of an unnecessary hardship.

- A. The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located;
- B. The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
- C. The hardship condition is not created by actions of the applicant (actions of the applicant shall not include the purchase or acquisition of the property);
- D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- E. There is an existing building on the lot and such building, due to its design, cannot be reasonably reused for a permitted use in the district;⁵¹
- F. The granting of the variance will not adversely affect the public health, safety, convenience, comfort, prosperity or general welfare;
- G. The variance will be consistent with the general spirit and intent of this code; and
- H. The variance sought is the minimum that will afford relief to the applicant.

(e) **Appeals Review Criteria**

An administrative order, decision, determination or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination or interpretation fails to comply with either the procedural or substantive requirements of this code.

(f) **Stay (Revised 1155.12)**

A properly submitted appeal shall stay all administrative proceedings by the City in furtherance of the action appealed, unless the ZEO certifies to the BZA that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the BZA or by a court of competent jurisdiction, for good cause shown.

(g) **Time Limit**

- (1) A conditional use permit approval shall be deemed to authorize only one particular conditional use and said permit shall automatically expire if, for any reason, the conditional use shall cease for more than six months.⁵²
- (2) The applicant shall submit a completed application for a zoning permit and start work within one year of the date a conditional use or variance was approved or the approval shall expire.
- (3) Upon expiration of a conditional use permit or variance approval, a new application, including all applicable fees, shall be required before a conditional use permit or variance application will be reviewed.
- (4) Upon written request, one extension of six months may be granted by the ZEO if the applicant can show good cause for a delay.
- (5) As part of the conditional use permit or variance approval, the BZA may authorize alternative time limits for zoning permit issuance based on the scale of the proposed development.

(h) **Revocation of a Conditional Use Permit Approval**

The breach of any condition, safeguard, or requirement shall automatically invalidate the conditional use permit approval, and shall constitute a violation of this code. Such violation shall be punishable as specified in Section <>.

(i) **Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the BZA shall have the right to appeal the decision to the court of common pleas of the applicable county, as provided in ORC Chapters 2505 and 2506.

⁵¹ This is a standard I have used often in the criteria for a use variance that would allow for the preservation of buildings that may not easily be adaptively reused by a permitted use.

⁵² This is new to the city.

1103.08 ZONING PERMIT

(a) **Purpose**

A zoning permit shall be required in accordance with the provisions of this section in order to ensure that proposed development and uses comply with the standards of this code, and to otherwise protect the public health, safety, convenience, comfort, prosperity and general welfare of the citizens of the City of Mount Vernon.

(b) **Terminology**

For the purposes of this code, the zoning permit review shall be an administrative review that may be applied to permits or certificates of other names (e.g., sign permits, temporary use permits, fence permits, etc.) if so stated in this code or on the application for the permit or certificate. In such cases, the procedure of Section [1103.08\(d\)](#), below, shall still apply, including the applicability of administrative waiver requests.

(c) **Applicability**

- (1) No building or other structure shall be erected, moved, structurally altered, or added to, in whole or in part, nor shall any building, structure, or land be used or changed in use without a zoning permit issued by the ZEO. A change in tenancy or ownership of a residential dwelling unit shall be exempt from the zoning permit requirement unless such change in tenancy changes the classification of the use.
- (2) A zoning permit may be required for the establishment of certain temporary or accessory use as established in [Chapter <>](#).
- (3) A zoning permit shall be required for any changes to any site element, vehicular use area, landscaping, patio, or other improvements to land as may be established under the applicability sections of individual sections or chapters in this code.
- (4) The establishment of a use of vacant land or building shall require the issuance of a zoning permit.
- (5) A change in use or business establishment shall require a zoning permit.
- (6) Changes in a building or structure's appearance that is regulated by this code shall require a zoning permit unless the change is a replacement of the same-for-same materials and colors, etc.
- (7) Unless otherwise specifically exempted in [Chapter 1114: Signs](#), signs shall require a zoning permit.
- (8) Zoning permits shall be issued only in conformity with the provisions of this code unless the application is subject to an approval by the BZA, HRC, or MPC providing for additional standards, conditions, or modifications, in which case, the zoning permit shall be issued in conformity with the provisions of those approvals, as applicable.
- (9) Failure to obtain a zoning permit shall be a violation of this code subject to the provisions of [Chapter <>](#).

(d) **Zoning Permit Approval Review Procedure**

The review procedure for a zoning permit shall be as follows:

(1) **Step 1 – Application**

The applicant shall submit an application in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.

(2) **Step 2 – ZEO Review and Decision on a Zoning Permit**

- A. The ZEO may distribute the application to other staff members and other City departments to solicit comment on the zoning permit application.
- B. Within 30 days⁵⁵ after the application is determined to be complete, or an extended timeframe approved by the applicant, the ZEO shall make a decision on the zoning permit application. In making its decision, the ZEO may approve or deny the application. The ZEO may also approve with modifications or supplementary conditions necessary to ensure the proposed activity will be in full compliance with this code.

⁵⁵ The current code provides 15 days for a decision but most communities prefer 30 days to allow for some back and forth discussion, if needed.

- C. Prior to making a decision, the ZEO shall have the authority to provide comments to the applicant regarding necessary revisions to bring the application into full compliance.
- D. If the ZEO fails to act within 30 days from the date the application is determined to be complete, or an extended period as may be agreed upon by the ZEO and applicant, then the application shall be considered denied.
- E. Where revisions are necessary for approval, the application shall not be deemed formally approved until the applicant makes all of the appropriate changes and submits all necessary revised forms, maps, and documents to the ZEO.
- F. When the ZEO denies an application, the ZEO shall inform the applicant of the reason for the denial, including the regulation(s) which would be violated by the proposed use or development.

G. Public Improvements Required (New)

If the installation of public improvements is required, the following requirements shall apply regardless if the development is part of a subdivision application or not:

- i. A zoning permit shall not be issued until an agreement is provided to the City to construct the required improvements.
- ii. The applicant shall be required to provide a financial guarantee (See Section [1115.07](#).) in the amount of the estimated cost of the required public improvements as determined by the City Engineer.
- iii. The agreement and the financial guarantee shall provide for completion of all work within a time specified to be determined by the City Engineer or before occupancy is allowed in any structure, whichever shall occur first.
- iv. The approval of the installation of public improvements as required by this code shall not obligate the City to accept improvements for maintenance, repair or operation. Acceptance shall be subject to local or state regulations where applicable, concerning the acceptance of each type of improvement.
- v. Upon issuance of a zoning permit, the applicant may proceed with the approved work.

(e) Review Criteria for a Zoning Permit

In order to approve any zoning permit, the ZEO shall determine the following:

- (1) The application complies with all applicable provisions of this code and the applicable zoning district; and
- (2) The application complies with all approved plans, conditions, or other development approvals issued pursuant to the rules of this code (e.g., variances, administrative waivers, conditional use permits, alternative equivalency reviews, COAs, etc.).

(f) Administrative Waiver Requests⁵⁶

(1) Applicability

- A. The ZEO may grant administrative waivers for any area or dimensional regulation that does not exceed 20 percent of the applicable minimum or maximum regulation. Area and dimensional regulations include, but are not limited to, minimum front, side, and rear yard setbacks; maximum height of structures; maximum sign height; maximum sign area, etc.
- B. An administrative waiver for a minimum lot area or lot width requirement is prohibited and shall be subject to a variance review by the BZA in accordance with Section [<>](#).
- C. The applicant shall be required to apply for a variance for any waiver request that exceeds 20 percent or other variations from the code that do not qualify for administrative waivers.
- D. The ZEO shall have the authority to forward any administrative waiver request to the BZA for review as a variance, as established in Section [<>](#).

(2) Administrative Waiver Review Procedure and Decision

- A. Administrative waivers shall be reviewed as part of the zoning permit review procedure.

⁵⁶ This is a new procedure outlined in the code audit that would give staff some limited authority to waive certain requirements provided they comply with the same standards as for variances.

- B. In making a decision on the administrative waiver, the ZEO shall approve or deny the application.
- C. In approving an administrative waiver, the ZEO may impose conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as they determine are required to ensure compliance with the standards of this section and the purposes of this code. Any conditions established by the ZEO shall relate directly to the requested administrative waiver.

(3) Review Criteria for Administrative Waivers

Decisions on an administrative waiver shall be based on consideration of the same review criteria as an area and dimensional variance in Section [1103.07\(d\)\(1\)](#).

(g) Time Limits

- (1) The applicant shall obtain an approved building permit, where required, and have initiated work within one year of the approval of a zoning permit or the approval shall be revoked. The initiation of work shall be when the ground has been broken, construction on site improvements has begun, or construction of structures has begun.
- (2) For activities that do not require a building permit, the activity shall have been substantially begun within one year of approval and is thereafter pursued to completion, as determined by the ZEO.
- (3) Time limits for permitted temporary uses and structures shall be as authorized in Section [1108.02](#). An approval of a zoning permit for a temporary use shall include the approved start and end dates for the proposed temporary use.
- (4) If construction activities for which a zoning permit has been issued are abandoned or suspended for a period of six months after the time of commencing the work, the zoning permit shall be revoked. Abandonment shall be defined as the lack of building activity or progress towards achieving the scope of work defined in the zoning permit.
- (5) Upon written request, up to two extensions of six months may be granted by the ZEO if the applicant can show good cause for a delay.
- (6) The ZEO shall notify the application of the revocation of a zoning permit including notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.
- (7) Upon revocation of a zoning permit, a new application, including all applicable fees, shall be required before a new zoning permit application will be reviewed.
- (8) The above time limits shall not apply if alternative time limits that have been approved by the ZEO, MPC, or BZA, in accordance with the applicable review procedure.

(h) Revoking a Zoning Permit

A zoning permit approval shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the BZA in accordance with Section <>, of this code.

(i) Appeals

Any person or entity claiming to be injured or aggrieved by any final action of the ZEO shall have the right to appeal the decision to the BZA as established in Section <>.

1103.09 MINOR SUBDIVISIONS⁵⁷

(a) Purpose

The purposes of the minor subdivision process are to allow for small subdivisions of land, consolidation of lots, or transfers of a portion of a lot to an adjacent lot where there will not be the creation of a new street, dedication of right-of-way, or a need for any public improvements. Such purposes are also intended to be in alignment with the platting allowances established in ORC Chapter 711.

⁵⁷ The current code only vaguely gets on minor subdivisions through what appears to be called a “procedural variance” in Section 1133.02 (c). We suggest that this be revamped to allow administrative approval of minor subdivisions with a definition of minor subdivision based on common ORC language (no more than five lots, no new street or improvements).

(b) Applicability

- (1) For the purposes of these regulations, a minor subdivision is a lot split, lot consolidation, or transfer of land between adjacent property owners that complies with all of the following requirements:
- A. The subdivision shall not result in or create more than five lots, including the remainder of the original lot (e.g., four new lots and the remainder of the original lot);
 - B. The subdivision shall be in compliance with all applicable site development standards in this code or with any variance approved from such standards;
 - C. All lots resulting from the minor subdivision shall have frontage and access on an existing street and shall not require the construction, expansion, or improvement of any street;
 - D. The subdivision shall not require any public improvements or the dedication of rights-of-way;
 - E. The property has been surveyed and a survey sheet or record plan, in the form provided for in this code, and a full legal description of the changes resulting from the split, are submitted with the application; and
 - F. No landlocking of parcels shall occur as a result of the minor subdivision.
- (2) A minor subdivision also includes the recombination of land, consolidation of lots, transfer of property from one lot to an adjacent lot, and the dedication of additional land for the widening of existing streets, where no new lots are created.

(c) Minor Subdivision Review Procedure

The review procedure for a minor subdivision shall be as follows:

(1) Step 1 – Application

- A. The applicant shall submit an application in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.
- B. The application shall include a deed or other instrument of conveyance in compliance containing an accurate and current legal description based on a boundary survey, of each proposed new lot.
- C. If the minor subdivision involves the transfer of land area from one lot to an adjacent lot, both property owners shall be required to authorize the application and instruments of conveyance shall be submitted for both resulting lots.

(2) Step 2 – Review and Comment by Applicable Agencies

- A. Upon determination that the application for a minor subdivision is complete, the ZEO may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer and any other agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.
- B. Such agencies may supply comments, recommendations, and approvals as applicable, to the ZEO for consideration prior to the ZEO's decision (Step 3).

(3) Step 3 – Review and Decision by the ZEO

- A. Within 14 days of the determination that the application (Step 1) is complete, or within an extended timeframe approved by the applicant, the ZEO shall review the application and approve, approve with modifications that will bring the application into compliance with codes, or deny the application for a minor subdivision based on the review criteria established below.
- B. In reviewing the minor subdivision, the ZEO, on recommendation of the City Engineer, may require the addition of easements and/or setbacks as part of a minor subdivision.
- C. If the application is approved with modifications, the applicant shall be required to revise all documents prior to final signing and recording.
- D. If the ZEO denies an application for a minor subdivision, the ZEO shall provide the applicant with written findings for the denial.

This was also updated to clarify it could be used for lot combinations or moving of lot lines by transferring land between two lots.

(4) Step 4 – Recording

- A.** If the application is approved, the ZEO shall sign and date all required deeds in the minor subdivision, or other forms of conveyance allowed by the Knox County Auditor.
- B.** The applicant shall then be responsible for submitting the signed conveyance to the Knox County Auditor, for the transfer of property and to the Knox County Recorder, for the recording of the lots as legal lots of record and providing a copy of said conveyance to the ZEO, after recording.
- C.** In the case of a transfer of land between two adjacent lots, the recording of the revised lots shall take place simultaneously.

(d) Review Criteria

In order for a minor subdivision to be approved, the ZEO must determine the following:

- (1)** That the minor subdivision complies with all applicable provisions of this code including, but not limited to, the lot and principal building regulations of Section [1109.01](#);
- (2)** That the minor subdivision complies with all other applicable regulations of the City; and
- (3)** That all valid objections to the minor subdivision raised by the City departments have been or will be satisfactorily resolved by the applicant.

(e) Variances

If the proposed subdivision requires a deviation from the minimum lot or principal building regulations (e.g., lot area, lot width, etc.) or other standards mandated by this code in Section [1109.01](#), the applicant will be required to apply for and receive variance approvals (See Section [<>](#).) prior to approval of the minor subdivision.

(f) Time Limit

The minor subdivision approval shall expire six months after the ZEO signs and dates the minor subdivision conveyance unless the minor subdivision is recorded in the office of the Knox County Recorder, during said period.

(g) Appeals

Any person or entity claiming to be injured or aggrieved by any final action with respect to the proposed minor subdivision shall have the right to appeal the decision to the BZA as established in Section [<>](#).

1103.10 MAJOR SUBDIVISIONS (REVISED 1135)

(a) Purpose

The purpose of the major subdivision process is to provide a method of review for any subdivision that exceeds the scope of a minor subdivision.

(b) Applicability

Any subdivision of land or replat of an existing subdivision that does not meet the applicability requirements of a minor subdivision in Section [1103.09\(b\)](#), shall be subject to the requirements of this section.

(c) Major Subdivision Review Procedure

(1) Step 1 – Pre-Application Meeting (Required)⁵⁸

An applicant may request to have a pre-application meeting with the MPC to informally discuss the application and any concept plans. Furthermore, the purpose of the meeting will be for the MPC to ascertain the locations of proposed major streets, parks, playgrounds, school sites and other planned projects which may affect the property being considered for subdivision. Such meeting shall be subject to Section [1103.02\(f\)](#).

⁵⁸ Section 1135.01 of the existing code mandates a pre-application meeting so we have set this up to also require the pre-application meeting.

(2) Step 2 – Application and Filing of the Preliminary Plat

- A. The applicant shall submit an application, including a preliminary plat, in accordance with Section [1103.02: Common Review Requirements](#), and with the provisions of this section.
- B. The preliminary plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.

(3) Step 3 – Administrative Staff Review and Transmission to the MPC

- A. Upon determination that the application for a preliminary plan is complete, the ZEO shall forward the application to the MPC and may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer, Health Commissioner, and any other agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.
- B. The ZEO may consolidate any comments from the public received in advance of the meeting and comments from the other City departments or other departments and agencies into a report for the MPC to review as part of Step 4.

(4) Step 4 – Review and Decision on the Preliminary Plat by the MPC

- A. The MPC shall review the preliminary plat application at its next regularly scheduled meeting, or at a special meeting, after the application is determined to be complete.
- B. In making its decision, the MPC shall approve, approve with conditions, or deny the preliminary plat. The MPC may also continue the meeting if questions regarding the plat are not satisfactorily addressed by the applicant.
- C. The MPC shall make a decision within 90 days of the preliminary plat application being determined to be complete (Step 2) unless the MPC and subdivider agree to an extension of this time frame. If the MPC fails to act within the 90 days or there is no agreement for an extension of time, the application for a preliminary plat will be considered approved.
- D. If the MPC denies the preliminary plat, the applicant shall not move forward in the review process until a preliminary plat is approved by the MPC.
- E. In the event the MPC denies the preliminary plat or approves with conditions, the ZEO, on behalf of the MPC shall provide the subdivider with a statement, in writing, setting forth the reasons for the denial or the conditions of approval.
- F. If the applicant proposed to construct the subdivision in phases, the MPC may approve a timeframe for filing of improvement plans and final plats for each phase.
- G. Approval of the preliminary plat by the MPC does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat and improvement plans.

(5) Step 5 – Submission of Improvement Plans and the Final Plat

- A. The applicant shall submit a final plat and related improvement plans and specifications in accordance with Section [1103.02: Common Review Requirements](#). Such application shall take place within two years⁶¹ following the MPC's approval of the preliminary plat unless the MPC approved an alternative schedule, in which case the applicant shall submit in accordance with the approved schedule. Failure to submit the final plat improvement plans within this time frame shall void the preliminary plat approval and the subdivider will be required to submit a new application in accordance with these regulations.
- B. If a preliminary plat has been previously approved, the final plat shall have incorporated all changes from the preliminary plat approval.
- C. In cases where the applicant proposes to develop the subdivision in phases, the final plat and improvement plans shall be submitted for each individual phase.
- D. If the applicant proposes to provide a financial guarantee for the public improvements in lieu of installing all public improvements prior to approval of the final plat, the applicant shall be required to provide all information required as part of Section [1115.07](#).

⁶¹ The city currently requires submittal within one year but we recommend extending that final plat submission deadline to two years due to the need to finalize engineering and go through multiple agencies for approval.

- E. Upon determination by the ZEO that the final plat has been properly submitted, the final plat shall be accepted as being filed.
- F. The final plat shall be prepared, signed, and sealed by an engineer or surveyor who is qualified and registered in the State of Ohio.

(6) Step 6 – Administrative Staff Review of the Final Plat and Improvement Plans⁶²

- A. Upon determination that the submission of the final plat and improvement plans is complete, the ZEO may transmit copies of the application for review by applicable agencies including, but not limited to, the City Engineer, Health Commissioner, and any other agencies having authority over streets, water, sewer, gas, or other utilities and other public improvements.
- B. Such agencies shall supply comments and recommendations to the ZEO prior to the regularly scheduled MPC meeting where the final plat and improvement plans will be subject to review.
- C. **Construction of Improvements**
 - i. Applicants shall have the choice to construct all public improvements prior to the approval of the final plat, without a financial guarantee, but such public improvements must be completed and then inspected and approved by the City Engineer before the City can approve the final plat. The improvements shall be constructed within a reasonable time as determined by the City Engineer.
 - ii. All required subdivision improvements shall be maintained in a satisfactory condition by the subdivider during any interim period between their construction and final approval and acceptance of the subdivision by the City. Additionally, such improvements shall be subject to maintenance requirements following acceptance in accordance with this section and [§ 107.04](#).
 - iii. If the applicant requests approval of a final plat prior to installation of the public improvements, the applicant shall be required to provide a financial guarantee in accordance with the regulations of this code at the time the final plat is submitted for review.

(7) Step 7 – Review and Decision on the Final Plat and Improvement Plans by the MPC

- A. The MPC shall review the final plat and improvement plans at its next regularly scheduled meeting, or at a special meeting, after the final plat is submitted and determined to be complete.
- B. The MPC shall approve, approve with conditions, or deny the improvement plans and final plat. The MPC may also continue the meeting if questions regarding the plat are not satisfactorily answered by the applicant.
- C. The MPC shall make a decision within 30 days after the initial review of the final plat and improvement plans (Step 5) unless the MPC and subdivider agree to an extension of this time frame. If the MPC fails to act within the 90 days or there is no agreement for an extension of time, the application for a final plat will be considered approved.
- D. If the MPC denies the final plat and/or improvement plans, the applicant shall not move forward in the review process until a final plat and the improvement plans are approved by the MPC.
- E. In the event the MPC denies the final plat and improvement plans or approves with conditions, the MPC shall provide the subdivider with a statement, in writing, setting forth the reasons for the denial or the conditions of approval.
- F. Approval of the final plat and improvement plans by the MPC shall not be an acceptance by the public of the offer of dedication of any street, or other public ways or open space on the final plat unless they are accepted by City Council in the form of the adoption of an ordinance.
- G. The final plat shall be held until acceptance of all improvements in Step 8. No final plat shall be recorded until all improvements and areas offered for parks, open space, or public rights-of-way have been accepted by City Council.

⁶² DISCUSSION - The current ordinance is not clear on when and how public improvement plans are reviewed and approved in relation to the final plat so we have provided some basic language that reflects common practice to begin the discussion. It is also unclear if improvement plans are administratively approved by the City Engineer or by the Planning Commission.

- H. At the completion of construction, and before acceptance of the public improvements, the developer shall furnish the City a set of record or “as-built” reproducible drawings as well as a digital copy that is compatible with the City Engineer’s software showing the locations of all public improvements including the sizes and elevations of all underground utilities.

(8) Step 8 – Acceptance of Improvements by City Council

The City, through action by the City Council, shall review the final plat and consider acceptance of public improvements made by a subdivider only after meeting the following conditions:

- A. The public improvements have been made in accordance with the requirements of this code, and any other manuals or documents referenced in Section [1115.03](#);
- B. Installation of the public improvements has been completed in accordance with the applicable design standards;
- C. All final inspections required by these regulations and the City have been carried out by the City, and said public improvements were found to be acceptable by the City Engineer.
- D. After all public improvements have been installed to the satisfaction of the City, the subdivider shall submit an original copy of as-built improvement plans (showing how all public improvements were actually installed) to the City Engineer in a format acceptable to the City Engineer.
- E. After all public improvements have been installed in accordance with the subdivision approvals and these regulations, and the subdivider has complied with this section, the City Council may, by ordinance, accept the public improvements for maintenance with any applicable financial guarantee.

(9) Step 9 – Disposition of Approved Plat and Recordation

- A. All required deeds, agreements, and other required legal instruments shall be submitted to the ZEO within 60 days from the date of the MPC's approval or such approval shall thereafter be rendered null and void.
- B. Any recorded plat which has not been approved according to the regulations in this chapter shall be considered invalid.
- C. The subdivider shall then be responsible for submitting the signed plat to the Knox County Recorder, for the recording of the lots as legal lots of record and providing a copy of said plat to the City after recording.
- D. The approval of a plat shall expire within 120 days after City Council approval is effective unless the plat has been duly filed and recorded by the applicant as required by law, and the original tracing of the plat has been filed with the ZEO.

(d) Review Criteria

In order to approve a major subdivision, the MPC shall determine the following:

- (1) That the major subdivision complies with all applicable provisions of this code;
- (2) That the major subdivision does not conflict with other regulations, plans, or policies of the City;
- (3) That the proposed subdivision is designed to be harmonious with the existing immediate or surrounding area or is in keeping with the intended character of such area;
- (4) That the proposed streets are in accordance with approved plans and have been coordinated with existing streets, and that adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion in public streets;
- (5) That the proposed subdivision will not adversely affect the delivery of governmental services;
- (6) That applicable review agencies have no objections that cannot be resolved by the applicant; and
- (7) That the final plat and improvement plans conform to the approved preliminary plat, if submitted and approved.

(e) Amendments of Application

- (1) No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after final approval has been given by the MPC and an endorsement is made in writing on the plat, unless the plat is first resubmitted and the changes approved by the MPC.

- (2) If the applicant finds, in the process of preparing improvement plans, that the approved preliminary plat, if submitted, is not workable and changes in layout are required, the applicant shall inform the City Engineer. The City Engineer may require that a revised preliminary plat be submitted for re-approval following the review procedure in Section [1103.10\(c\)\(4\)](#), above, if the changes significantly alter the design of the subdivision, including changes to the number of lots, modification of street layouts, or other substantial changes. If the proposed changes are technical or minor and do not substantively alter the approved preliminary plat, the City Engineer may approve the revisions. Failure to submit and receive approval of a revised preliminary plat shall void approval of the preliminary plat and any new submission shall be subject to a new application.
- (3) During the final plat process, the City Engineer is authorized to allow minor changes related to the public improvements or design where there is minimal impact to the overall design of the subdivision. This limited authority shall not give the City Engineer the authority to vary the requirements of this code.
- (4) If during the course of construction, any changes or modifications are encountered that are not in conformance with the original approved improvement plans, the subdivider shall submit the modified improvement plans (which have now become as-built drawings) to the City Engineer, who, if in agreement with such modifications, shall sign these drawings to indicate approval of the modifications. If the City Engineer does not approve the modifications, the applicant shall be required to bring the improvements into compliance with the approved improvement plans or the City may utilize the financial guarantee to correct the issue.

(f) **Subdivision Modifications**

(1) **Purpose**

The purpose of a subdivision modification is to provide limited relief from standards that apply to the subdivision of land, including standards for improvements. Subdivision modifications are intended for those cases where strict application of a particular requirement will create a practical difficulty or extraordinary hardship prohibiting the use of land in a manner otherwise allowed under these regulations. It is not intended that modifications be approved merely to remove inconveniences or financial burdens that the requirements of these regulations may impose on property owners or subdividers in general.

(2) **Applicability**

- A. If the proposed subdivision requires a deviation from the minimum lot and principal building regulations (e.g., lot area, lot width, etc.) or other standards identified in Section [1109.01](#), the applicant will be required to apply for and receive all the necessary variance approvals (See Section [<>](#).) prior to approval of a preliminary plat.
- B. If the applicant seeks a modification of standards required by Chapter [<>](#) ([Subdivision Design](#)), then the request for a modification shall be accomplished through the procedure outlined in this section.

(3) **Subdivision Modification Review**

- A. A request for a subdivision modification shall be reviewed as part of the preliminary plat review procedure.
- B. In reviewing the application, the MPC shall, at a minimum, consider the review criteria of this section.
- C. The MPC shall review the request and may approve, approve with conditions, or deny the request to modify any or all of the requested modifications.
- D. In approving a modification, the MPC may impose conditions on the approval as it determines are required to ensure compliance with the provisions and purposes of these regulations.
- E. If the preliminary plat is denied or if the approval of the preliminary plat expires, so does the approval of the subdivision modification. Any future request for preliminary plat approval that includes the same modifications shall require a new review and decision on the request for modifications.

(4) **Review Criteria**

The review criteria for a subdivision modification shall be the same as those for a variance as established in Section [<>](#).

(g) **Appeals**

Any person or entity claiming to be injured or aggrieved by any final action of the MPC shall have the right to appeal the decision to the court of common pleas of the applicable county, as provided in ORC Chapters 2505 and 2506.

1103.11 INTERPRETATION OF THE CODE

It is the intent of this code that all questions of interpretation related to the administration and enforcement of this code shall be first presented to the ZEO, and that such questions shall be presented to the BZA only on appeal from the decision of the ZEO. Such appeals shall be in accordance with Section <>.

Chapter 1104: Establishment of Zoning Districts

1104.01 PURPOSE

The purpose of this chapter is to set out the individual purpose statements for each of the City's zoning districts as well as the list of uses that are allowed within each zoning district. The uses are either allowed or prohibited, and where they are allowed, they may be permitted, permitted with additional standards, or conditionally permitted with additional review. Finally, this chapter includes use-specific standards for a variety of uses that apply to those uses alone in addition to all other applicable standards of this code.

1104.02 ESTABLISHMENT OF ZONING DISTRICTS

(a) Districts Established

- (1) The City hereby establishes the zoning districts in [Table 1104-1](#) to carry out the purposes of this code and to assist in the implementation of plans and policies adopted by the City. All such regulations are uniform for each class or kind of building, structure, or use throughout each individual district.

TABLE 1104-1: MOUNT VERNON ZONING DISTRICTS	
Abbreviation	District Name
Residential Base Zoning Districts	
RR	Rural Residential District
ER	Estate Residential District
R-1	Single-Family Residential District
R-1A	Core Residential District
R-2	Single- and Two-Family Residential District
R-3	Attached Residential District
R-4	Mixed Residential District
R-MH	Manufactured Home Park District
Nonresidential Base Zoning Districts	
NC	Neighborhood Commercial District
CB	Central Business District
GB	General Business District
OB	Office Business District
LI	Light Industrial District
GI	General Industrial District
PI	Public and Institutional District
Special Base Zoning District	
PD	Planned Development District
Overlay Zoning Districts	
FDPO	Flood Damage Prevention Overlay District
HO	Historic Overlay District

- (2) Whenever the abbreviated terms such as R-1, R-MH, NC, GB, etc. are used in the code, they shall be construed as referring to their corresponding district name.

(b) Overlay Zoning Districts

- (1) Some areas of the City may be divided into overlay zoning districts as established in [Table 1104-1](#).
- (2) As the name implies, overlay zoning districts are "overlaid" on top of base zoning districts where both districts affect the use of lots subject to those districts.

- (3) Where land is classified into an overlay zoning district as well as a base zoning district, the regulations governing development in the overlay district shall apply in addition to the regulations governing the underlying base district. In the event of an expressed conflict between the standards of the overlay zoning district and the base zoning district, the standards governing the overlay district shall control.

(c) **References to Previous Zoning Districts**

Some of the district classifications and names established within this code differ from previous versions of this code. [Table <>](#) identifies how each of the previous district classifications were renamed in this code. This table shall be used for comparison purposes only.

TABLE 1104-2: ZONING DISTRICT TRANSITION TABLE	
Zoning Districts in the Planning and Zoning Code Effective Prior to <>	Zoning Districts in the Planning and Zoning Code Effective <>
RR: Rural Residential District	RR: Rural Residential District
ER: Estate Residential District	ER: Estate Residential District
R-1: Single-Family District	R-1: Single-Family Residential District
	R-1A: Core Residential District
R-2 Single and Two-Family District	R-2 Single- and Two-Family Residential District
R-3: Multi-Family District	R-3: Attached Residential District
No Existing District	R-4: Mixed Residential District
R-MH: Manufactured Home Park District	R-MH: Manufactured Home Park District
NC: Neighborhood Commercial District	NC: Neighborhood Commercial District
CB: Central Business District	CB: Central Business District
TOC: Traffic-Oriented Commercial District	GB: General Business District
GB: General Business District	
O/I: Office-Institutional District	OB: Office Business District
M-1A: Light Industrial District	LI: Light Industrial District
M-1: Manufacturing District	GI: General Industrial District
P-1: Public, Semi-Public District	PI: Public and Institutional District
Special Districts	District Eliminated
FDPD: Flood Damage Prevention District	FDPO: Flood Damage Prevention Overlay District
Historical District	HO: Historic Overlay District
PND: Planned Neighborhood District	PD: Planned Development District
PCDD: Planned Commercial Development District	

1104.03 ZONING DISTRICT MAP AND DISTRICT BOUNDARIES (REVISED 1157)

(a) **Zoning District Map**

- (1) All land within the City of Mount Vernon shall be placed into at least one of the base zoning districts established in [Table 1104-1](#). Such zoning shall be shown on the Official Zoning Map of Mount Vernon, Ohio, hereafter referred to as the “zoning map.” The zoning map, including any notations, shall be incorporated and made a part of this code.
- (2) Any changes in zoning districts made by City Council or changes to the zoning classifications of areas annexed to the City shall also be noted on the zoning map by the ZEO.

(b) **Interpretation of Zoning District Boundaries**

- (1) Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules apply:
- A. Where zoning district boundary lines are indicated as approximately following a lot line, such lot line shall be the zoning district boundary.

B. Where zoning district boundary lines are indicated as approximately following a center line of a street or highway, alley, railroad easement, or other right-of-way, or a river, creek, or other watercourse, such centerline shall be the zoning district boundary. In the event of a natural change in the location of such streams, rivers, or other water courses, the zoning district boundary shall be construed as moving with the channel centerline.

C. Where zoning district boundary lines are indicated as approximately following City limits, such City limits shall be the zoning district boundary.

- (2) When the actual street, right-of-way, property line boundary, or other existing ground condition is in conflict with that shown on the zoning map, the ZEO shall provide the necessary interpretation, with their decision appealable to the BZA. The person contesting the location of the district boundary shall be given a reasonable opportunity to submit technical evidence to illustrate the boundary.⁶⁴

(c) Zoning of Vacated Properties (New)

Whenever any street, alley, or other public right-of-way is vacated in a manner authorized by law, the zoning district adjoining each side of such street, alley, or public right-of-way shall be automatically extended to the center of such vacation and all areas included in the vacation shall then and henceforth be subject to all regulations of the extended district.

(d) Zoning of Annexed Territories (Existing 1151.09)

- (1) Territory annexed in the City of Mount Vernon after the effective date of this code shall continue to be governed by the zoning regulations which governed the territory annexed immediately prior to the annexation, as enacted by a Board of County Commissioners under Ohio Revised Code 303.01 to 303.25, or enacted by a Board of Township Trustees under Ohio Revised Code 519.02 to 519.25, as may be applicable.
- (2) As soon as practicable after the annexation of territory to the City of Mount Vernon, proceedings shall be instituted by the Planning and Zoning Commission to include the annexed territory in one or more of the zoning districts defined in this code, as amended. All land annexed to the City which, prior to annexation, is not subject to county or township zoning shall remain unzoned until the zoning map is amended according to the provisions of Section <>.

⁶⁴ This is a revision to language in 1155.31, which sends requests for interpretation to the BZA and instead, lets the Zoning Enforcement Officer make a decision so that there is a decision to formally appeal to the BZA.

Chapter 1105: Base Zoning Districts and Principal Uses

1105.01 ZONING DISTRICT PURPOSE STATEMENTS

In addition to the overall purpose of this code, as established in Section [1101.01](#), the following are the purpose statements for the individual base zoning districts in the City of Mount Vernon. The purpose statements for overlay districts are established in [Chapter 1106: Overlay Zoning Districts](#) and the purpose statements for Planned Developments (PDs) are established in [Chapter <>: Planned Developments](#).

(a) **Residential Districts (RR, ER, R-1, R-1A, R-2, R-3, R-4, and R-MH) (Revised Various)**

Residential districts and their regulations are established in order to achieve, among others, the following purposes:

- (1) Provide uniform regulations for residential uses in conformance with the overall purposes of this code;
- (2) Encourage the development of a wide range of housing type and affordability options to accommodate all residents;
- (3) Regulate the density and distribution of population in accordance with the objectives of the City of Mount Vernon's adopted plans to avoid congestion and to maintain adequate services;
- (4) Provide for the proper location of residential dwellings in proximity to community and shopping facilities so as to increase the general convenience, safety, and amenities in the area;
- (5) Provide protection from noxious fumes, odors, dust, excessive noises, invasion of abnormal vehicular traffic, and other objectionable influences from other incompatible land uses;
- (6) Protect the desirable characteristics of existing residential development to promote neighborhood stability; and
- (7) To carry out the following specific purposes:
 - A. The Rural Residential District (RR) and Estate Residential District (ER) are established to create two districts, with different lot area requirements, that control the indiscriminate infiltration of urban development into rural areas that are not equipped to provide necessary public services or do not have sufficient roadways to carry increased traffic loads. This district designation will often be used as a transitional designation for newly annexed rural land until such a time as services can be provided for appropriate development.
 - B. The Single-Family Residential District (R-1) is established to encourage the creation and preservation of moderate-density single-family residential neighborhoods and to limit the establishment of nonresidential uses to those that are compatible with the intended neighborhood character. The stipulated density is intended to provide for areas of suburban character in the community that may also include limited public and institutional uses that serve the neighborhoods.
 - C. The Core Residential District (R-1A) is established to encourage the creation and preservation of higher-density single-family residential neighborhoods that were platted early in the City's history and are reflective of smaller, urban lots surrounding the central areas of the city. The stipulated density is intended to provide for areas of urban character in the community that may also include limited public and institutional uses that serve the neighborhoods.
 - D. The Single- and Two-Family Residential District (R-2) is intended to provide for and encourage the orderly development of single-family and two-family residences and customary supporting public and institutional uses.
 - E. The Attached Residential District (R-3) is intended to provide for and encourage orderly medium-density residential development in the form of multiple family housing or as a mixture of different housing types. The stipulated density is intended to provide for areas of suburban character in the community that may also include limited public and institutional uses that serve the neighborhoods.

- F. The Mixed Residential District (R-4) is intended to provide for and encourage orderly higher-density residential development in the form of multiple family housing or as a mixture of different housing types. It is specifically the purpose of this district to encourage higher density development around downtown and the general business areas where they can provide support for local businesses and also serve as transitional areas to lower-intensity uses. The stipulated density is intended to provide for areas of suburban character in the community that may also include limited public and institutional uses that serve the neighborhoods.
- G. The Manufactured Home Park District (R-MH) is intended to provide for the continuance and maintenance of manufactured home parks that existed prior to the effective date of this code.

(b) Business and Commercial Districts (NC, CB, GB, and OB) (Revised Various)

The business and commercial zoning district regulations are established in order to achieve, among other things, the following purposes:

- (1) To provide in appropriate and convenient locations of sufficient size for the exchange of goods and services;
- (2) To protect residential neighborhoods adjacent to business uses by regulating the types of establishments, particularly at the common boundaries, that would create congestion, noise or other objectionable influences;
- (3) To promote the most desirable and beneficial use of the land in accordance with the objectives of the City of Mount Vernon's adopted plans; and
- (4) To carry out the following specific purposes:
 - A. The Neighborhood Business District (NB) is established to create a district that permits a wide variety of small-scale retail, office, and service establishments with development standards that ensure that development is compatible with adjacent land uses that create a more pedestrian-oriented environment. It is furthermore the purpose of this district to encourage and provide for the orderly development of neighborhood shopping facilities serving the regular day-to-day convenience shopping and personal service needs of nearby residents.
 - B. The Central Business District (CB) is established to provide a central business district that preserves, maintains and promotes Downtown Mount Vernon as a core area for retail sales and to promote and enhance the existing historic, compact pedestrian orientation of the downtown by permitting buildings to be close to the street and to one another. This district is intended for a variety of businesses, institutional, public, quasi-public, cultural, and other related uses to provide the mix of activities necessary to establish a true urban business district.
 - C. The General Business District (GB) is established to accommodate a broad range of commercial services and activities in locations adequately served by major streets and other facilities and to provide a wide range of goods and services to a large consumer population from the larger regional area. Activities in this district are often large space users.
 - D. The Office Business District (OB) is established to create an environment conducive to well-located and designed office building sites and to accommodate primarily office and institutional uses, along with some residential uses. This district may also provide a land use transitional area to some residential districts, thus providing protection from more intense business uses or major thoroughfares.

(c) Industrial Districts (LI and GI) (Revised 1158.14 and 1158.15)

The industrial zoning districts are established in order to achieve, among other things, the following purposes:

- (1) To promote the most desirable and beneficial use of the land and structures in accordance with the objectives of the City of Mount Vernon's adopted plans;
- (2) To provide appropriate and convenient districts of sufficient size to carry on research, manufacturing processes, and distribution activities to serve the community, thereby promoting employment and strengthening the economy of the community;
- (3) To improve the manufacturing environment by discouraging unrelated and incompatible uses in such areas, thereby making land more readily available for industry;

- (4) To protect adjacent residential districts by restricting types of manufacturing uses nearby to only those which will not create objectionable influences beyond their district boundaries and will be properly buffered and screened;
- (5) To protect manufacturing and related development against congestion by requiring setbacks and limiting the bulk and density of development in relation to adjacent buildings and available land and by requiring sufficient off-street parking and loading facilities; and
- (6) To carry out the following specific purposes:
 - A. The specific purpose of the Light Industrial District (LI) is to provide an area for office and industrial uses in areas suitable for such development by reason of location, topography, soil conditions and the availability of adequate utilities and transportation systems. The intent is to permit office and light industrial and warehouse activities that are office-like in physical appearance, service requirements, and operational characteristics; uses that can be carried on wholly within enclosed buildings and subject to those regulations necessary to reduce congestion and for the protection of adjacent residential and business activities. This district also permits accessory retail and service uses to serve as support services for the adjacent office/industrial uses. The uses allowed are those that because of their normally unobjectionable characteristics can be operated in relatively close proximity to residential districts.
 - B. The specific purpose of the General Industrial District (GI) is to provide for industrial and other uses that by virtue of their external effects, noise, glare, fumes, smoke, dust, odors, truck and/or rail traffic, should be isolated from residential and commercial uses. These uses perform essential functions for the City, including employment, and should be provided for in areas that are best suited for industrial development by reason of location, utilities and transportation systems.

(d) Public and Institutional District (PI) (Revised 1158.18)

The purpose of the Public and Institutional District is to:

- (1) Provide proper zoning classification for government, civic, education, welfare, and recreation facilities in the proper locations and extents so as to promote public health, safety, convenience, comfort, prosperity and general welfare;
- (2) Protect public and semi-public facilities and institutions from the encroachment of certain other uses and make such uses compatible with adjoining residential uses; and
- (3) Provide an environment for the proper functioning of public facilities in relation to the adopted plans for community facilities.

1105.02 SPECIAL USE AND DISTRICT PROVISIONS FOR THE R-MH DISTRICT

- (a) As stated, the purpose of R-MH Manufactured Home Park District is to protect existing manufactured home parks within the City and allow for their continuation as a conforming use while prohibiting the creation of new manufactured home parks. Manufactured housing will continue to be allowed in Mount Vernon when they meet the requirements of permanently sited manufactured homes within this chapter.
- (b) After the effective date of this code, no new R-MH Districts may be established in the City of Mount Vernon.
- (c) The following uses are permitted in the R-MH District:
 - (1) Industrialized units;
 - (2) Manufactured homes;
 - (3) Mobile homes (not including recreational vehicles or fifth-wheel trailers);
 - (4) Administrative office uses for leasing, maintenance, or operations of the manufactured homes park; and
 - (5) Residential community centers for the benefit of residents of the park.
- (d) Any modifications to an approved plan for an existing manufactured home park shall be subject to review and approval by the MPC as part of a conditional use review process.
- (e) All manufactured home parks shall comply with all applicable requirements of the Ohio Administrative Code, the Ohio Public Health Council, and the Ohio Revised Code.

1105.03 ALLOWED PRINCIPAL USES

- (a) [Table 1105-1](#) lists the principal uses allowed within the various base zoning districts in the City of Mount Vernon. [Chapter <> Planned Development Districts](#) identifies the uses that are allowed in PDs and Section <>, above, addresses permitted uses in the R-MH District.
- (b) **Essential Services Exempted**
- (1) The erection, construction, alteration, or maintenance by public utilities or municipal departments, boards or commissions of essential services shall be exempt from the regulations of this code. Provided, however, that the installation of such essential services shall conform to Federal Communications Commission and Federal Aviation Administration rules and regulations, and those of other authorities having jurisdiction.
 - (2) Buildings required in conjunction with an essential service identified in Section [1105.03\(b\)\(1\)](#) above shall be subject to the regulations of this code and shall be reviewed as a principal use in accordance with [Section <>](#).
- (c) **Explanation of Permitted Uses Table**
- (1) **Permitted Uses (P)**
 - A. A “P” in a cell indicates that a use type is allowed by-right in the respective zoning district. Permitted uses are subject to all other applicable standards of this code.
 - B. Permitted uses are approved administratively by the ZEO through the zoning permit procedure unless subject to additional reviews (e.g., variance, etc.).
 - (2) **Permitted Uses with Standards (PS)**
 - A. A “PS” in a cell indicates that a use type is allowed by-right in the respective zoning district if it meets the additional standards as identified in the last column of [Table 1105-1](#). Permitted uses with standards are subject to all other applicable standards of this code.
 - B. Uses permitted with standards are approved administratively by the ZEO through the zoning permit procedure unless subject to additional reviews (e.g., variance, etc.).
 - (3) **Conditional Uses (C)**
 - A. A “C” in a cell indicates that a use may be permitted if approved by the MPC through the conditional use review procedure (See Section [<>](#)). Conditional uses may be subject to use-specific standards as identified in the last column of [Table 1105-1](#). Conditional uses are subject to all other applicable standards of this code.
 - B. The existence or lack of additional use-specific standards for conditional uses in this code shall not be implied to be the only standards the conditional use is required to meet. Any conditional use listed in the table shall be subject to the general review standards for all conditional uses established in Section [1101.01\(a\)](#).
 - (4) **Prohibited Uses (Blank Cell)**
 - A. A blank a cell indicates that a use is specifically prohibited in the applicable zoning district.
 - B. Any use not specifically listed in the table shall be considered prohibited unless approved as a similar use (See Section [1105.03\(e\)](#).) or through a code text amendment.
 - C. There may be districts where a specified use is prohibited either by an overlay zoning district or by the use-specific standards referenced in the last column of [Table 1105-1](#).
 - D. The following uses are specifically prohibited in the City of Mount Vernon and may not be approved as a similar use in accordance with Section [1105.03\(e\)](#):
 - i. Medical marijuana dispensary;
 - ii.
 - iii. Battery reclamation or manufacturing, the manufacturing or processing of regulated substances as the principal activity, the manufacturing of paints, varnishes, lacquers, and enamels, or any similar type of use that could potentially create a brownfield site;
 - iv. Outdoor storage of goods, materials, or vehicles as the principal use of a property; and

- v. Any gambling activity that is not expressly allowed by state law within a building or use allowed under this code.

(5) Use-Specific Standards

- A. The column titled “Use-Specific Standards” includes cross-references to a section containing standards that apply specifically to the listed use.
- B. Use-specific standards shall only apply if the use is permitted with standards (PS) or is a conditional use (C) in the zoning district.
- C. Standards referenced in the “Use-Specific Standards” column apply in all zoning districts unless otherwise expressly stated.
- D. The land uses and activities covered by this section shall comply with the applicable use-specific standards in all districts unless otherwise specified, in addition to all other applicable provisions of this code.

(d) Multiple Uses

If multiple uses are proposed on a single lot or in a single building, then each of the individual uses shall be allowed in the applicable zoning district and reviewed in accordance with how the individual use is allowed in the district (i.e., permitted, permitted with standards, or conditional use).

(e) Similar Use Determination and Unlisted Uses (Revised 1135.35 to 1135.37)⁶⁷

- (1) The ZEO shall make the determination if a proposed use is permitted, permitted with standards, conditional, or prohibited under the provisions of this chapter.
- (2) The ZEO may determine that a proposed use is substantially similar to a use that is permitted, permitted with standards, conditional, or prohibited as established in [Table 1105-1](#) based on:
 - A. The proposed use activities;
 - B. The character of the proposed use as compared to other uses;
 - C. Similarity to existing uses within the City; and/or
 - D. Information on the use that may be available from third-party or governmental land use resources such as documentation from the American Planning Association, Urban Land Institute, the U.S. Census Bureau, or similar organizations.
- (3) If the ZEO determines that the proposed use is substantially similar to a use established in [Table 1105-1](#), the application shall be processed in the same manner as the similar use.
- (4) In finding that a proposed use is similar to a use established in [Table 1105-1](#), the ZEO shall make a note of the similar use on the application form submitted by the applicant (e.g., zoning permit, conditional use permit, etc.).
- (5) If the ZEO makes the determination that a use is not allowed, the application shall be denied. Such decision may be appealed to the BZA pursuant to Section [42](#).
- (6) The ZEO shall maintain as a public record a listing of all uses which have been determined to be substantially similar. For each such use the record shall include the use as listed in this code, the use unlisted in this code about which the determination of substantial similarity was made, and the dates of any actions thereupon. This record shall also contain the same information for all uses which have been determined not to be substantially similar. The ZEO shall provide a summary of similar use determinations to the BZA and shall consult this record in the process of issuing future permits.

⁶⁷ This is different from the current procedure, which send it up to the BZA for interpretation. In this case, the Zoning Enforcement Officer can make the decision, which is then appealable. We have maintained the reporting requirement.

TABLE 1105-1: PRINCIPAL USES												
P=Permitted Use		PS=Permitted Use with Standards				C=Conditional Use						
Principal Land Uses	RR	R-1 & R-1A	R-2	R-3 & R-4	NC	CB	GB	OB	LI	GI	PI	Use-Specific Standards See Section:
Agricultural Uses												
Agriculture	P										P	
Residential Uses – Household Living												
Dwelling, Multi-Family				P	C		C	C				
Dwelling, Rowhouse			C	P	C		C	C				
Dwelling, Single-Family	P	P	P	P	C	C		C				
Dwelling, Two-Family		C	P	P	C	C		C				1105.04(a)
Dwelling, Three-Family		C	C	P	C	C						1105.04(a)
Permanently Sited Manufactured Home	PS	PS	PS	PS	C			C				1105.04(b)
Residential Uses – Group Living												
Residential Facility, Large			C	C	C			C				1105.04(c)
Residential Facility, Small	PS	PS	PS	PS	C			C				1105.04(d)
Permanent Supportive Housing				C	C		P	C			P	
Transitional Housing				C	C		P	C			P	
Skilled Nursing or Personal Care Facility				C	C		PS	C			PS	1105.04(e)
Public and Institutional Uses												
Active Recreational Use	C ⁷¹	C	C	C	C	C	C	C	C	C	PS	1105.04(f)
Airport or Heliport										C	P	
Cellular or Wireless Communication System (Co-Location) ⁷²	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	1105.04(g)
Cellular or Wireless Communication System (New)					C	C	C	C	C	C	C	1105.04(g)
Cemetery	C										PS	1105.04(h)
Cultural Facility	C	C	C	C	C	P	P	P			P	
Educational Institution (Higher Education)					C	P	P	C	P		P	
Educational Institution (Preschool and K-12)	P	P	P	P							P	
Fraternal, Charitable, or Service Oriented Club						PS	PS	C			PS	1105.04(i)
Government Office or Building	C	C ⁷⁵	C	P	P	P	P	P	P	P	P	
Hospital											P	
Memorial or Monument					P	P	P	P			P	
Nursery Schools and Day Care Centers	C	C	C	C	C	C	PS	C			PS	1105.04(j)

⁷¹ Public parks, etc. are currently permitted in residential districts but many communities have shifted to a conditional use requirement given the wide range of activities that could take place.

⁷² The City's current cell tower provisions are in the building code but have zoning regulations. to the recommendation is to incorporate them into the code. Note, the small cell cellular in a right-of-way will be incorporated into another section of the code as it isn't really a principal use of a lot.

⁷⁵ Government and utility buildings and cultural facilities were not listed as permitted or conditional in the R-1 District but should be considered.

TABLE 1105-1: PRINCIPAL USES												
P=Permitted Use		PS=Permitted Use with Standards				C=Conditional Use						
Principal Land Uses	RR	R-1 & R-1A	R-2	R-3 & R-4	NC	CB	GB	OB	LI	GI	PI	Use-Specific Standards See Section:
Passive Park, Open Space, or Natural Area	P	P	P	P	P	P	P	P	P	P	P	
Place of Worship	PS	PS	PS	PS	PS	PS	PS	PS			PS	1105.04(k)
Parking Lot or Garage						C			C	PS		1105.04(l)
Public Utility Building or Facility	C	C	C	C	C	C	C	C	P	P	P	
Residential Community Center	PS	PS	PS	PS								1105.04(m)
Commercial and Office Uses												
Administrative, Business, or Professional Offices					P	P	P	P	PS	PS		1105.04(n)
Adult Entertainment Establishment							C					1105.04(o)
Amusement Arcade						C	C					1105.04(p)
Animal Boarding Facility	C									P		1105.04(q)
Animal Hospital/Clinics and Animal Grooming	C				C	C	PS	C		PS		1105.04(q)
Assembly Halls or Conference Centers						P	P			P		
Automotive Repair and Service (Minor)							PS		PS			1105.04(r)
Automotive Repair and Service (Major)							C		C	PS		1105.04(s)
Bed and Breakfast	C		C	C				C				1105.04(t)
Commercial and Business Support Service							P			P		
Commercial Greenhouse or Nursery							P			P		
Commercial Recreational Facility (Indoors)							C		C	C		
Commercial Recreational Facility (Outdoors)	C						C		C	C		1105.04(f)
Financial Institution ⁷⁸					P	P	P	P				
Fuel Station							PS					1105.04(r)
Funeral Home and Mortuary					C		PS	C	PS	PS		1105.04(u)
Hotel							P					
Live/Work Unit					PS			PS				1105.04(v)
Medical/Dental Clinic or Health Center					P		P	P			P	
Microbrewery, Microdistillery, or Microwinery						PS	PS		PS	PS		1105.04(w)
Mixed-Use Building					C	P	P					
Multi-Tenant Use					P	P	P	P				
Personal Services					P	P	P	P				
Restaurants					P	P	P	C				
Retail Business					P	P	P					
Short-Term Rentals	PS	PS	PS	PS	PS	PS	PS	PS				1105.04(x)

⁷⁸ Whether or not there will be drive-throughs allowed will be established in the accessory use regulations.

TABLE 1105-1: PRINCIPAL USES												
Principal Land Uses	P=Permitted Use				PS=Permitted Use with Standards				C=Conditional Use			Use-Specific Standards See Section:
	RR	R-1 & R-1A	R-2	R-3 & R-4	NC	CB	GB	OB	LI	GI	PI	
Theaters						C	P				P	
Vehicle Sales and Leasing							P					
Vehicle Washing Establishments							PS					1105.04(y)
Industrial Uses												
Bulk Sale, Storage, or Distribution of Grains									P	P		
Contractor Equipment and Storage Yard							PS		PS	PS		1105.04(z)
Food Service									P	P		
Industrial Service Use									P	P		
Junk and Salvage Yard										C		
Machinery and Heavy Equipment Sales, Leasing, Storage, and Service									C	P		
Manufacturing and Production (Heavy or Outdoors)										C		
Manufacturing and Production (Indoors)									P	P		
Medical Marijuana Cultivator									P	P		
Medical Marijuana Processing ⁸⁰									P	P		
Mineral Extraction										C	C	
Railyards and Rail Service										P		
Recycling Center										P	C	
Research and Development Facility									P	P		
Self-Storage Facility							C		PS	PS		1105.04(aa)
Truck Terminal										P		
Warehouse									P	P		
Wholesale Establishment									P	P		

1105.04 USE-SPECIFIC STANDARDS

(a) Dwellings, Two-Family and Three-Family

- (1) Two-family and three-family dwellings are prohibited in the R-1 District.
- (2) In the R-1 A District, two-family and three-family dwellings may be permitted if the applicant for the use can demonstrate that the building was divided into separate dwelling units prior to January 1, 1990. An applicant shall be required to get a conditional use permit approval in order to demonstrate compliance with these regulations and to maintain the use as an allowed use rather than a nonconforming use.
- (3) The establishment of new two-family and three-family dwelling are prohibited in the R-1 A District.

⁸⁰ This would allow for the highly regulated processing of medical marijuana but not the sale or dispensing.

(b) Permanently-Sited Manufactured Home (New)

- (1) The home shall meet the definition of a permanently sited manufactured home as established in ORC Section 3781.06.
- (2) The home shall comply with all zoning requirements of a single-family dwelling in the applicable zoning district.
- (3) Travel trailers, park trailers, and mobile homes, as defined in Section 4501.01 of the ORC, do not qualify as a permanently sited manufactured home and shall be prohibited.

(c) Residential Facility, Large (Revised Chapter 1181)

Residential facilities as defined in ORC Chapter 5119 providing services for six to 16 people and residential facilities as defined in ORC Chapter 5123 providing services for nine to 16 people are allowed in the R-2, R-3, R-4, and OB Districts if approved as a conditional use. Such facilities must comply with the lot and principal building regulations (See Section [1109.01](#).) and any other standards in this code that apply to multi-family dwellings within the applicable district.

(d) Residential Facility, Small (Revised Chapter 1181)

Residential facilities as defined in ORC Chapter 5119 providing services for one to five people and residential facilities as defined in ORC Chapter 5123 providing services for six to eight people are allowed where single-family dwellings are permitted. Such facilities must comply with the lot and principal building regulations (See Section [1109.01](#).) and any other standards in this code that apply to single-family dwellings within the applicable district.

(e) Skilled Nursing or Personal Care Facility (New)

- (1) The principal building shall be set back a minimum of 50 feet from any adjacent residential zoning district or lot that contains a single-family dwelling.
- (2) Skilled nursing or personal care facilities shall be located so as to provide direct access from an arterial or collector street.

(f) Active Recreational Use or Commercial Recreational Facility (Outdoors) (New)

- (1) All structures, viewing areas, or seating areas shall be set back at least 250 feet from any residential zoning district. The MPC may allow for a smaller setback or increase the setback passed on the intensity of use of the structure or activity proposed.
- (2) All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets. See Section [1109.03](#) for additional information on outdoor lighting.
- (3) The hours of operation may be regulated by the MPC, if necessary, to mitigate adverse impacts on adjacent residential uses.
- (4) No use that involves the discharge of firearms is permitted.

(g) Cellular or Wireless Communication System (Co-Location) and (New)

The regulations for all cellular or wireless communications systems that are not small cell technology shall be established in Chapter 1321 of the Codified Ordinances.⁸³

(h) Cemetery (Revised 1155.26 (c))

- (1) Cemeteries may be for humans or domestic animals.
- (2) A cemetery shall be located so as to provide direct access from an arterial or collector street that the BZA determines is adequate to serve the size of the facility proposed.
- (3) Any new cemetery shall be located on a site containing not less than 25 acres.
- (4) All buildings, including, but not limited to mausoleums and maintenance buildings, shall be set back a minimum of 100 feet from all lot lines.
- (5) All graves or burial lots shall be set back a minimum of 50 feet from all lot lines.

⁸³ This language will be rolled into this section at a later date.

(i) **Fraternal, Charitable, or Service Oriented Club**

Accessory uses necessary to the operation of such use, such as clubhouses, restaurants, bars, swimming pools and similar activities, shall be permitted if they comply with the applicable standards in Section [1108.01](#). However, such uses, where the conduct of business is the principal activity shall be prohibited, unless permitted in the applicable zoning districts.

(j) **Nursery Schools and Day Care Centers**

- (1) Picking up and dropping off of children shall not create unsafe conditions. Loading and unloading of children from vehicles shall only be allowed in the driveway or in an approved parking area.
- (2) No dormitory facilities shall be permitted.

(k) **Place of Worship (Revised 1155.26 (b))**

- (1)
- (2) The principal building shall be set back a minimum of 50 feet from any adjacent lot line that is part of a lot used for residential purposes.
- (3) All parking areas shall be set back a minimum of 50 feet from the side and rear lot lines.
- (4) Places of worship may include include a dormitory or other forms of housing for the clergy or members of a religious order that work for the subject place of worship (e.g., rectory, convent, etc.) as part of the same lot in the PI District.

(l) **Parking Lot or Garage (New)⁸⁶**

- (1) Parking garages that are a principal use of a lot in the CB District shall be designed in a manner that complies with the downtown design standards of Section <>.
- (2) Parking lots that are a principal use of a lot in the CB District shall not have any lot frontage along Main Street or High Street.

(m) **Residential Community Center**

- (1) One residential community center shall be allowed within an individual subdivision or for a multi-family dwelling development that contains 12 or more dwelling units.
- (2) Additional residential community centers may be approved as part of planned development district.
- (3) The residential community center shall only be for the use of residents of the individual subdivision, multi-family dwelling development, or PD District, as applicable, and their guests.

(n) **Administrative, Business, or Professional Offices**

Administrative, business, or professional offices are permitted in the LI and GI Districts if they are a part of operations for another use allowed in the LI and GI Districts.

(o) **Adult Entertainment Establishment (Revised Chapter 1183)**

(1) **Purpose and Intent⁸⁷**

- A. In enacting these regulations, pursuant to ORC Section 715.55, City Council makes the following statement of intent and findings:
 - i. Adult entertainment establishments require special supervision from the public safety agencies of the City in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of Mount Vernon.
 - ii. The City Council finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.
 - iii. The concern over sexually transmitted diseases is a legitimate health concern of the City that demands reasonable regulation of adult entertainment establishments by the City in the specified manner, and expanded authority for reasonable regulation of adult entertainment establishments by local governments, in order to protect the health and well-being of the citizens.

⁸⁶ This is a common preference for many communities with a historic character downtown.

⁸⁷ This language is drawn from the Ohio AG's model ordinance for adult entertainment establishments.

- iv. Minimal regulations enacted by the City are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
 - v. There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values.
 - vi. The City Council desires to minimize and control these adverse effects by regulating adult entertainment establishments in the specified manner. And by minimizing and controlling these adverse effects, the City Council seeks to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.
 - vii. The City Council has determined that current local zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the people of Mount Vernon and that expanded regulation of adult entertainment establishments is necessary.
 - viii. It is not the intent of the City Council in enacting this act to suppress or authorize the suppression of any speech activities protected by the First Amendment, but to enact content-neutral statutes that address the secondary effects of adult entertainment establishments.
 - ix. It is not the intent of the City Council to condone or legitimize the distribution of obscene material, and the City Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this state.
- B.** It is the intent of the City Council in enacting these regulations to regulate in the specified manner adult entertainment establishments in order to promote the health, safety, morals, and general welfare of the citizens of the City of Mount Vernon and establish reasonable regulations to prevent the deleterious secondary effects of adult entertainment establishments within the City. The provisions of these regulations have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of the City Council in enacting these regulations to restrict or deny, or authorize the restriction or denial of, access by adults to sexually oriented materials protected by the First Amendment, or to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. Neither is it the intent nor effect of the City Council in enacting these regulations to condone or legitimize the distribution or exhibition of obscene material.
- C.** Based on evidence concerning the adverse secondary effects of adult uses on communities presented in hearings and in reports made available to the legislature and subsequently adopted by the Ohio General Assembly as findings under Section 3 of House Bill 23, the City Council finds:
- i. Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments;
 - ii. Certain employees of adult entertainment establishments, as defined in these regulations as adult theaters and cabarets, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments;
 - iii. Sexual acts, including masturbation and oral and anal sex, occur at adult entertainment establishments, especially those that provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows. The “couch dances” or “lap dances” that frequently occur in adult entertainment establishments featuring live nude or seminude dancers constitute or may constitute the offense of “engaging in prostitution” under Section 2907.25 of the ORC;
 - iv. Offering and providing private or semi-private booths or cubicles encourages such activities, which creates unhealthy conditions;

- v. Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments for the purpose of engaging in sexual activity within the premises of those adult entertainment establishments;
- vi. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis, and chancroid;
- vii. Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities;
- viii. The findings noted in divisions <> to <> of this section raise substantial governmental concerns;
- ix. Adult entertainment establishments have operational characteristics that require or mandate subject them to reasonable government regulation in order to protect those substantial governmental concerns; and
- x. The enactment of these regulations will promote the general welfare, health, morals, and safety of the citizens of this City.

(2) Classification⁸⁸

Adult entertainment establishments include any of the following:

- A. Adult arcades;
- B. Adult bookstores, adult novelty stores, or adult video stores;
- C. Adult cabarets;
- D. Adult motion picture theaters;
- E. Adult theaters;
- F. Nude or Seminude model studios; or
- G. Sexual encounter establishment.

(3) Locational Requirements⁸⁹

All adult entertainment establishments shall meet the following location requirements.

- A. No adult entertainment establishment shall be established within 1,500 feet of any lot upon which another adult entertainment establishment is located.
- B. No adult entertainment establishment shall be established within 1,000 feet of any lot upon which the following uses exist:
 - i. A place of worship;
 - ii. A publicly owned active recreational facility or a passive park, open space, or natural area;
 - iii. A day care center, nursery school, educational institution or cultural institution, whether public or private, governmental or commercial, which use is regularly attended by persons under 18 years of age.
- C. No adult entertainment establishment shall be established within 500 feet of any dwelling or boundary of a residential zoning district within the municipal boundary of the City.
- D. No adult entertainment establishment shall be established within 200 feet of any boundary of a residential zoning district located outside the municipal boundary of the City.

⁸⁸ This is based on the state's definition of adult entertainment establishments, which does not include a drive-in theater.

⁸⁹ These locational regulations remain the same as those in the existing Section 1183.03.

- E. The distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the premises in which the proposed adult entertainment establishment is to be established to the nearest lot line of a use or zoning classification listed above or another adult entertainment establishment. The presence of a City, County or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(4) Development and Operational Standards⁹⁰

All adult entertainment establishments shall be subject to the following development and operational standards:

- A. Shall meet all regulations for other uses in the applicable zoning district.
- B. Loud speakers which cause a hazard or annoyance shall not be permitted.
- C. Structures should have primary access to a collector or arterial street.
- D. No adult entertainment establishment shall be located in any temporary or portable structure.
- E. The applicant shall submit evidence to the City of Mount Vernon that all of the applicable State, County and local health district regulations have been satisfied as part of any zoning permit application.
- F. No interior portion of the adult entertainment establishment may be visible from the outside, either through windows, doors or any other openings.
- G. Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance or exit to the business.
- H. All entrances to an adult entertainment establishment shall be clearly and legibly posted with a notice indicating that minors are prohibited from entering the premises.
- I. No adult entertainment establishment shall be operated in any manner that permits the observation of any persons or material depicting, describing or related to specified sexual activities or specified anatomical areas, inside the premises, from any public way or from any location outside the building or area of such establishment. This provision shall apply to any merchandise, display, decoration, sign, showcase window, or other opening.

(p) Amusement Arcade (Revised Chapter 1182)

(1) Purpose

The purpose of the regulations on amusement arcades is to promote the public health, safety and welfare by regulating amusement arcades where mechanically or electronically operated amusement devices are kept, operated, or maintained. It is further the intent of these sections to coordinate the provisions of this chapter with the requirements of Chapter 747, Mechanical Amusement Devices of the Codified Ordinances of Mount Vernon, governing the licensing and regulation of mechanical amusement devices in such manner that, in the event of any conflict between the respective regulations, the more restrictive requirement or the more severe penalty shall prevail.

(2) General Provisions

- A. No amusement arcade facility shall be established, operated or maintained in any place of business or on any premises unless authorized by the issuance of a conditional use permit in accordance with the provisions of Section <>. In addition to said provisions, amusement arcades shall comply with the following conditional use criteria:
 - i. Amusement arcades shall comply with the district regulations applicable to all properties in any zoning district in which they are located.
 - ii. Amusement arcades shall have an adult who is 18 years of age or over the premises and supervising the amusement arcade at all times during its hours of operation.

⁹⁰ This is an expansion of the cross-referenced criteria found in the conditional use provisions (related to performance standards for conditional uses in the existing P-I District – Section 1155.25). Most of the referenced section regulations will be incorporated as universal standards for all uses (e.g., no lighting that is a nuisance) and so do not need to be included here.

- iii. Amusement arcades shall have necessary security personnel as required by the appropriate law enforcement agency to police the interior and exterior of the premises.
 - iv. The interior of the amusement arcades shall provide a minimum area per coin-operated amusement device equal to the size of the device plus two feet of the area on each side plus an area of four feet in front of the device.
 - v. Prior to the issuance of a conditional use permit the applicant shall provide evidence that the structure meets the minimum requirements of the appropriate electrical and fire codes.
 - vi. If the place of business or premises for which an amusement arcade is proposed is a free-standing building, the application for the conditional use permit shall include an approvable exterior lighting plan.
 - vii. In establishments which serve alcoholic beverages, any area containing amusement devices shall be visually separated from that portion or portions of the establishment wherein alcoholic beverages are served or sold for carrying out of the premises.
 - viii. No amusement arcade may be established, operated or maintained in any place of business or on any premises which is within 500 feet of any adult entertainment establishment, or within 1,000 feet of an educational institution.
 - ix. The application for the conditional use permit shall be accompanied by a copy of the applicant's license to operate an exhibit amusement devices, and a notarized statement that the applicant shall not permit any person 14 years of age or younger to operate any devices on the premises before 4:00 pm or on days when school is in session.
- B. It shall be the obligation of the exhibitor of an amusement arcade to maintain peace and quiet and order in and about the premises. Failure to do so shall constitute a nuisance, which shall be a minor misdemeanor.
 - C. No amusement arcade exhibitor shall permit, on days when school is in session, any person 14 years of age or younger to operate any mechanical or electrically operated amusement device or to be or remain in an amusement arcade before 4:00 pm. This provision does not apply to juke boxes, mechanical musical instruments, or other mechanical amusement devices designed to be ridden, such as mechanical horses, automobiles, and carousels. Violation of this provision shall be a minor misdemeanor.

(3) Complaints Regarding Amusement Arcades

- A. Any resident of the City may submit a written notice of complaint regarding the operation of any amusement arcade to the ZEO. The notice of complaint shall include the name and address of the complainant, the address of the location of the amusement arcade, and the specific reasons why the individual is complaining.
- B. If the ZEO determines, after interviewing both the complainant and the amusement arcade exhibitor, that the specific reasons in the complaint appear to be proper grounds for suspension or revocation of the conditional use permit, he shall refer the matter to the BZA.

(q) Animal Boarding Facility or Animal Hospital/Clinic and Animal Grooming (Revised 1155.26 (e))

- (1) All structures and outdoor run areas designed to house or accommodate animals, either permanently or temporarily, shall be set back a minimum of 200 feet from all lot lines in a residential zoning district. All other structures related to the use of the property shall be set back in accordance with the applicable zoning district.
- (2) Care and boarding of animals shall be limited to domestic animals and may not include cattle, horses, swine, or other similarly sized animals.
- (3) Animal hospitals/clinics and animal grooming facilities shall not include any boarding or kennels except for temporary use during medical treatment.
- (4) Outdoor pens and exercise runs shall be kept in a clean and sanitary condition and shall be screened from public view.
- (5) A solid wood fence or masonry wall with a minimum height of six feet shall be constructed where a kennel or animal boarding facility is located adjacent to a residential zoning district.
- (6) Sanitation practices shall be adequate to assure that objectionable odors shall not be noticeable on or off the lot considering various wind conditions.

- (7) The applicant shall submit a written statement showing the measures and practices he will use to reduce the noise level in the design of the building and the management or rotation of animals in outdoor exercise runs.
- (8) No dead animals shall be buried on the premises and incineration of dead animals shall not create odors or smoke.

(r) Automotive Repair and Service (Minor), and Fuel Stations

- (1) Any repair work on vehicles that do not fall under Class 1, 2, or 3 vehicles, as defined by the Federal Highway Administration (FHWA), shall be defined as “automotive repair and service (major)” and subject to the applicable provisions of this chapter.
- (2) The minimum lot area shall be 15,000 square feet with an additional 5,000 square feet required for each service bay over an initial service bay.
- (3) Fuel pumps shall be set back a minimum of 20 feet from all lot lines and 100 feet from all adjacent lot lines of lots in residential zoning districts.
- (4) Canopies and principal buildings shall be set back a minimum of 20 feet from all lot lines and 50 feet from all adjacent lot lines of lots in residential zoning districts.
- (5) Any accessory shall be set back a minimum of 100 feet from all adjacent lot lines of lots in residential zoning districts.
- (6) No accessory use shall be located within 25 feet of a gasoline pump island.
- (7) All hydraulic hoists, oil pits, and all lubricants, greasing, vehicle washing and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.
- (8) All repair work must be performed in a fully enclosed building.
- (9) Activities shall be limited to:
 - A. The sale of automotive fuel;
 - B. The servicing of motor vehicles with minor repair work;
 - C. Washing of vehicles within an enclosed building;
 - D. The retail sale of vehicle parts and products relating to minor repair work, such as, but not limited to, oil, grease, tires, antifreeze, batteries, and windshield wipers. The storage and sales of such products shall take place entirely within an enclosed building.
- (10) Any major repair work, including but not limited to, automobile body repair and painting, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work shall be classified as “automotive repair and service (major)” and shall be subject to Section [1105.04\(s\)](#).
- (11) Vehicles being serviced or awaiting service shall be stored for no longer than seven calendar days on the site if in unenclosed areas or areas not screened along lot lines adjacent to lots in residential zoning district or lots used for residential purposes.
- (12) The storage and disposal of solid waste and recyclable materials, including used or discarded motor vehicle parts or equipment, and fluids, shall comply with all applicable Federal, State, and local requirements.
- (13) Outdoor solid waste, storage areas, and recyclable storage areas shall be screened in accordance with Section [1112.06](#).
- (14) Gasoline and other flammable mixtures shall not be used to wash down the premises.
- (15) Sanitary drains located on the premises without approved separators in the trap are prohibited.
- (16) Upon abandonment of a service station the City Fire Chief shall require that all environmental issues must be addressed including submission of a ‘certificate of abandonment approval in compliance with the Bureau of Underground Storage Tank Removal guidelines’ from the Fire Marshall of the State of Ohio in duplicate with one copy for records of the City Fire Chief and one copy for records of the City Engineer.

(s) Automotive Repair and Service (Major)

- (1) An automotive repair and service (major) establishment shall be subject to the same requirements as an automotive service station (minor) as established in Section [1105.04\(r\)](#), above.

- (2) The principal structure shall be set back a minimum of 150 feet from any lot line of a lot in a residential zoning district. Parking for the storage of vehicles, whether operational or non-operational, shall be set back a minimum of 50 feet from any adjacent lot line in a residential district.
- (3) The storage of non-operational vehicles for longer than 14 days shall be permitted if stored in the rear yard and screened by a solid wall or fence with a minimum height of six feet.
- (4) The use may be subject to additional screening requirement in accordance with [Section <>](#).
- (5) Vehicles awaiting repair shall be parked in designated parking spaces and shall not encroach on driving aisles, landscaped areas and drive approaches. No part of the street right-of-way shall be used for parking of vehicles awaiting service.
- (6) Damaged or inoperable vehicles shall not be used for storage purposes.

(t) **Bed and Breakfast (New)**

- (1) The minimum lot area shall be one-half of an acre.
- (2) The building utilized for the bed and breakfast establishment shall have been originally designed as a single-family dwelling structure.
- (3) The facility must be operated and managed by the property owner or leaseholder, who must reside on the premises while the bed and breakfast establishment is in operation.
- (4) Only overnight guests shall be served meals unless otherwise authorized as part of the conditional use approval.
- (5) All activities related to the establishment shall take place within the principal dwelling and not within a garage or accessory building. Furthermore, all access to rooms shall be from within the principal building.
- (6) The facility shall be limited to no more than four guestrooms with a maximum guest capacity as determined by fire and building regulations.
- (7) There shall be no exterior evidence of the use except that the owner may provide one wall-mounted sign with a maximum sign area of one square foot in addition to any other signs allowed for single-family dwellings in Chapter <>.
- (8) No building additions or alterations may be undertaken for the sole purpose of expanding the bed and breakfast use unless approved as part of the conditional use review.
- (9) A minimum of one off-street parking space for each guestroom and two off-street parking spaces for the resident owner-manager shall be required. All parking areas for five or more vehicles shall meet the applicable standards of Chapter <>.

(u) **Funeral Homes and Mortuaries (Revised 1155.26 (g))**

- (1) In the OB District, the funeral home should maintain a residential architectural appearance that is compatible with surrounding residential uses.
- (2) There shall be a minimum lot area of one acre and a minimum lot width of 150 feet.
- (3) Vehicular use areas shall be designed to allow for the queuing of vehicles if funeral processions are intended to originate or terminate at the establishment.
- (4) One dwelling unit may be provided within the principal building.
- (5) All funeral homes shall be located so as to provide direct access from an arterial or collector street.
- (6) Cremation services shall be permitted only in the GB, LI and GI Districts and shall be set back a minimum of 500 feet from any lot line in a residential zoning district.

(v) **Live/Work Unit**

- (1) Any nonresidential use permitted in the applicable zoning district is permitted in the live/work unit.
- (2) The unit must be constructed with a complete dwelling unit but residential occupancy of the unit is not required (i.e., the living space could be used as an extension of the nonresidential use area) but where there will be occupancy, the occupant shall be the owner or employee of the nonresidential use.
- (3) The occupant of the dwelling does not have to be the owner, employee, or otherwise related to the nonresidential use located in the same building.

(w) Microbrewery, Microdistillery, or Microwinery

- (1)** A microbrewery, microdistillery, and microwinery shall be allowed in the CB and GB Districts when the majority of the floor area is dedicated to being used for restaurant service or for the serving of drinks made on site so that the use fits into the retail character of the districts. Drinks made off site may also be permitted provided the majority of drinks offered for sale are made on site.
- (2)** A microbrewery, microdistillery, and microwinery in the LI and GI Districts may include a taproom area to serve customers drinks made on site provided the floor area of the taproom does not exceed 50 percent of the total footprint of the use. Food service may be included within the 50 percent total footprint. Drinks made off site may also be permitted provided the majority of drinks offered for sale are made on site.

(x) Short-Term Rentals

(1) Purpose and Intent

It is the purpose of this section to exercise of the City's police powers to promote and protect the public health, safety, and general welfare by regulating the use of residential dwellings for short-term rentals. It is further the intent of the provisions to allow the City to monitor short-term rentals to mitigate impacts created by short-term occupancy of these residential uses through the implementation of rationally based, reasonably tailored regulations to protect the integrity of the City's neighborhoods.

(2) Applicability

- A.** These standards apply to all short-term rentals located in the City.
- B.** This article shall not apply to any uses listed under the Residential Uses-Group Living heading in Table <>, hotels, bed and breakfasts, or transient uses of property regulated by other specific provisions of the City of Mount Vernon Code of Ordinances outside of this section.

(3) Minimum Standards for Short-Term Rentals

- A.** Short-term rentals must apply for and receive an approve zoning permit prior to operation.
- B.** This section prohibits the rental of any short-term rental unit for a time period of less than 24 hours.
- C.** No dwelling unit that receives low-income or affordable housing grants or credits from the federal, state, or local governments, or that meets any requirement applicable to the property in which the dwelling unit is located related to such low-income or affordable housing grants or credits, shall be permitted as a short-term rental unit.
- D.** All dwelling units that will be used for short-term rental shall meet all applicable laws related to building, health, or life safety, as may be applicable.
- E.** The maximum occupancy of the short-term rental shall be determined by the total of:
 - i.** Two persons per each bedroom with a floor area up to, and including, 210 square feet, plus an additional two persons.
 - ii.** For bedrooms over 210 square feet in area, the occupant load will be determined by the area of the bedroom divided by 70 square feet plus an additional two persons.
- F.** There shall be no hosting of private parties or special events (e.g., weddings, receptions, and similar gatherings) within the short-term rental unit that will exceed the maximum occupancy allowed by this section.
- G.** The following information shall be conspicuously posted in each short-term rental unit:
 - i.** The maximum occupancy of the short-term rental unit;
 - ii.** A copy of the approved zoning permit; and
 - iii.** The name, address, and telephone number of the short-term rental agent that can be contacted 24 hours a day, seven days a week regarding any operational issues with the short-term rental unit.
- H.** All short-term rentals must pay the Knox County Lodging Excise Tax.
- I.** Adequate on-site parking shall be provided in accordance with the following:

- i. One off-street parking space shall be required for each bedroom of a short-term rental unit that is leased or rented to individual groups beyond the full-time owner or occupant of the residential dwelling. This shall be in addition to the number of off-street parking spaces required for the residential use in Section <>.
- ii. If the entire dwelling is leased or rented to one short-term rental occupant and no one permanently resides at the dwelling, no additional off-street parking is required beyond what is required for the residential use.
- iii. In all cases, any parking required to accommodate the short-term rental in accordance with this section shall be accommodated off-street, on the same lot as the short-term rental unit.

J. Short-Term Rental Agent

- i. The owner of a short-term rental unit shall designate a short-term rental agent on its application for a zoning permit. The owner may serve as the short-term rental agent. Alternatively, the owner may designate another representative as their agent provided that representative is a person who is over the age of 18 years old.
- ii. The duties of the short-term rental agent are to:
 - a) Be reasonably available to handle any problems arising from use of the short-term rental unit;
 - b) Appear on the premises of any short-term rental unit within eight hours following notification from the City of issues related to the use or occupancy of the premises. This includes, but is not limited to, notification that occupants of the short-term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the City of Mount Vernon Code of Ordinances or other applicable law pertaining to noise, disorderly conduct, overcrowding, consumption of alcohol or use of illegal drugs. Failure of the agent to timely appear to two or more complaints regarding violations may be grounds for revocation of the zoning permit. This is not intended to impose a duty to act as a peace officer or otherwise require the agent to place themselves in a perilous situation;
 - c) Receive and accept service of any notice of violation related to the use or occupancy of the premises; and
 - d) Monitor the short-term rental unit for compliance with this section.
- iii. A short-term rental owner may change their designation of a short-term rental agent temporarily or permanently; however, there shall only be one such agent for a property at any given time. To change the designated agent, the owner shall notify the ZEO in writing of the new agent's identity, together with all contact information.

(y) Vehicle Washing Establishments

- (1) All structures shall be set back a minimum of 50 feet from any residential zoning districts. Any self-service washing establishment or portion of a building used for self-service washing shall be set back a minimum of 150 feet from any residential zoning districts.
- (2) In order to prevent excessive pooling of water in the street right-of-way, the facility must be equipped with a dryer or must demonstrate adequate drainage on-site to accommodate all water used for cleaning.
- (3) There shall be adequate provision for the disposal of waste water and the prevention of surface runoff.
- (4) Vacuuming and/or steam cleaning equipment may be located outside, but shall not be placed in the yard adjoining a residential zoning district.
- (5) The use shall be subject to the vehicle stacking space requirements of Section [1113.07](#).

(z) Contractor Equipment and Storage Yards

- (1) Outdoor storage must be associated with a principal building that contains the contracting or construction business associated with the stored materials.
- (2) In the GB District, the majority of storage shall be indoor and any outdoor storage, sales, or displays shall be accessory in nature, as regulated in Section <> (Accessory Uses).

(aa) Self-Storage Facilities

- (1)** The leases for all self-storage units shall include clauses related to the following:
 - A.** The storage of flammable liquids or radioactive, highly combustible, explosive or hazardous materials is prohibited; and
 - B.** The property may not be used for any uses other than for the storage of unused or seldom used items.
- (2)** All access to any self-storage facility shall be from an arterial or collector street.
- (3)** There shall be no retail sales on the property with the exception that the owner or their designee may hold an auction on the site up to four times a year for the purpose of selling goods stored in units.
- (4)** The Mount Vernon Fire Department shall be provided with 24-hour access to the grounds and buildings. A lockbox shall be provided for its use.
- (5)** The outdoor storage of inventory, materials, vehicles or merchandise is prohibited.
- (6)** Sale, repair, fabrication or servicing of goods, motor vehicles, appliances, equipment, or materials or similar activities shall be prohibited in or from self-service storage facilities.
- (7)** Self-storage facilities may not be used for residential purposes.
- (8)** Except for sinks and restroom facilities provided solely for the use of the managers or security personnel of self-storage facilities containing more than 10 individual storage units, neither sinks nor restroom facilities shall be permitted within self-storage facilities.
- (9)** No storage unit door opening in a self-storage facility (outdoor) shall face a residential district.

1105.05 DEFINITIONS⁹²

Active Recreational Use

Any park or recreational facility owned by the City of Mount Vernon, Knox County, State of Ohio, or a non-profit organization, that requires grading of the land, construction of facilities, lighting, or is developed for athletic fields, tennis courts, swimming pools, skate parks, disc golf, and other similar outdoor facilities that includes improvements.

Administrative, Business, or Professional Offices

A building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations, and wherein no retail trade is carried on and no stock of goods for retail sale are maintained on the premises.

Adult Arcade

Adult arcade shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

Adult Bookstore, Adult Novelty Store, or Adult Video Store

A commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

- Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment as defined in section 2907.38 of the Ohio Revised Code. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an "adult bookstore," "adult novelty store," or "adult video store." The existence of other principal business purposes does not exempt an establishment from being categorized as an "adult bookstore," "adult novelty store," or "adult video store" so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe "specified sexual activities" or "specified anatomical areas."

Adult Cabaret

A night club, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

- Persons who appear in a state of nudity or semi-nudity;
- Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- 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 Entertainment

The sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of "specified anatomical areas" or "specified sexual activity."

⁹² These are the proposed definitions for the principal uses. They are included her for our internal discussion but will ultimately be incorporated into the overall chapter on definitions.

Adult Entertainment Establishments

An adult arcade, adult bookstore, adult entertainment business, adult novelty store, adult video store, adult cabaret, adult motion picture theater, sexual device shop, adult theater, nude or seminude model studio, or sexual encounter establishment but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not an "adult entertainment establishment."

Adult Motion Picture Theater

A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

Adult Theater

A theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances that are characterized by their emphasis upon the exposure of "specified anatomical areas" or "specified sexual activities."

Agriculture

The use of land for farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce, provided, however that:

- The operation of any such accessory uses shall be secondary to that of normal agricultural activities; and
- The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within 100 feet of any residential zoning district. Agricultural does not include the feeding of garbage to animals or the operation or maintenance of a commercial stockyard or feed yard.

Airport

Any area of land designated and set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes

Amusement Arcade

A place of business within a building or outdoor structure or any part of a building having more than five mechanical or electronically operated amusement devices which are used for the purpose of public entertainment through the operation, use, or play of any table game or device commonly as an electronic game which is operated by placing therein any coin, plate, disc, slug, key, or token of value by payment of a fee. Amusement arcades shall not include any machines that are defined as a "scheme of chance" or "skill-based amusement machine" in the ORC.

Animal Boarding Facility

Any building, structure, land, or combination thereof, used, designed or arranged for the boarding, breeding or care of six or more domestic animals or pets more than four months of age, for profit. Such use may also include training and daycare facilities.

Animal Hospital/Clinics and Animal Grooming

A building where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Such uses shall not have any outdoor facilities for the boarding or keeping of animals. Such use may include facilities for animal grooming.

Assembly Halls or Conference Centers

Facilities or buildings available for lease by private parties that may include kitchen facilities for the preparation or catering of food, the sale of alcoholic beverages for on-premises consumption during scheduled events not open to the public, and/or outdoor gardens, decks, or reception facilities.

Automotive Repair and Service (Major)

Any general repair, rebuilding, reconditioning, body or fender work, framework, painting or the replacement of major parts of motor vehicles (e.g., major engine repair). This use type may also include towing services that provide towing or conveyance of a wrecked, inoperable, disabled, or illegally parked motor vehicle but shall not include storage of such vehicles on site.

Automotive Repair and Service (Minor)

Any structure or premises used for the sale of vehicle parts and fluids, excluding fuel sales, including lubrication of motor vehicles and replacements or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair, or spray painting. Such uses shall also include establishments that sell parts or tires for vehicles as a retail establishment, regardless if the parts are installed on-site.

Bed and Breakfast

Any place of lodging that provides four or fewer rooms for rent on a temporary basis, is the owner's personal residence, is occupied by the owner at the time of rental, and where meals may be served to guests.

Cemetery

Land used for the burial of the human dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Commercial and Business Support Services

A profit-making activity which renders services to other commercial or industrial businesses such as, but not limited to, courier services, information technology consultants, and internet providers.

Commercial Greenhouse or Nursery

An establishment used for the growing, storage, and sale of legal garden plants, shrubs, trees, or vines for retail or wholesale sales. Greenhouses that are part of a larger agricultural use shall be considered accessory to the principal agricultural use of the land.

Commercial Recreational Facility (Indoors)

A facility for any indoor profit-making activity which is providing participatory and/or spectator activities, such as, but not limited to, live performances (excluding theaters), bowling alleys, commercial recreation, video game rooms, billiard halls, indoor skating rinks, bingo parlors and similar entertainment activities. Commercial recreational facilities shall not include "adult entertainment establishments" or "amusement arcades."

Commercial Recreational Facility (Outdoors)

Land or facilities for any profit-making activity which is providing outdoor participatory and/or spectator activities such as, but not limited to, privately managed or owned parks, amusement park, water parks, rollerblade rental, pay-to-play athletic fields, golf courses, miniature golf courses, driving ranges, outdoor ice-skating rinks, batting cages or swimming pools. Commercial recreational facilities shall not include "adult entertainment establishments."

Contractor Equipment and Storage Yards

An unenclosed area or portion of a lot upon which a construction contractor maintains its principal office or a permanent business office used to store and maintain construction equipment and other materials customarily used in the trade carried on by a construction contractor. Such uses can include contractors including, but not limited to, landscaping and building contractors, who operate an office and storage yard on the same lot.

Cultural Facilities

Public or private facilities used for display, performance, or enjoyment of heritage, education, history, or the arts. This use includes, but is not limited to, museums, libraries, art performance venues, cultural centers, and interpretative sites. Such use shall not include "theaters."

Dwelling Unit

A single unit of one or more rooms providing complete, independent living facilities for one family, or alternatively by one housekeeping unit.

Permanent Supportive Housing

Community-based, long-term housing and supportive services, as appropriate, for homeless individuals with disabilities.

Transitional Housing

Housing and supportive services provided to homeless individuals and families, for no longer than twenty-four months, to enable them to obtain and maintain independent, permanent housing.

Dwelling, Multi-Family

A building or portion thereof designed with four or more dwelling units excluding “dwelling, rowhouse.”

Dwelling, Rowhouse

A building where the dwelling units are structurally attached to one another, side-by-side, with shared walls. Each dwelling unit shall only be accessible by individual, exterior entrances.

Dwelling, Single-Family

A building designed for or used exclusively for residential purposes by one family or housekeeping unit.

Dwelling, Two-Family

A building, or portion thereof, designed with two dwelling units.

Dwelling, Three-Family

A building, or portion thereof, designed with three dwelling units.

Educational Institution (Higher Education)

Any private or public secondary educational institution that includes, but is not limited to: secretarial schools, colleges and universities, business schools, cosmetology schools, seminaries, or any other institution providing collegiate level curriculum and other post-secondary school educational opportunities. Where such schools include a dormitory or other forms of housing for students or staff, such housing shall be considered a part of the educational institution provided it is on the same lot or within the same development as the educational institution.

Educational Institution (Preschool and K-12)

A public or private facility that provides a curriculum of primary, elementary, secondary or college preparatory academic instruction, including, but not limited to, preschools, kindergartens, elementary schools, junior high schools, and high schools. This definition shall not be deemed to include colleges, trade or business schools, or other post-secondary education facilities. Where such schools include a dormitory or other forms of housing for students or staff, such housing shall be considered a part of the educational institution provided it is on the same lot or within the same development as the educational institution.

Essential Services

The erection, construction, alteration, or maintenance by public utilities or City departments, boards, or commissions, of overhead, surface or underground gas, electrical steam, or water, distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substation, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such City utility or City department, board, or commission or for the public health, safety, convenience, prosperity or general welfare, shall be exempt from the regulations of this code. Provided, however, that the installation shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and those of other authorities having jurisdiction.

Family

One or more persons, with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.

Financial Institution

Any building, property or activity of which the principal use or purpose of which is for depository purposes and including the provision of financial services including, but not limited to banks, credit unions, savings and loan institutions.

Bulk Sale, Storage, or Distribution of Grains

An establishment that sells, stores, or distributes grains or other dried food products in bulk containers.

Food Services

An establishment whose principal business is the preparation of food and beverages for serving off-site. This includes catering services where there is no on-site restaurant or area for the serving of prepared foods and drinks.

Fraternal, Charitable, and Service Oriented Club

A building or portion thereof or premises owned or operated by an entity, person or group of persons for a social, educational, religious, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Short-Term Rental

An accommodation for transient guests where, in exchange for compensation, a residential dwelling unit, or part thereof, is provided for lodging for a period of time not to exceed 30 consecutive days. See also the definition of "bed and breakfasts" and "hotel."

Fuel Stations

An establishment that sells unleaded and diesel gasoline or any other fuel used for in vehicles as part of a retail activity available to the general public. Such use shall not include electric charging stations that are located in individual parking spaces.

Funeral Home or Mortuary

Any dwelling or establishment used and occupied by a professional licensed mortician for human burial preparation and funeral services.

Government Office or Building

Buildings or office space utilized for the provision of services by the City of Mount Vernon, Knox County, the State of Ohio, or the Federal Government that does not include outdoor activities other than parking. Such uses include, but are not limited to, the municipal building, fire stations, police stations, government offices, and other similar uses.

Heliport

A designated land area used for helicopter operations and any appurtenant areas, including fueling facilities, terminal buildings and maintenance and repair facilities.

Hospital

An institution providing inpatient and outpatient medical and/or surgical care, diagnosis and treatment for sick or injured persons including beds for overnight care, laboratories, medical offices, training facilities, and other necessary accessory facilities. Such uses may include ambulance service.

Hotel

A facility offering fewer than 30 days of consecutive lodging accommodations, in individual rooms or suites, on a daily rate, to the general public and potentially providing additional accessory services such as, but not limited to, restaurants, meeting rooms and recreational facilities. Such facilities shall provide only internal access to the individual rooms or suites.

Housekeeping Unit

Five or fewer unrelated persons occupying a single dwelling unit, living as a single group, and doing their own cooking on the premises as distinguished from a group occupying a hotel, motel, or other group living arrangement. Such definition shall also include all residential facilities with five or fewer residents and residential facilities, as defined in Chapter 5123 of the ORC, that contain up to eight or fewer unrelated persons.

Industrial Service Uses

Establishments primarily engaged in rendering services to office, business, retail, or industrial establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; office equipment rental and leasing; commercial research; development and testing; photo finishing; machine repair, and personal supply services.

Industrialized Unit

A building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. "Industrialized unit" includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. "Industrialized unit" does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by division (O) of section [4501.01](#) of the ORC.

Junk and Salvage Yard

Land or buildings used for one of the following operations:

- The purchase, sale, exchange, storage, baling, packaging, disassembly, or handing of waste, used materials, or secondhand materials including, but not limited to, batteries, scrap iron and other old scrap ferrous or non-ferrous materials, metals, paper, rubber tires, tires, debris or waste, electronic parts, and bottles;
- The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled, or partially dismantled, obsolete, or wrecked vehicles or their parts; or
- The storage, keeping, buying or selling of wrecked, scrapped or dismantled motor vehicles or motor parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been removed for reuse or sale, shall constitute a vehicle or automotive wrecking or salvage yard.

Live/Work Unit

A use that combines a commercial activity allowed in the zoning district with one dwelling unit in the same building. See also the definition of "mixed-use building."

Machinery and Heavy Equipment Sales, Leasing, Storage, and Service

An establishment engaged in the temporary storage for the sale or repair of tractor trailer trucks and other equipment or vehicles used in commercial, industrial or construction enterprises such as, but not limited to, bulldozers, cranes, backhoes, rollers, and lifts.

Manufactured Home

A building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the "Manufactured Housing Construction and Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 5403, and that has a permanent label or tag affixed to it, as specified in 42 U.S.C.A. 5415, certifying compliance with all applicable federal construction and safety standards.

Manufacturing and Production (Heavy or Outdoors)

An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials, or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its lot line. Such use shall also include any manufacturing or assembly facility that requires outdoor storage areas that exceed 500 square feet in area.

Manufacturing and Production (Indoors)

The manufacturing, processing, or assembly of products within a fully enclosed structure where noise, odor, light, or vibrations is not noticeable from the adjacent properties. See also "manufacturing and production (heavy or outdoors)."

Medical Marijuana

Marijuana that is cultivated, processed, dispensed, tested, possessed, or used for a medical purpose as defined in Ohio Revised Code Section 3796.01.

Medical Marijuana Business

A business or home occupation use involving, in whole or in part, the cultivation, processing, distribution, and/or wholesale or retail sale of medical marijuana on the premises. This definition shall specifically include, but is not limited to, dispensaries of medical marijuana; facilities for the cultivation, packing, transportation, processing, storage, and/or sale of medical marijuana; and bakeries or kitchens producing edible forms of medical marijuana or products containing the same.

Medical Marijuana Cultivator

An entity that has been issued a certificate of operation by the Ohio Department of Commerce to grow, harvest, package, and transport medical marijuana as permitted under Chapter 3496 of the Ohio Revised Code.

Medical Marijuana Dispensary

An entity licensed pursuant to sections 3796.04 and 3796.10 of the Ohio Revised Code and any rules promulgated thereunder to sell medical marijuana to qualifying patients and caregivers.

Medical Marijuana Processing

Medical marijuana processing licensed by the State of Ohio.

Medical/Dental Clinic or Health Center

Office or clinic uses concerned with the diagnosis, treatment, and care of human beings. This definition includes 24-hour urgent care centers but does not include “hospitals,” “medication maintenance facilities or dispensaries,” “skilled nursing facilities,” or “personal care facilities.” The use shall not include any ambulance service or overnight stays.

Memorial or Monument

A statue, building, or other structure erected to commemorate a famous or notable person, place, or event.

Microbrewery, Microdistillery, or Microwinery

An establishment where beer, liquor, wine, or other alcoholic beverage is manufactured on the premises. The manufacturing may be the principal use of the facility or may be subordinate to a restaurant, bar, or tavern. A microbrewery, microdistillery or microwinery may include some off-site distribution of its alcoholic beverages consistent with state law.

Mineral Extraction

The use of land that includes the extraction, removal, or basic processing of minerals, soil, or other natural resources from the earth. Such uses also include quarrying, mining, or other procedures typically done at an extraction site.

Mixed-Use Building

A building that contains a commercial or office use and a residential use within a single building as provided for in this code and where the residential uses are located on upper floors only.

Mobile Home

A building unit or assembly of closed construction that is fabricated in an off-site facility, is more than 35 body feet in length or, when erected on site, is 320 or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section [3781.06](#) of the Revised Code or as an industrialized unit as defined in division (C)(3) of section [3781.06](#) of the Revised Code.

Multi-Tenant Use

A principal building with multiple uses of a similar use classification (e.g., commercial, industrial, etc.) but that has multiple tenant spaces and/or multiple use types. A strip mall or strip center with a mixture of retail uses such as restaurants, retail stores, and personal service establishments is an example of a multi-tenant building. Such use does not include any use within the residential use classification.

Nursery Schools and Day Care Centers⁹³

A facility administering to the needs of infants, toddlers, pre-school children, and school children outside of school hours, by persons other than their parents or guardians, custodians, or relatives by blood, marriage or adoption for any portion of the 24-hour day in a building other than the child's own home. This use may include, but is not limited to, after school programs, office day care centers and principal structures used for only day care/nursery school programs. This term may also include adult day care centers where persons other than children, family members, or guardians care for an adult for a portion of a 24-hour day in a building other than the adult's home.

⁹³ Note that this includes a provision for adult day care centers, which is becoming more popular.

Parking Lot or Garage

An outdoor area or structure that contains marked parking spaces and associated access drives where motor vehicles may be stored for the purpose of temporary off-street parking.

Passive Parks, Open Space, and Natural Areas

Any park or recreational facility where there is no grading of the land, and no construction of facilities, lighting, or development of ball fields, with the exception that such passive parks, recreational facilities, and conservation areas may include the development of trails and sidewalks.

Permanently Sited Manufactured Home

A building unit or assembly of closed construction as defined in the ORC and permitted where single-family dwellings are allowed.

Personal Care

Personal care means the provision of personal services, such as help in walking and getting in and out of bed; assistance with bathing, dressing, and feeding; preparation of a special diet; and supervision over medications which can be self-administered.

Personal Services

Establishments that are primarily engaged in providing services generally involving the care of the person or person's possessions. Personal services may include, but are not limited to, laundry and dry-cleaning pick-up and drop-off, barber shops, beauty salons, health and fitness studios, music schools, informational and instructional services, tanning salons, and portrait studios.

Place of Worship

A religious institution where a congregation of any denomination regularly participates in or holds religious services, meetings and other activities, including buildings in which the religious services are held and which may include accessory indoor uses such as, but not limited to, day care or educational institution facilities.

Public Utility Building or Facility

Structures and land used for storage, transmission, or recovery facility for water, sewerage, telephone, electric or gas and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission (PUCO). Such uses may also include salt storage or other outdoor activities necessary for the efficient operations of the local, state, or federal government.

Railyards and Rail Service

Land used for the placement of rail lines, beyond the main tracks of transport, for the purpose of loading or unloading rail cars, repairing rail cars, restructuring trains, and other services related to rail activity.

Recycling Center

An establishment engaged in the processing, collection and transfer of recyclable materials. Typical recyclable materials include: glass, paper, plastic, cans, motor oil, or other source-separated, non-decayable materials.

Research and Development Facility

An establishment or facility for carrying on investigation in the natural, physical, or social sciences, or engineering and development as an extension of investigation with the objective of creating end products. Such establishment shall not include the manufacturing or assembly of products beyond the development of prototype systems or products. All activities shall take place within an enclosed building.

Residential Community Center

A building used for the meeting, recreation, or social activity designed to accommodate and serve the residents of a subdivision or development with which the use is associated and that may be privately owned or jointly owned by property owners.

Residential Facility, Large

Any residential facility meant as a permanent residence for persons, licensed by the State of Ohio, designed to allow not more than 16 persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate living activity in a non-institutional environment as regulated by Chapters 5119, 5120 and 5123 of the Ohio Revised Code and as further defined in Section <>.

Residential Facility, Small

Any residential facility meant as a permanent residence for persons, licensed by the State of Ohio, designed to allow not more than eight persons, needing specialized care, counseling, ongoing medical treatment or supervision to live in the same building or complex of buildings and engage in some congregate living activity in a non-institutional environment as regulated by Chapters 5119, 5120 and 5123 of the Ohio Revised Code and as further defined in Section <>.

Restaurant

An establishment whose principal business is the selling of food and beverages to the customer in a ready to consume state, in individual servings, to be consumed within the building or as take-away but shall not be served through a drive-through facility or to customers waiting in their vehicles for consumption on the premises. Such uses may or may not include an accessory drive-in or drive-through as allowed in this code.

Retail Business

Any business selling goods, wares or merchandise directly to the ultimate consumer for direct consumption and not for resale. A retail business use includes, but is not be limited to such activities as: supermarkets; stores that sell electronics, hardware, apparel, footwear, appliances, furniture, department stores, and discount stores.

Self-Storage Facility

A building that contains varying sizes of individual, compartmentalized, or controlled-access stalls, lockers, or buildings for the dead storage of a customer's goods or wares where the access to such stalls or lockers can occur within the inside of the building or from the exterior of the building, The use may include outdoor storage of vehicles. Self-storage facilities shall also include buildings used for storage of personal or business items, regardless of commercial purposes, where such storage exceeds 40 percent of the total floor area of the building.

Skilled Nursing

Those nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond those which the untrained person possesses. It involves administering medications and carrying out procedures in accordance with the orders, instructions, and prescriptions of the attending physician or surgeon.

Skilled Nursing or Personal Care Facility

A long-term or short-term in-patient care facility that provides skilled nursing services or personal care in a facility that is not in a traditional dwelling type (e.g., single-family dwelling). Such facility shall not mean the same as "hospitals" or "residential facility."

Theaters

Any building or part of a building used for the showing of motion pictures or for dramatic, dance, musical, live or pre-recorded performances. Such use may include a lobby area and refreshment stand for the patrons.

Truck Terminal

The use of property or buildings for a business establishment that is primarily related to the distribution of goods and merchandise and/or the temporary parking of motor freight vehicles or trucks during loading and unloading, and between trips. While truck terminals may include necessary warehouse space for storage or transitory freight, such storage shall be short-term (30 days or less). Truck terminals may include building facades that are occupied entirely or partially by loading docks and garages for access by trucks.

Vehicle Sales and Leasing

Any building or land where new or used passenger cars, pick-up trucks, motorcycles, boats, trailers, and other recreational vehicles, in operational condition, are sold or leased to customers.

Vehicle Washing Establishments

The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment. This shall include establishments that provide car detailing services.

Warehouse

A business establishment primarily engaged in the long-term storage (over 30 days) of goods and merchandise within a single building (not individual compartments) that may contain, loading and unloading docks. Warehouses shall not include any building facade that is contain loading docks or garages that occupy more than 40 percent of the facade width. See also "self-storage facilities" or "truck terminals."

Wholesale Establishment

An establishment or place of business primarily engaged in selling merchandise to retailers, including associated showrooms and warehousing; to industrial, commercial, institutions, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.