

## TITLE 27- ZONING CODE

### TITLE 27. ZONING CODE

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#### Chapter 27.01. Title and Enactment Clause.

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##### §27.01.01. Authority.

The Council of the City of Nelsonville, Athens County, Ohio in accordance with enabling legislation for municipal zoning as provided in *Ohio Revised Code Chapter 713* hereby provides as follows:

##### §27.01.02. Title.

This title shall be known and may be cited as the "*Zoning Code of the City of Nelsonville, Athens County, Ohio*" except as referred to herein, where it shall be known as "this ordinance", "this code", "this title" or "these regulations".

##### §27.01.03. Purpose.

These regulations are adopted for the purpose of protecting and promoting the public health, safety, morals, comfort and general welfare of the residents of the City of Nelsonville; to protect the property rights of all individuals by assuring compatibility of use and practices within zoning districts; to facilitate the provision of public utilities and services; to lessen congestion on public streets, roads and highways; to make provision for penalties for violations and for any other proposes provided in these regulations, the *Ohio Revised Code* or under common law rulings.

#### Chapter 27.02. Definitions.

- §27.02.01. Definitions.

##### §27.02.01. Definitions.

For the purposes of this title, certain terms and words are defined as follows. Words used in the present tense include the future, and the plural includes the singular, and the singular includes the plural. The word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

Except where specifically defined, all words used in this code shall carry their customary meanings.

A. "Abandoned junk motor vehicle" means any motor vehicle meeting all of the following requirements:

(1) Left on private property for more than seventy-two (72) hours or on a public street or other property open to the public for purposes of vehicular travel or parking for more than seventy-two (72) hours, or upon or within the right-of-way of any road or highway for more than seventy-two (72) hours; and

(2) Meeting the requirements of "junk motor vehicle" as herein defined.

B. "Abandoned motor vehicle" means any motor vehicle which is dismantled, inoperable, unlicensed, parked, stored or left on any lots or lands in the municipality for a period not to exceed seventy-two (72) hours except in a duly licensed junkyard, automobile salvage yard, motor vehicle salvage dealer's yard or towing service yard.

C. "Abandonment" means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short term interruptions to a use or activity during periods of remodeling, maintaining or otherwise improving or rearranging a facility or during nominal periods of vacation or seasonal closure.

D. "Abutting" means having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

E. "Accessory use" means a use incidental to, and on the same lot as a principal use.

F. "Accessory apartment" means a separate and complete dwelling unit that is contained within the structure of a single-family dwelling unit.

G. "Accessory structure" means a subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

H. "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically, or mechanically controlled, still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas" as herein defined.

I. "Adult bookstore" or "adult video store" means a commercial establishment which as one of its principal business purposes offers for sale or rent for any form of consideration any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(2) Instruments, devices, or

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

J. “Adult Cabaret” means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

(1) Persons who appear in a state of nudity; or

(2) Live performances which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or

(3) Films, motion picture, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

K. “Adult Family Home” means a residence or facility that provides accommodations and supervision to three (3) to five (5) unrelated adults, at least three (3) of whom require personal care services and are licensed under provisions of *Ohio Revised Code Chapter 5119* and *Ohio Administrative Code Chapter 5122*.

L. “Adult Group Home” means a residence or facility that provides accommodations and supervision to six (6) to sixteen (16) unrelated adults, at least three (3) of whom require personal care services and are licensed under provisions of *Ohio Revised Code Chapter 5119* and *Ohio Administrative Code Chapter 5122*.

M. “Adult motion picture theater” means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”.

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

O. “Agriculture” means the use of land for agricultural purposes, such as farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory used for packing, treating, or storing the produce; however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

P. “Agriculture services” means any elevators, sawmills, feed mills, farm implement sales and services and other agriculture retail and wholesale supply establishments. Veterinarians, veterinarian clinics and other professional agricultural services are included.

Q. “Alley” means a public or private way permanently reserved as a secondary means of access to abutting property whether improved or not.

R. “Alteration, structural” means any change in the supporting members of a building or structure, such as bearing walls columns, beams, or girders; provided, however, that the application of any exterior siding to an existing building for the purpose of beautifying and modernizing shall not be considered a structural alteration.

S. “Alteration” means any change, addition, or modification in construction or occupancy of an existing structure.

T. “Amusement arcade” means any place of business where one (1) or more skilled-based amusement machines are located for the use of entertainment or persons patronizing the place of business.

U. “Apartment”: (see “Dwelling, multi-family”).

V. “Automobile salvage yard” means a place of business which is maintained, used or operated for the sole purpose of storing, keeping, buying or selling wrecked or scrapped, ruined or dismantled motor vehicles or motor vehicle parts. It does not include an automobile body shop or an automobile service station.

W. “Basement” means that portion of a building that is partly or completely below grade. A basement shall be counted as a story where more than one-half (½) its height is above the average level of the adjoining ground.

X. “Bed and Breakfast” means a house, or portion thereof, where short-term lodging rooms and meals are provided.

Y. “Bedroom” means any room used principally for sleeping purposes, provided that no room having less than seventy (70) square feet of floor area shall be considered a bedroom.

Z. “Board” means the Board of Zoning Appeals of the City of Nelsonville, Athens County, Ohio.

AA. “Boarding house” means a building arranged or used for lodging for compensation, with or without meals, and not occupied as a single-family unit.

AB. “Building line” means the line, parallel to the street line, which passes through the point of the principal building nearest the front lot line.

AC. “Building height” means the vertical distance to the highest point of the roof for flat roofs; to the deck line of mansard roofs- and to the maximum height of any segment of a hip, gable or gambrel roof, as measured from the average surrounding grade elevation.

AD. “Building” means a structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or chattels. When separated by division walls from the ground up without openings, each portion of such building shall be deemed a separate building.

AE. “Cemetery” means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

AF. “Child Day Camp” means a program in which only school children attend or participate, that operates for no more than seven (7) hours per day, that operates only during one (1) or more public school district’s regular vacation periods or for no more than fifteen (15) weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty percent (50%) of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty percent (50%) of that day. For purposes of this division, the maximum seven (7) hours of operation

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time does not include transportation time from a child's home to a Child Day Camp and from a Child Day Camp to a child's home.

AG. "Child Day-care Center" means a place in which child care or publicly funded child care is provided for thirteen (13) or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven (7) to twelve (12) children at one time. In counting children for purposes of this definition, any children under six (6) years of age who are related to the licensee, administrator, or employee and who are on the premises of the center shall be counted.

AH. "Church" or "Place of Religious Worship": means an institution that people regularly attend to participate in or hold religious services, meetings, and other religious related activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

AI. "Clinic" means a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

AJ. "Club" means buildings or facilities owned or operated by a corporation association or persons for a social, educational, or recreational purpose; but not primarily for profit or to render a service that is customarily carried on as a business. This does not include student related organizations.

AK. "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars (\$100.00) or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained or used essentially as a collector's item, leisure pursuit or investment, but not as the owner's principal means of transportation.

AL "Commercial recreational facilities" means recreational facilities open to the public, established and operated for a profit such as commercial golf courses, golf driving ranges, swimming pools, ice skating rinks, riding stables, race tracks, carnivals, boat docks and launching ramps, fishing piers and similar commercial enterprises.

AM. "Commercial tractor" means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

AN. "Commercial vehicle" means any car, truck or motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor.

AO. "Commission" means the Planning Commission of the City of Nelsonville, Athens County, Ohio.

AP. "Community Center" means a place, structure, area or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.

AQ. "Community Residential Facility" means a halfway house or community residential center which provides resident services to a group of individuals where

the facility is licensed with the Division of Parole and Community Services of the Department of Rehabilitation and Corrections Ohio Parole Authority pursuant to *Ohio Revised Code Chapters 2967 and 5120*.

AR. "Comprehensive Plan" means the long-range plan and any updates thereto, describing the desirable use of land as adopted by the Planning Commission and the City Council; the purpose of such plan being, among other purposes, to serve as guide in future development and zoning for the municipality.

AS. "Conditional use" means a use that, owing to some special characteristics attendant to its operation or installation (for example, potential danger, smoke, or noise), is permitted in a district subject to approval by the Board of Zoning Appeals, and subject requirements, different from those usual requirements for the district in which the conditional use may be located.

AT. "Condominium" means an estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

AU. "Council" means the City Council of the City of Nelsonville, Athens County, Ohio.

AV. "Cul-de-sac" means a local street, one end of which is closed and includes a circular turn around.

AW. "Density" means the number of dwelling units per net acre or lot of land (excluding any public right-of-way).

AX. "Development" means all structures and other modifications of the natural landscape above and below ground or water, on a particular site.

AY. "District" or "Zoning District" means the administrative tracts designating the uses for which land can be legally utilized. Boundaries of the districts are shown on the zoning map, which is part of this code.

AZ. "Dormitory" means a building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or other similar use. Dormitories do not include kitchen facilities, except a group kitchen facility to serve all residents.

BA. "Downtown Commercial" means the retail and service establishments catering to the City's residents and workers daily needs for goods and services, including business, retail, professional, personal, and travel services.

BB. "Drive-in facility" means an establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises or to be entertained while remaining in an automobile.

BC. "Dry Cleaner" means a business that accepts garments to be cleaned laundered and/or pressed by an employee of such business.

BD. "Dwelling" means a building or portion thereof used exclusively for residential purposes, including one-family and multiple-family dwellings. The term "dwelling" shall include those involving industrialized

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units, mobile homes and manufactured homes, but not recreational vehicles, hotels, motels and other temporary housing.

BE. "Dwelling unit" means one (1) or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one (1) family with separate toilets and facilities for cooking and sleeping.

BF. "Dwelling, multi-family" means a building or dwelling unit, or portion thereof, designed for or used by more than one (1) family unit.

BG. "Easement" means the right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

BH. "Erect" means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs on walls.

BI. "Essential services" means the erection, construction, alteration or maintenance by public utilities, the City, or other governmental agencies, of underground gas, electrical, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, traffic signals, hydrants or other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utilities, City or other governmental agencies for the public health, safety, or general welfare.

BJ. "Facade" means the exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

BK. "Fair Market Value" means the price at which a property would change hands in an open market between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having knowledge of the relative facts concerning the condition and location of the property and recent comparable sales.

BL. "Family" means an individual or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit. A "group family" is not permitted the keeping of any roomers in R-1 or R-2 zones.

BM. "Family Home" means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six (6) but not more than eight (8) developmentally disabled persons pursuant to *Ohio Revised Code Chapters 5119 and 5123*.

BN. "Fence" means any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

BO. "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred (400) square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

BP. "Floodplain" means any land area designated as being susceptible to flooding according to maps and information provided by the Federal Emergency Management Agency.

BQ. "Folding-tent trailer" means a canvas folding structure, mounted on wheels and designed for travel and vacation uses.

BR. "Foster Family Home" means a residential facility that provides room and board, personal care, habilitation services and supervision in a family setting for not more than five (5) developmentally disabled persons pursuant to *Ohio Revised Code Chapters 5119 and 5123*.

BS. "Foster Home" means a private residence in which children are received apart from their parents, guardian, or legal custodian, by an individual reimbursed for providing the children non-secure care, supervision, or training twenty-four (24) hours a day. "Foster home" does not include care provided for a child in the home of a person other than the child's parent, guardian, or legal custodian while the parent, guardian, or legal custodian is temporarily away. "Family Foster Homes", "Specialized Foster Homes" and "Treatment Foster Home" as defined in *Ohio Revised Code Chapter 5103* are types of foster homes.

BT. "Frontage" means that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side line of a corner lot.

BU. "Funeral home" means a building or part thereof used for human funeral services. Such building may contain space and facilities for:

(1) Embalming and the performance of other services used in preparation of the dead for burial;

(2) The performance of autopsies and other surgical procedures; and

(3) The storage of caskets, funeral urns and other related funeral supplies including the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

BV. "Garage, private" means a building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

BW. "Garage, repair" means a building designed and used for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work. (also see "Service station")

BX. "Grade" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

BY. "Gross floor area" means the sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, open porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this bylaw, or any such floor space intended and designed for accessory heating and

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ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

BZ. "Gross leasable area" means the total floor area designed for tenant occupancy and exclusive use, including basements, mezzanines, and upper floors, if any, expressed in square feet and measured from the center line of joint partitions and from outside wall faces.

CA. "Group family" means not more than three (3) persons, any one of which is not related by blood, marriage or adoption to another, living together as a housekeeping unit.

CB. "Group Home" means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine (9) but not more than sixteen (16) developmentally disabled persons pursuant to *Ohio Revised Code Chapters 5119 and 5123*.

CC. "Hazardous substances" means any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

CD. "Health/Recreation Facility" means an indoor facility including uses such as game courts, exercise equipment, locker rooms, jacuzzis and/or sauna and pro shop.

CE. "Historic District" means an area of the City of Nelsonville designated in 1996 by the *National Register of Historic Places* as District #96000672 and thereby having historic architectural, engineering, commerce, community or event significance.

CF. "Home Occupation" means a non-transferable approval issued to a resident of a specific property for accessory use of a principal dwelling unit or attached or detached accessory structure to conduct an activity, profession, occupation, service, craft, or revenue-enhancing activity clearly subordinate and incidental to use of the dwelling for residential purposes.

CG. "Home Occupation, Administrative" means a home occupation permitted by the Zoning Officer which has no clients coming to the dwelling except as otherwise permitted by this code, has no visible exterior evidence of the occupation, does not create a need for additional parking, does not create additional traffic and which does not alter or impact the general character and nature of the premises or the surrounding neighborhood.

CH. "Home Occupation, Conditional" means a home occupation permitted by the Board of Zoning Appeals which does not meet the definition and criteria of an administrative home occupation, allows clients or customers to come to the dwelling, and requires that both the dwelling and home occupation parking needs be met on-site.

CI. "Hospital" means an institution specializing in giving clinical, temporary and emergency services of a medical or surgical nature to human patients and injured persons, and licensed by State law to provide facilities and services in surgery, obstetrics and general medical practice.

CJ. "Hotel" means a facility offering transient lodging accommodations on a daily rate to the general

public and possibly providing additional services, such as restaurants, meeting rooms and recreational facilities. (also see "Motel"):

CK. "Impervious surface" means any material that substantially reduces or prevents the infiltration of storm water into previously undeveloped land. Impervious surfaces shall not include graveled driveways or parking areas.

CL. "Historical motor vehicle" means any motor vehicle that is over twenty-five (25) years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades and similar uses, but that in no event is used for general transportation.

CM. "Industrialized unit" means a building unit or assembly of closed construction fabricated in an off-site facility that is substantially self-sufficient as a unit or 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 mobile home or manufactured home as herein defined.

[see *Ohio Revised Code Section 3781.06 (C) (3)*].

CN. "Inoperable motor vehicle" means any motor vehicle, including a licensed collector's vehicle or licensed historical vehicle, which for a period of thirty (30) days or more remains in either of the following conditions:

(1) Do not display a valid registration sticker or license plate; or

(2) Are wrecked, partially wrecked, dismantled, partially dismantled, discarded or incapable of operation under their own power.

(a) "Dismantled or partially dismantled" means any motor vehicle from which some parts have been removed or are missing.

(b) "Incapable of operation" means any motor vehicle which is unable or apparently unable to move under its own power.

CO. "Junk motor vehicle" means any motor vehicle meeting all of the following requirements:

(1) Three (3) years old or older;

(2) Extensively damaged, such damage including, but not limited to any of the following: a broken window or windshield, missing tire(s), wheel(s), motor or transmission;

(3) Apparently inoperable;

(4) Having a fair market value of one thousand five hundred dollars (\$1,500.00) or less.

CP. "Junkyard" means an establishment or place of business which is maintained or operated for the purpose of storing, keeping, buying or selling junk. For the purpose of this code, the term "junkyard" shall also include scrap metal processing facilities.

CQ. "Kennel" means an establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

CR. "Landfill" means a disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume and applying

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cover material over all exposed waste at the end of each operating day.

CS. "Laundry, self-service" means a business that provides home-type washing, drying and/or ironing machines for hire on the premises to be used by customers.

CT. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine that displays current, valid license tags issued under *Ohio Revised Code Section 4503.45*, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

CU. "Licensed historical vehicle" means an historical vehicle that displays current, valid license tags issued under *Ohio Revised Code Section 4503.181*.

CV. "Lot" means a parcel of land intended to be separately owned, developed and otherwise used as a unit.

CW. "Lot, corner" means a lot abutting on and at the intersection of two (2) or more streets.

CX. "Lot, interior" means an interior lot is a lot other than a corner lot.

CY. "Lot area" means the area of horizontal plane bounded by the vertical planes through front, side and rear lot lines.

CZ. "Lot coverage" means determined by dividing all area of a lot that is occupied or covered by the total horizontal projected surface of all buildings, including covered porches and accessory buildings, by the gross area of that lot.

DA. "Lot depth" means the average horizontal distance between the front and rear lot lines.

DB. "Lot line" means a line dividing one lot from another lot or from a street or alley.

DC. "Lot line, front" means that side of a lot abutting on a street or way and ordinarily regarded as the front of the lot.

DD. "Lot line, rear" means the lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three (3) lot lines will not have a rear lot line.

DE. "Lot line, side" means any lot lines not a front or rear lot line.

DF. "Lot of record" means a lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

DG. "Lot width" means the horizontal distance between side lot lines measured at the required front setback line.

DH. "Manufactured home" means 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 certifying compliance with all applicable federal construction and safety standards.

DI. "Manufactured Home" means 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 certifying compliance with all applicable federal construction and safety standards.

DJ. "Manufactured home park" means any tract of land upon which three (3) or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park.

[see *Ohio Administrative Code §4781-12-01 (K)*]

DK. "Mineral extraction, storage, and processing" means any mining, quarrying or processing of limestone, sand, gravel, oil, natural gas, or other mineral resources.

DL. "Mini-warehouse": (see "Self-service storage facility")

DM. "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five (35) feet in length or, when erected on site, is three hundred twenty (320) or more square feet, is built on a permanent chassis, is transportable in one (1) or more sections and does not qualify as an industrialized unit or manufactured home as herein defined.

DN. "Motel" means a building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for motor vehicle transient guests and having a parking space next to a sleeping room. An automobile court or a tourist court with more than one (1) unit or a motor lodge shall be deemed a motel. (also see "Hotel")

DO. "Motor vehicle salvage dealer" means any person who engages in business primarily for the purpose of selling salvage motor vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal.

DP. "Motor home" means a self-propelled recreational vehicle that has no fifth wheel and is constructed with permanently installed facilities for cold storage, cooking and consuming of food and for sleeping.

DQ. "Non-commercial recreational facilities" means a private or semi-public recreational facilities which is not operated for commercial gain, including private country clubs, riding clubs, golf courses, game preserves, ski slopes, hunting and trapping and other private non-commercial recreation areas and facilities or recreation centers including private community swimming pools. "Non-commercial recreational facilities" may be leased to outside groups or organizations provided the fee for such purposes is limited to incidental maintenance and custodial expenses.

DR. "Non-conforming use" means a lawful use of land existing prior to the enactment of this title or relevant amendments thereto that does not comply with the adopted use regulations for its zoning district.

DS. "Non-conforming lot" means a lot of record existing prior to the enactment of this code or relevant amendments thereto that does not meet the current requirements of this title due to size, lot dimension or area requirement.

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DT. "Non-conforming building" means any building existing prior to the enactment of this title or relevant amendments thereto that does not meet the limitations on building size and location on a lot, for the district in which such building is located, for the use to which such building is being utilized.

DU. "Nude model studio" means any place where a person who appears in a state of nudity or displays specified anatomical areas is provided solely to be sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons.

DV. "Nudity" or a "State of nudity" means

- (1) The appearance of human bare buttocks, anus, genitals, or areola of the female breast; or
- (2) A state of dress which fails to cover opaquely a human buttocks, anus, genitals or areola of the female breast.

DW. "Office park" means a large tract of land that has been planned, developed and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses with special attention given to circulation, parking, utility needs, aesthetics and compatibility.

DX. "Office" means a building or portion of a building wherein services are performed involving predominantly administrative, professional or clerical operations.

DY. "Open space" means an area that is intended to provide light and air, and is designed for environmental, scenic or recreational purposes. "Open space" may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and water courses. "Open space" shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel.

DZ. "Outdoor storage" means the keeping, in an un-roofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than seventy-two (72) hours.

EA. "Parcel" means a continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

EB. "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the *American National Standard Institute Standard A119.5 (1988)* for park trailers, is built on a single chassis, has a gross trailer area of four hundred (400) square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

EC. "Parking space" means an area on a lot and/or within a building intended for the use of temporary parking of a personal vehicle. This is used interchangeably with parking stall. Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhouse residential uses shall be considered to have a means of access to a public street. A parking space shall have a permanently hard surfaced area of not less than nine (9) feet by twenty (20) feet, either within a structure or in

the open, exclusive of access drives, and located upon the lot for which the parking exists.

ED. "Parking lot" means an area not within a building where motor vehicles may be stored for the purposes of temporary, daily, or overnight of street parking. (also see "Garage, public")

EE. "Permanent foundation": A permanent masonry, concrete, or footing or foundation approved by the manufactured homes commission pursuant to *Ohio Revised Code Chapter 4781* to which a residential dwelling, industrialized unit, manufactured home or mobile home may be affixed.

EF. "Permanently sited manufactured home": A manufactured home that meets the following criteria:

- (1) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

- (2) The structure, excluding any additions, has a width of at least twenty-two (22) feet at one point, a length of at least twenty-two (22) feet at one point, and a total living area, excluding garages, porches or attachments, of at least nine hundred (900) square feet.

- (3) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch (6") minimum eave overhang, including appropriate guttering;

- (4) The structure was manufactured after January 1, 1995;

- (5) Structure is not located in a manufactured home park or mobile home residential district as herein defined.

EG. "Plant nursery" means the cultivation of crops, fruit trees, nursery stock, truck garden products and similar plant materials outside or within greenhouses for sale or for transplanting.

EH. "Principal use" means the main use of land for structures, as distinguished from a secondary or accessory use.

EI. "Principal building" means a building in which the primary use of the lot on which the building is located is conducted.

EJ. "Public service facility" means the erection, construction, alteration, operation or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage or pumping plants and other similar public service structures by a public utility, by a railroad whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical gas, rail transport, communication, public water and sewage services.

EK. "Public parks, playgrounds, or playing fields" means public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian bicycle paths, open space, wilderness areas or similar public land within the City which is under the control, operation or management of the City, County, or State.

EL. "Recreational vehicle" means a boat, boat trailer, fifth wheel trailer, motor home, park trailer, tent-type fold-out camping trailer, travel trailer, truck camper, watercraft or related equipment.

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EM. "Recreational Vehicle (RV) Park" means a lot of land upon which two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

EN. "Restaurant" means an establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.

EO. "Right-of-Way" means an area or strip of land, either public or private, on which an irrevocable right-of passage has been recorded for the use of vehicles or pedestrians or both.

EP. "Road, private" means a way open to vehicular ingress and egress established as a separate tract for the benefit of certain, adjacent properties. This definition shall not apply to driveways.

EQ. "Road, public" means all public property reserved or dedicated for street traffic.

ER. "Rooming house" means a building that is the primary residence of the owner and in which rooms are provided, for compensation, to three (3) or more adult persons not related by blood, marriage, or adoption to the owner. (also see "Boarding house")

ES. "School" means any public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools and special education schools.

ET. "Scrap metal processing facility" means an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for re-melting purposes.

EU. "Self-service storage facility" means a building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

EV. "Semi-trailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semi-trailer into a trailer.

EW. "Service station" means any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. "Service station" shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender work are conducted. (also see "Garage, repair"):

EX. "Setback" means the required minimum horizontal distance between the building line and the related front, side, or rear property line.

EY. "Sexually oriented business" means an adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater or adult theater. Sexually oriented business does not include a nude model studio.

EZ. "Site plan" means a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses and principal site development features proposed for a specific parcel of land.

FA. "Skill-based amusement machine" means any mechanical, video, digital or electronic device as defined in *Ohio Revised Code Section 2915.01 (UU) (1)*.

FB. "Specified anatomical areas" means human genitals.

FC. "Specified sexual activities" means any of the following:

(1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

(3) Masturbation, actual or simulated.

FD. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it.

FE. "Street" means a public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles.

FF. "Supported Living Home" means a residential facility for a developmentally disabled person where, according to the person's individual habilitation plan, the person demonstrates skills that would enable the person to function for specified periods of time without supervision. Such skills include, but are not limited to, home management, community mobility, personal hygiene, interpersonal relationship skills, and self-preservation pursuant to *Ohio Revised Code Chapters 5123 and 5126*.

FG. "Temporary building" means a structure erected to provide shelter for a use which is temporary in nature.

FH. "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five percent (25%) of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

(a) Fifteen (15) feet in length, exclusive of bumper and tongue;

(b) Sixty (60) inches in height from the point of contact with the ground;

(c) Eight (8) feet in width;

(d) One (1) ton gross weight at time of sale.

FI. "Trailer" means any vehicle without motive power that is designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle that is



formed by or operated as a combination of a semi-trailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five (25) miles per hour, and a vehicle that is designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a public road or highway for a distance of more than ten (10) miles or at a speed of more than twenty-five (25) miles per hour. "Trailer" does not include a manufactured home or travel trailer.

FJ. "Travel trailer" means a non-self-propelled recreational vehicle that does not exceed an overall length of thirty-five (35) feet, exclusive of bumper and tongue or coupling, and contains less than three hundred twenty (320) square feet of space when erected on site.

FK. "Truck camper" means a non-self-propelled recreational vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

FL. "Type A Family Day-care Home" or "Type A Home" means the permanent residence of the administrator in which child care or publicly funded child care is provided for seven (7) to twelve (12) children at one time or a permanent residence of the administrator in which child care is provided for four (4) to twelve (12) children at one time if four (4) or more children at one time are under two (2) years of age. In counting children for purposes of this definition, any children under six (6) years of age who are related to a licensee, administrator, or employee and are on the premises of a Type "A" home shall be counted. "Type A Family Day-care Home" and "Type A Home" do not include any Child Day Camp.

FM. "Type B Family Day-care Home" or "Type B Home" means the permanent residence of the provider in which child care is provided for one (1) to six (6) children at any one time in which no more than three (3) children are under two (2) years of age. For purposes of determining group size in a Type "B" Home, children under six (6) years of age who are related to the provider who are on the premises shall be counted; children six (6) years of age or older who are related to the provider who are not publicly or privately funded and who are on the premises shall not be included in the count; and children provided publicly or privately funded care who are related to each other shall be counted. Type "B" Homes which are not certified by the Director of Athens County Job and Family Services shall also be included in this definition and afforded all the rights and privileges of *Ohio Revised Code Section 5104.054* related to zoning regulations. "Type B Family Day-care Homes" and "Type B Homes" do not include any Child Day Camp.

FN. "Variance" means a dispensation permitted on individual parcels of property as a method of alleviating unnecessary hardship by allowing a reasonable deviation from the requirements of this title because of unusual or unique circumstances.

FO. "Vehicle" means a machine propelled by power other than human power designed to travel along the ground by use of wheels or treads and transporting persons or property or pulling machinery and includes, without limitations, automobiles, watercraft, trucks, trailers, buses, motorcycles and/or tractors.

FP. "Watercraft" means every description of craft, including non-displacement craft and seaplanes, designed to be used as a means of transportation on water plus the normal equipment to transport the same on the streets and highways including but not limited to boats, sailboats, inflatable, manually propelled boats, pontoon boats but not including canoes and rowboats.

FQ. "Yard" means the required open space on a lot adjoining a lot line.

FR. "Yard, front" means a yard extending along the full width of a front lot line between side lots and from the front lot line to the front building line in depth.

FS. "Yard, rear" means a yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building- rear yard depth shall be measured at right angles to the rear line of the lot.

FT. "Yard, side" means a yard lying between the side lot line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such front or rear yards, to the front or rear lot lines.

FU. "Zoning Map" means a drawing indicating boundaries of parcels and tracts of land within the zoning districts of the City for the purpose of identifying uses for which those tracts and parcels can be legally utilized.

FV. "Zoning Officer" means the person charged with the enforcement of this title, who shall be the City Manager of the City of Nelsonville, Ohio; or his or her designee; or the person appointed by the City Manager or his or her designee, with the approval of Council.

### **Chapter 27.03. General Provisions.**

- §27.03.01. Establishment of districts.
- §27.03.02. Zoning map.
- §27.03.03. Zoning district boundaries.
- §27.03.04. Compliance with regulations.
- §27.03.05. Interpretation and conflict.

#### **§27.03.01. Establishment of districts.**

The municipality is hereby divided into zoning districts which regulate the general location of structures and use of land. These zoning districts are:

- R-1 Single-family Residential District
- R-2 Multi-family Residential District
- M-1 Mobile Home Residential District
- C-1 Downtown Commercial District
- C-2 Highway Commercial District
- I-1 Industrial District

#### **§27.03.02. Zoning map.**

The zoning map and all notations, references and information shown on the map are a part of this code by reference, and have the same force and effect as if fully set forth or described herein. This map is designated as the "Zoning Map of the City of Nelsonville, Ohio." In general,

the zoning map shall be interpreted to carry out the intent and purpose of this code. The official zoning map shall be maintained by the Zoning Officer, and a copy shall be kept in the office of the City Manager.

**§27.03.03. Zoning district boundaries.**

District boundary lines are as shown on the zoning map. Where districts are bounded approximately by lot lines or the centerlines of streets or alleys, such lot line or center line shall be construed to be the boundary of the district. When district boundaries divide a lot, boundary locations shall be approximated by the use of a scale.

**§27.03.04. Compliance with regulations.**

The regulations set forth by this code within each zoning district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land except as hereinafter provided.

A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part there of shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless in conformity with all of the regulations herein specified for the zoning district in which it is located.

B. No yard or lot existing at the time of passage of this code shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this code shall meet at least the minimum requirements established by this code.

**§27.03.05. Interpretation and conflict.**

The provisions of this code shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare. It is not intended by this code to interfere with or abrogate or annul any ordinance, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this code, or which shall be adopted or issued, pursuant to law relating to the use of buildings or premises or upon the height of buildings, or requires larger open spaces or larger lot areas than are imposed or required by such other ordinances or agreements.

**Chapter 27.04. District Regulations.**

- §27.04.01. R-1 Single-family Residential District.
- §27.04.01.01. Purpose.
- §27.04.01.02. Principal permitted uses.
- §27.04.01.03. Conditional uses requiring approval from the Board of Zoning Appeals.
- §27.04.01.04. Development standards.
- §27.04.01.05. Accessory structures.
- §27.04.02. R-2 Multi-family Residential District.
- §27.04.02.01. Purpose.
- §27.04.02.02. Principal permitted uses.
- §27.04.02.03. Conditional uses requiring approval from the Board of Zoning Appeals.
- §27.04.02.04. Development standards.
- §27.04.02.05. Accessory structures.
- §27.04.03. M-1 Mobile Home Residential District.
- §27.04.03.01. Purpose.

- §27.04.03.02. Principal permitted uses.
- §27.04.03.03. Conditional uses requiring approval from the Board of Zoning Appeals.
- §27.04.03.04. Development standards.
- §27.04.03.05. Accessory structures.
- §27.04.04. C-1 Downtown Commercial District.
- §27.04.04.01. Purpose.
- §27.04.04.02. Principal permitted uses.
- §27.04.04.03. Conditional uses requiring approval from the Board of Zoning Appeals.
- §27.04.04.04. Development standards.
- §27.04.04.05. Accessory structures.
- §27.04.05. C-2 Highway Commercial District.
- §27.04.05.01. Purpose.
- §27.04.05.02. Principal permitted uses.
- §27.04.05.03. Conditional uses requiring approval from the Board of Zoning Appeals.
- §27.04.05.04. Development standards.
- §27.04.05.05. Accessory structures.
- §27.04.06. I-1 General Industrial District.
- §27.04.06.01. Purpose.
- §27.04.06.02. Principal permitted uses.
- §27.04.06.03. Conditional uses requiring approval from the Board of Zoning Appeals.
- §27.04.06.04. Development standards.
- §27.04.06.05. Reserved.
- §27.04.06.06. Site plan review requirements.

**§27.04.01. R-1 Single-Family Residential District.**

**§27.04.01.01. Purpose.**

The single-family residential district is hereby established to provide, at suitable locations, areas where very low density residential development is desired.

**§27.04.01.02. Principal permitted uses.**

- Adult Family Home
- Family Home
- Foster Family Home
- Foster Home
- Permanently Sited Manufactured Homes and Industrialized Units, except in the Historic District as herein defined, where they are prohibited.
- Public Park, Playground, or Playing Field
- Public Service Facility
- Replacement of existing trailers, mobile homes, manufactured homes and industrialized units in accordance with *Section 27.06.01.05.*
- School
- Single-family Dwelling
- Supported Living Home
- Type "B" Family Day-care Home
- Accessory Use

**§27.04.01.03. Conditional uses requiring approval from Board of Zoning Appeals.**

- Adult Group Home
- Bed and Breakfast
- Cemetery
- Child Day Camp
- Child Day-care Center
- Church or Place of Religious Worship

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Community Residential Facility  
Group Home  
Home Occupation (see *Section 27.05.10.*)  
Parking Lot  
Two-family Dwelling  
Type “A” Family Day-care Home

Community Residential Facility  
Club  
Group Home  
Neighborhood Business  
Professional Office  
Type “A” Family Day-care Home

**§27.04.01.04. Development standards.**

All lots principal buildings, outdoor storage buildings, and garages shall meet the following development standards as set forth by the Zoning Officer:

The Zoning Officer shall determine the minimum lot frontage & lot size, minimum front yard, rear yard, and side yard, by taking the average frontage, size, front, rear, and side setbacks of the lots on the street where the development is to take place. No buildings shall exceed over forty-five (45) feet in height.

**§27.04.01.05. Accessory structures.**

Garage  
Home Occupation  
Accessory Use

**§27.04.02. R-2 Multi-family Residential District.**

**§27.04.02.01. Purpose.**

The multi-family residential district is hereby established to provide, at suitable locations, areas where multi-family residential development is desired.

**§27.04.02.02. Principal permitted uses.**

Adult Family Home  
Adult Group Home  
Apartment Building  
Family Home  
Foster Family Home  
Foster Home  
Home Occupation (see *Section 27.05.10.*)  
Multi-family Dwelling  
Permanently Sited Manufactured Homes and Industrialized Units, either single-family or multi-family, except in the Historic District as herein defined, where they are prohibited.

Public Park, Playground, or Playing Field  
Public Service Facility

Replacement of existing trailers, mobile homes, manufactured homes and industrialized units in accordance with *Section 27.06.01.05.*

Rooming House  
Single-family Dwelling  
Supported Living Home  
Townhouses

Type “B” Family Day-care Home  
Accessory Use

**§27.04.02.03. Conditional uses requiring approval from the Board of Zoning Appeals.**

Bed and Breakfast  
Cemetery  
Child Day Camp  
Child Day-care Center  
Church or Place of Religious Worship

**27.04.02.04. Development standards.**

All lots principal buildings, outdoor storage buildings, and garages shall meet the following development standards as set forth by the Zoning Officer:

The Zoning Officer shall determine the minimum lot frontage & lot size, minimum front yard, rear yard, and side yard, by taking the average frontage, size, front, rear, and side setbacks of the lots on the street where the development is to take place. No buildings shall exceed over forty-five (45) feet in height.

**§27.04.02.05. Accessory structures.**

Accessory structures must be located more than five (5) feet from any property line, and may not be located within a required front yard. Detached accessory structures may not occupy more than ten percent (10%) of the lot.

**§27.04.03. M-1 Mobile Home Residential District.**

**§27.04.03.01. Purpose.**

The mobile home residential district is hereby established to provide, at suitable locations, areas where mobile home residential development is desired.

**§27.04.03.02. Principal permitted uses.**

Adult Family Home  
Adult Group Home  
Apartment Building  
Boarding or Rooming House  
Family Home  
Foster Family Home  
Foster Home  
Manufactured Home  
Mobile Home  
Permanently Sited Manufactured Homes and Industrialized Units, either single-family or multi-family.

Public Park, Playground, or Playing Field  
Public Service Facility

Supported Living Home  
Townhouses  
Two-family Dwelling

Type “B” Family Day-care Home  
Accessory Use

**§27.04.03.03. Conditional uses requiring approval from the Board of Zoning Appeals.**

Child Day Camp  
Child Day-care Center  
Church or Place of Religious Worship  
Community Residential Facility  
Group Home  
Home Occupation (*See Section §27.05.10*)  
Neighborhood Business  
Parking Lot  
Type “A” Family Day-care Home

**§27.04.03.04. Development standards.**

All lots and principal buildings shall conform to the standards of *Ohio Administrative Code Chapter 3701-27, "Mobile Home Parks"*.

**§27.04.03.05. Accessory structures.**

Accessory structures must be located more than five (5) feet from any property line, and may not be located within a required front yard. Detached accessory structures may not occupy more than ten percent (10%) of the lot.

**§27.04.04. C-1 Downtown Commercial District.**

**§27.04.04.01. Purpose.**

The downtown commercial district is hereby established to encourage appropriate and compatible commercial development in the downtown area of the City. It is the intent of this section to preserve the scenic and historical beauty of this area and to protect property values in order to promote an attractive economic business area.

**§27.04.04.02. Principal permitted uses.**

- Adult Family Home
- Adult Group Home
- Bank and other similar financial establishments
- Business, Retail
- Business Service establishment such as tailor, dressmaking, barber/beauty salon
- Child Day Camp
- Child Day-care Center
- Church or Place of Religious Worship
- Club
- Family Home
- Foster Family Home
- Foster Home
- Funeral Home
- General Merchandise Store
- Group Home
- Hardware Store
- Highway Business
- Parking Lot
- Pharmacy and Drug Store
- Professional Establishment such as offices for doctors, lawyers, etc.
- Professional Office such as those offering medical, legal, insurance or accounting services
- Public Service Facility
- Permanently Sited Single-family Manufactured Homes and Industrialized Units, except in the Historic District as herein defined, where they are prohibited.
- Replacement of existing trailers, mobile homes, manufactured homes, and industrialized units in accordance with *Section 27.06.01.05*.

Residential use on the second floor and above and commercial use only on the ground or first floor regardless of the point of ingress and/or egress whether it is located at the front, side or rear of the structure. No ground or first floor residential use shall be permitted around the Public Square. For purposes of this Section, "around the Public Square" shall include Inlots 3 through 10, parts of Inlots 12, 18 through 25 and 28, Inlots 29 through 36, parts

of Inlot 37, Inlots 41 through 48, parts of Inlots 49, 60, and 61 and part of Outlot 6 as depicted on Athens's County Auditor's tax plat of Section 24, York Township, Athens County, Ohio and more accurately depicted in drawings on file at the Office of the Zoning Officer.

- Restaurant
- Single-family Dwelling
- Supported Living Home
- Type "A" Family Day-care Home
- Type "B" Family Day-care Home
- Accessory Use

**27.04.04.03. Conditional Uses requiring approval from the Board of Zoning Appeals.**

- Apartment Building
- Bar or Lounge
- Community Residential Facility
- Entertainment Facility including Amusement Arcade, except in the Historic District as herein defined where they are prohibited.
- Nursing Home
- Permanently Sited Multi-family Manufactured Homes and Industrialized Units, except in the Historic District as herein defined, where they are prohibited.
- Rooming House
- Service Stations
- Townhouses
- Two-family Dwelling

**§27.04.04.04. Development standards.**

All lots principal buildings, outdoor storage buildings, and garages shall meet the following development standards as set forth by the Zoning Officer:

The Zoning Officer shall determine the minimum lot frontage & lot size, minimum front yard, rear yard, and side yard, by taking the average frontage, size, front, rear, and side setbacks of the lots on the street where the development is to take place. No buildings shall exceed over forty-five (45) feet in height.

**§27.04.04.05. Accessory structure.**

Accessory structures must be located more than five (5) feet from any property line, and may not be located within a required front yard. Detached accessory structures may not occupy more than five percent (5%) of the lot.

**§27.04.05. C-2 Highway Commercial.**

**§27.04.05.01. Purpose.**

The highway commercial district is hereby established to encourage compatible commercial development in certain areas along major thoroughfares.

**§27.04.05.02. Principal permitted uses.**

- Bar or Lounge
- Barber/Beauty Shop
- Business, Retail and Service
- Church or Place of Religious Worship
- Club
- Commercial Recreation Facility
- Entertainment Facility
- Funeral Home

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Highway Business and Service  
Professional Service  
Public Service  
Repair Garage  
Public Use

Replacement of existing trailers, mobile homes, manufactured homes, and industrialized units in accordance with *Section 27.06.01.05*.

Restaurant  
Service Station  
Accessory Use

**§27.04.05.03. Conditional uses requiring approval from the Board of Zoning Appeals.**

Adult Family Home  
Adult Group Home  
Amusement Arcade  
Apartment Building  
Child Day Camp  
Child Day-care Center  
Church or Place of Religious Worship  
Community Residential Facility  
Family Home  
Foster Family Home  
Foster Home  
Group Home  
Mineral Processing and Storage  
Nursing Home

Permanently Sited Manufactured Homes and Industrialized Units, either single-family or multi-family, except in the Historic District as herein defined, where they are prohibited.

Rooming House  
Single-family Dwelling  
Supported Living Home  
Townhouses  
Two-family Dwelling  
Type "A" Family Day-care Home  
Type "B" Family Day-care Home

**§27.04.05.04. Development standards.**

All lots principal buildings, outdoor storage buildings, and garages shall meet the following development standards as set forth by the Zoning Officer:

The Zoning Officer shall determine the minimum lot frontage & lot size, minimum front yard, rear yard, and side yard, by taking the average frontage, size, front, rear, and side setbacks of the lots on the street where the development is to take place. No buildings shall exceed over forty-five (45) feet in height.

**§27.04.05.05. Accessory structures.**

Accessory structures must be located more than five (5) feet from any property line, and may not be located within a required front yard. Detached accessory structures may not occupy more than five percent (5%) of the lot.

**§27.04.06. I-1 General Industrial District.**

**§27.04.06.01. Purpose.**

The general industrial district is hereby established to provide suitable areas for more intensive industrial development.

**§27.04.06.02. Principal permitted uses.**

Agriculture and Agricultural Service  
Amusement Arcade  
Business, Retail and Service  
Entertainment Facility  
Highway Business and Service  
Industrial Use  
Parking Lot  
Professional Service  
Public Service

Replacement of existing trailers, mobile homes manufactured homes and industrialized units in accordance with *Section 27.06.01.05*.

Accessory building

**§27.04.06.03. Conditional uses requiring approval from the Board of Zoning Appeals.**

Adult Family Home  
Adult Group Home  
Apartment Building  
Child Day Camp  
Child Day-care Center  
Church and Place of Religious Worship  
Community Residential Facility  
Family Home  
Foster Family Home  
Foster Home  
Group Home  
Mineral Processing and Storage

Nursing Home

Permanently Sited Manufactured Home and Industrialized Units, either single-family or multi-family, except in the Historic District as herein defined where they are prohibited.

Rooming House

Single-family Dwelling

Supported Living Home

Townhouses

Two-family Dwelling

Type "A" Family Day-care Home

Type "B" Family Day-care Home

**§27.04.06.04. Development standards.**

All lots principal buildings, outdoor storage buildings, and garages shall meet the following development standards as set forth by the Zoning Officer:

The Zoning Officer shall determine the minimum lot frontage & lot size, minimum front yard, rear yard, and side yard, by taking the average frontage, size, front, rear, and side setbacks of the lots on the street where the development is to take place. No buildings shall exceed over forty-five (45) feet in height.

**§27.04.06.05. Reserved.**

**§27.04.06.06. Site plan review requirements.**

Before the issuance of any zoning certificate for any development that includes the construction of any parking area involving five (5) or more spaces, a site plan shall be submitted and approved by the Zoning Officer.

**Chapter 27.05. Supplemental Conditions.**

- §27.05.01. Adjustments to side yard requirements for corner lots.
- §27.05.02. Visibility at intersections.
- §27.05.03. Architectural projections.
- §27.05.04. Double frontage lots.
- §27.05.05. Accessory buildings.
- §27.05.06. Sexually oriented business uses.
- §27.05.07. Reserved.
- §27.05.08. Club swimming pools.
- §27.05.09. Outdoor lighting.
- §27.05.10. Home occupations.
- §27.05.11. Bed and breakfast establishments.
- §27.05.12. Height regulations for structures.
- §27.05.13.01. Minimum standards for single and multi-family dwellings.
- §27.05.13.02. Number of buildings restricted.
- §27.05.14. Outdoor display, storage and/or sale of materials and equipment.
- §27.05.15. Temporary buildings.
- §27.05.16. Sign regulations.
- §27.05.17. Off street parking and loading facilities.
- §27.05.17.01. General Requirements.
- §27.05.17.02. General interpretation.
- §27.05.17.03. Parking space dimensions.
- §27.05.17.04. Loading space requirement and dimensions.
- §27.05.17.05. Paving requirements.
- §27.05.17.06. Drainage.
- §27.05.17.07. Lighting.
- §27.05.17.08. Maintenance.
- §27.05.17.09. Location of parking spaces.
- §27.05.17.10. Joint use.
- §27.05.17.11. Encroachment and screening.
- §27.05.17.12. Width of driveway and access aisles.
- §27.05.17.13. Opening permit required.
- §27.05.17.14. Parking restricted to certain areas.
- §27.05.17.15. Parking within an Historic Preservation District.
- §27.05.17.16. Parking space requirements.

**§27.05.01. Adjustments to side yard requirements for corner lots.**

Regardless of side setback line requirements and minimum side yard requirements set forth in other parts of this title, when a lot is located on a corner of intersecting streets, all yards abutting a public street shall be considered to be a front yard, and shall be required to have front yard setbacks and front yard requirements for all such yards abutting a public street.

**§27.05.02. Visibility at intersections.**

In any district on a corner lot, no fence, structure or planting shall be erected or maintained within thirty (30) feet of the "corner" at a height between two-and-one-half (2½) and ten (10) feet above curb or street grade, or so as to interfere with traffic visibility across the corner. The "corner" shall be the point of intersection of the two right-of-way lines. The Board of Zoning Appeals may hear an appeal for a variance to allow a fence, structure or planting within the prohibited area, if traffic visibility is not impaired.

**§27.05.03. Architectural projections.**

Open structures such as porches, balconies, platforms, carports and covered patios, and similar architectural projections shall be considered a part of the building to which attached and shall not project into the required minimum front, side or rear yard. Projections of sills, belt course, roof eaves, cornices and similar structural and ornamental features shall not project into required minimum front, side or rear yard.

**§27.05.04. Double frontage lots.**

Lots having frontage on more than one (1) street shall provide the required front yard along both streets.

**§27.05.05. Accessory buildings.**

Accessory structures, when not attached to a principal structure, may be located at any location with a rear or side yard; provided however, that an unattached accessory structure may not be located in a required side setback between a permanent structure and the property line, or in an area that would place it closer to the street than the principal structure. Accessory buildings can only be placed on a lot with a principal structure.

**§27.05.06. Sexually oriented business uses.**

A. A sexually oriented business shall not be operated or located on any parcel within one thousand (1,000) feet of:

- (1) Any building which is used primarily for religious worship and related religious activities;
- (2) A school, public or private, as defined in *Section 27.02.01* of this code;
- (3) A boundary of any residential zoning district;
- (4) A public park, playground or playing field as defined in *Section 27.02.01* of this code;
- (5) Any public library; or
- (6) Any other sexually oriented business.

B. No such business shall be located on any parcel or operated within five hundred (500) feet of any landmark or Historic District.

C. Such businesses shall only be located in an I-1, Industrial District.

D. No advertisements, displays or other promotional materials displaying specified sexual activities or specified anatomical areas shall be shown or exhibited

so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semi-public.

E. All building openings, entries, windows, etc. for adult uses shall be located, covered, or serviced in such a manner as to prevent a view into the interior from any public or semi-public area, sidewalk or street. For new construction, the building shall be oriented so as to minimize any possibility of viewing the interior from public or semi-public areas.

F. No screens, loudspeakers or sound equipment shall be used for adult motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.

G. For the purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church or school, or to the nearest boundary of an affected public park or residential district.

H. For the purposes of this section, the distance between any two (2) sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects from the closest exterior wall of the structure in which each business is located.

I. No person shall establish, operate or cause the establishment or operation of any sexually oriented business in violation of the provisions of this section. Nothing in this section shall be construed to prohibit or limit the display, sale or rental of descriptive, printed, film or video material, or any live performance which, taken as a whole, contains serious literary, artistic, political, medical educational or scientific value.

J. Any sexually oriented business lawfully operating on the effective date of *Section 27.05.06* of this code that is in violation shall be deemed a non-conforming use. A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the subsequent location of a church, public or private school, residential district, public park or library within one thousand (1,000) feet, or a landmark or historic district within five hundred (500) feet of the sexually oriented business. When a non-conforming sexually oriented business use of a structure, building, or premises is voluntarily discontinued or abandoned for more than six (6) months, the structure, building, or premises shall not thereafter be used except in conformity with the regulations of the zoning district in which it is located.

**§27.05.07. Reserved.**

**§27.05.08. Club swimming pools.**

A club swimming pool shall be any pool constructed by an association of property owners or by a private club for use by members and guests of the association or club. Community and club swimming pools are permitted in all districts, but shall comply with the following conditions and requirements:

A. The pool and accessory structures thereto, including the areas used by the bathers, shall not be closer

than the setback required in the district where the use is located.

B. The swimming pool and all of the area used by the bathers shall be so walled or fenced no less than six (6) feet in height and maintained in good condition, and shall be provided with a gate and lock.

**§27.05.09. Outdoor lighting.**

Outdoor lighting, when used for security, landscaping, or signage shall be so desired and directed so as not to adversely impact traffic or adjacent properties.

**§27.05.10. Home occupations.**

A. Administrative home occupations shall be permitted in compliance with the following conditions:

(1) An administrative home occupation shall be permitted in any residential zoning district within a residential dwelling unit and/or attached or detached accessory structure.

(2) There shall be no persons except those permanently residing in the residential dwelling unit employed in the home occupation.

(3) There shall be no more than one (1) administrative home occupation permitted per resident.

(4) All activity shall be conducted entirely within the dwelling unit and/or an attached or detached accessory structure and the use for the home occupation shall be clearly incidental and subordinate to its principal use as a residential dwelling and premises.

(5) The area used for the home occupation shall not occupy more than twenty-five percent (25%) of the gross floor area of the dwelling unit up to a maximum of three hundred (300) square feet and without limitation in an attached or detached accessory structure.

(6) There shall be no change in the exterior appearance of any building, structure, or premise condition and no visible evidence of the conduct of such home occupation.

(7) There shall be no exterior display of commodities, goods, or merchandise or the posting of a permanent or temporary sign advertising the home occupation.

(8) There shall be no on-premise sale of commodities, goods, or merchandise produced as the result of the home occupation.

(9) There shall be no vehicular or pedestrian traffic generated by such use greater in volume than the existing streets and sidewalks can support including, but not limited to, deliveries via USPS, FedEx, or delivery service. Such service shall be on an intermittent basis and shall not be accomplished by a semi-trailer truck or other vehicle not commonly traveling on residential streets.

(10) There shall be no creation of a parking lot or additional parking beyond that required for the residential use or the provisions of this chapter.

(11) There shall be no equipment or processes used that create excessive noise, vibrations, glare, fumes, odors, electrical interference, voltage fluctuation, or other adverse impact to adjacent properties or the general vicinity.

(12) There shall be no increased burden placed upon existing public services provided to the

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residence because of the home occupation including, but not limited to, increased water service, increased sanitary sewer service, increased storm water disposal facilities, or increased gas or electrical service in excess of that determined by the Zoning Officer to meet an existing service deficiency.

(13) Income from home occupations shall be reportable to the City Auditor and subject to the provisions of *Nelsonville City Code Title 15, Taxes*.

(14) There shall be the payment of a permit fee as established by separate Council ordinance.

B. Administrative home occupations shall include, but not be limited to:

(1) Desktop publishing.  
(2) Computer programming and small electronic device repair.

(3) Typing and word processing.  
(4) Telephone/internet answering service.

(5) Internet sales with no on-premise storage of goods or customer visitation.

(6) Art or craft studio.  
(7) Teaching, tutoring, and instruction.

(8) Laundering and ironing.  
(9) Cooking and preserving.

(10) The professional office of a doctor, lawyer, dentist, psychologist, psychiatrist, clergy, realtor, broker, insurance agent, engineer, draftsman, or accountant and not more than one (1) additional employees is at the premises.

(11) The home business office of any trade or profession as long as no business activity is conducted on the premises; there is no exterior display or storage of products, merchandise, or materials, and no employees report for work or conduct business activities at the premises.

C. Conditional home occupations shall be permitted in compliance with the following conditions:

(1) A conditional home occupation shall be permitted in any residential zoning district within a residential dwelling unit and/or attached or detached accessory structure.

(2) All proposals for home occupations other than those permitted as administrative home occupations shall be considered conditional home occupations and shall be reviewed by the Board of Zoning Appeals in accordance with the provisions of this chapter.

(3) There shall be not more than two (2) additional persons employed in the home occupation other than the resident occupants.

(4) There shall be no more than one (1) conditional home occupation permitted per premises.

(5) All activity shall be conducted entirely within the dwelling unit and/or an attached or detached accessory structure and the use for the home occupation shall be clearly incidental and subordinate to its principal use as a residential dwelling and premises.

(6) The area used for the home occupation shall not occupy more than fifty percent (50%) of the gross floor area up to a maximum of five hundred

(500) square feet and without limitation in an attached or detached accessory structure.

(7) There shall be a limited number of clients or customer permitted at the premises as determined by the Board of Zoning Appeals and in consideration of the specifically requested use and the potential impact to adjacent properties and the surrounding neighborhood.

(8) Hours of operation open to the public shall not begin before 8:00 a.m. or continue later than 9:00 p.m.

(9) There shall be no change in the exterior appearance of any building, structure, or premise condition and no visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding five (5) square feet in area, non-illuminated, and mounted flat against an exterior portion of the building in which the home occupation is located.

(10) The sale of goods other than those produced on-site is limited to a maximum of twenty-five percent (25%) of the allowable gross floor area stipulated in *subsection (C) (5)* or twenty-five percent (25%) of the value of stock inventory, whichever is greater.

(11) Any addition to a dwelling in order to accommodate a home occupation may be permitted so long as such addition remain residential in character and meet all other requirements of this code.

(12) No equipment process, materials or chemicals shall be used which create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, electrical disturbances, or voltage fluctuation.

(13) There shall be not more than four (4) additional parking places or one (1) per employee proposed in conjunction with the home occupation or enough to meet the minimum parking requirements and specifications of *Chapter 27.05.17, Off-Street Parking and Loading Facilities*, whichever is less.

(14) Income from home occupations shall be reportable to the City Auditor and subject to the provisions of *Nelsonville City Code Title 15, Taxes*.

(15) There shall be the payment of a permit fee as established by separate Council ordinance.

D. Certain types of home occupations that may have the potential to create greater impact upon adjacent properties and/or the character and general nature of a residential neighborhood shall not be permitted except by review and conditional use approval of the Board of Zoning Appeals including, but not be limited to:

(1) Animal hospitals, kennels, or obedience schools.

(2) Medical, dental, or veterinary clinics with two (2) or more practitioners.

(3) Retail sale of merchandise, household goods, or food products produced off-site and in excess of that permitted in *subsection (C) (9)*.

(4) Automobile, truck, recreational vehicle, boat, or small engine repair, detailing, or painting.

(5) Eating or drinking establishments.

(6) Barber or beauty salons.



(7) Major appliance or large equipment repair.

(8) Art, music, dance, exercise of martial arts studios with more than five (5) pupils on premise at any one time.

(9) Facilities engaged in the fabrication of consumer products from wood, metal, plastic or other raw or pre-fabricated materials.

E. The Board of Zoning Appeals shall additionally review all applications in accordance with *Section 27.08.02.05, Conditional Uses* and shall not approve a conditional home occupation if it is determined that it will constitute a nuisance. The Board shall have the authority to attach additional conditions and/or requirements to preserve the general character and nature of the neighborhood, minimize any potential adverse impacts of the proposed use and to ensure that a nuisance is not created.

F. Any activity conducted in violation of this chapter or in violation of conditions of a permit issued shall be subject to the enforcement, violation, and remedy provisions of *Chapter 27.07, Enforcement*.

**§27.05.11. Bed and breakfast establishments.**

Where allowed in individual zoning districts pursuant to this title, a bed and breakfast establishment may be permitted by the Board of Zoning Appeals, provided that said establishment has no more than four (4) bedrooms used for short-term lodging, and provided that adequate ingress and egress from parking areas is designed so as to cause minimum interference with traffic on abutting streets.

**§27.05.12. Height regulations for structures.**

The height regulations prescribed herein shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, silos and similar structures, elevator bulkheads, smokestacks, conveyors or flagpoles.

**§27.05.13.01. Minimum standards for single and multi-family dwellings.**

All single and multi-family dwellings, including permanently sited manufactured homes and industrialized units, shall have a complete and permanent foundation under all exterior walls. Manufactured homes, industrialized units, or any building or structure used for residential purposes which do not meet this requirement, shall be considered mobile homes or temporary structures.

**§27.05.13.02. Number of buildings restricted.**

In any zoning district where single or multi-family dwellings, including permanently sited manufactured homes, are a principally permitted use, there shall not be more than one (1) principal dwelling structure on a single lot of record unless application for and approval of a variance is obtained by the Board of Zoning Appeals or the development site has prior approval by the Nelsonville City Planning Commission and Nelsonville City Council as a Planned Unit Development.

**§27.05.14. Outdoor display, storage and/or sale of materials and equipment.**

A. No person shall display, rent or sell any merchandise or products on any private lot or lands within the City of Nelsonville except within a permanently constructed building unless a permit for a temporary outdoor sale has been issued by the Zoning Officer or without a permit if the display, storage and sale of such merchandise or products is exempted as herein described. It is the intent and purpose of these regulations to allow for the reasonable display and duration of display of commercially available merchandise, to prohibit the infringement of business activity in established residential areas, to regulate term and frequency of sales so as to maintain attractive business districts and residential neighborhoods, and to allow for the occasional sale of household goods and personal items.

B. The display and sale of nursery stock, plants, fruits and vegetables or any other merchandise not normally stored or offered for sale in a building such as firewood, straw, mulch, top soil, yard care equipment, car care products, vending machines or any other merchandise not fit or safe for indoor storage or the sale, rental, or leasing of new or used autos, boats, recreational vehicles and equipment, trucks and agricultural or construction equipment and the dispensing of motor fuels and motor vehicle products shall be an exempt business activity in commercial or industrial zoning districts when display, rent, or sale of such products is part of a normal business activity and the business is compliant with all applicable zoning district regulations for the type of use.

C. It is the intent of this section to provide for temporary outdoor sales without a permit which are clearly a temporary accessory use to a permitted or conditionally permitted permanent business activity provided such outdoor sales do not conflict with other applicable codes. Specific uses herein described shall be allowed without a permit or by separately established Council ordinance permitting such use. The following regulations shall apply to all temporary outdoor business sales activities located in commercial or industrial zoning districts.

(1) Temporary outdoor sales, rentals, leasing and special sales events/or merchandise normally offered for sale indoors shall not be subject to the requirements of this chapter and may be permitted allowed within any commercial or industrial district without a permit for a maximum of seven (7) events per year with each event no longer than four (4) days in duration. Temporary outdoor sales shall include sidewalk sales, inventory reduction sales, liquidation sales and similar temporary outdoor sales of merchandise normally offered for sale indoors. Permits may be issued for more events or events longer in duration upon approval of a temporary outdoor sale permit issued by the Zoning Officer and upon forms available at the Office of the City Manager. The fee for such permit shall be established by separate Council ordinance.

(2) Transient vendor or peddler permits issued pursuant to *Nelsonville City Code Chapter 11.04* shall not be subject to the requirements of this Chapter and may be issued in addition to these regulations.

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(3) Use of public sidewalks subject to *Nelsonville City Code Section 9.14.05 (B)* for the display and sale of merchandise of adjacent business uses and where merchandise is only displayed during normal operating business hours shall not be subject to the requirements of this chapter.

(4) Seasonal merchandise sales including items such as vegetable plants or flowers, fertilizer, mulch, peat moss, and similar landscape products, lawn and garden equipment such as mowers, snow blowers, wheel barrows and other large lawn and garden equipment and items symbolic of religious, national, or traditional holidays such as Christmas trees and wreaths, pumpkins, etc. shall not be subject to the requirements of this chapter.

(5) Outdoor display and sale of merchandise associated with an Exhibition and Special Event permit issued pursuant to *Nelsonville City Code Section 11.07.01* such as Parade of the Hills, Nelsonville Music Festival, Final Fridays on the Square and the Ohio Smoked Meat Festival shall not be subject to the requirements of this chapter.

(6) Outdoor display and sale of merchandise on the premises of a business use shall not be subject to the requirements of this chapter if the items displayed are returned indoors at the close of each business day.

(7) Canopies, stands, tents or similar temporary structures may be utilized, provided they do not impair access to the site by emergency vehicles or the safe and efficient movement of vehicle or pedestrian traffic entering or exiting the site. Such tents or other temporary structures shall not occupy any parking spaces required for the minimum requirements of the principal uses on the site. The minimum required number of off-street parking spaces shall be maintained during the duration of the sale.

(8) Temporary outdoor sales shall not be permitted in any required front, side or rear yard setback.

(9) Delivery trucks, semi-trailers, etc., storing merchandise or products may not be parked in any required front, side or rear yard setback, and shall not occupy any required off-street parking spaces.

(10) Temporary outdoor sales shall not occupy any part of the public right-of-way, except sidewalk sales as otherwise permitted by this code.

(11) Signage related to the sale shall be in compliance with *Nelsonville City Code Section 27.05.16, Sign Regulations* for the appropriate zoning district where the property is located. Use of the adjacent public right-of-way shall be allowed so long as the signage does not endanger public safety, adversely distract vehicle drivers' attention, encroach upon the driving surface of the adjacent street or highway, obstruct vision for traffic safety, or otherwise constitute a public nuisance.

D. It is the intent of this section to provide for temporary outdoor or indoor sales of personal and household items of a resident of a premise in a residential zoning district provided such sale does not conflict with other applicable codes. Activity and events herein described shall be allowed without permit or by separately established ordinances permitting other specific uses. The

following regulations shall apply to all temporary outdoor or indoor residential garage sales, porch sales, patio sales, yard sales, lawn sales, or similar sales.

(1) Not more than four (4) sales shall be permitted in any calendar year, shall be no more than three (3) days in duration.

(2) Sales shall not commence prior to 8:00 AM and shall occur thereafter during daylight hours only.

(3) Signage related to the sale shall be in compliance with *Nelsonville City Code Section 27.05.16, Sign Regulations* for the appropriate zoning district where the property is located. Signs advertising the sale shall be permitted on the premises or on the public right-of-way adjacent to the property so long as the signage does not endanger public safety, adversely distract vehicle drivers' attention, encroach upon the driving surface of the adjacent street or highway, obstruct vision for traffic safety or otherwise constitute a public nuisance. Signs shall not be posted off-site on utility poles, public utilities such as traffic control panels, or on private property except with the permission of the property owner. Signs shall be removed no longer than twenty-four (24) hours after the conclusion of the event.

(4) Sale merchandise is limited to household and personal items and shall not include separately obtained or purchased items or merchandise where the sale of such items would constitute a business activity or otherwise constitute a business use required to be located in a commercial or industrial zoning district.

**§27.05.15. Temporary buildings.**

Temporary buildings may be permitted by the Zoning Officer in any district under the following conditions one (1) time per calendar year:

A. The activity or purpose for the building is a permitted use within the district, with the exception of a building used for a community or charitable event one (1) time per calendar year.

B. The entire structure is removed from the premises within thirty (30) days of being placed or erected on any property or for any business or owners except that bona-fide non-profit or community organizations may request that the Board of Zoning Appeals extend the thirty (30) days for a set period.

C. All structures so approved shall comply with applicable building codes and shall comply with all setback requirements.

**§27.05.16. Sign regulations.**

**A. Intent**

The purpose of this section is to permit such signs that will not endanger the public safety of individuals, confuse or obstruct vision necessary for traffic safety, constitute a public nuisance, constitute sign blight which adversely impacts the aesthetics, vitality, and value of the City's commercial areas, constitute an unattractive, garish, or unproductive sign which detracts from the appearance of the City, or which detract from the maintenance of high quality residential zones in the City.

**B. Regulations established and application:**

(1) Signs shall be erected, altered,

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reconstructed, moved and maintained, in whole or in part, in accordance with the type, size, location, illumination and other provisions set forth in this chapter.

(2) The construction, erection, safety and maintenance of all signs shall be in accordance with the applicable City codes. The provisions of this chapter shall not amend or in any way interfere with other codes, rules or regulations governing traffic signs within the municipality.

(3) The display of official public notices and the flag, emblem or insignia of all U.S. governmental bodies shall not be governed by the provisions of this section.

### C. Public right-of-way

Except as specifically authorized herein, no sign of any type shall be placed within the right-of-way line of any public street or roadway except as provided by revocable license.

(see *Ohio Revised Code Section 723.121*)

### D. Definitions

(1) "Primary Class A Signs" means on-premise ground signs or signs attached to a building which advertise any product, service or identify the business by name. These signs are the principal advertising for the parcel or lot where one or more business entities are located, and include, but are not limited to, any display, figure, painting, drawing, placard, poster or other exterior device visible from a public right-of-way which is designed, intended or used to convey a message, advertise, inform or direct attention to a building, person, institution, organization, activity, place, object, or product.

In single-family residential neighborhoods, rental or home occupation signs shall be permitted provided they are in keeping with the character of the neighborhood and do not create a nuisance for neighbors. Signs which are not well maintained or are not of acceptable appearance may be required to be removed.

(2) "Secondary Class A Signs" means the same as above except they provide advertising for an individual business on a lot where several businesses are located.

(3) "Class B Signs" means off-premise signs advertising any product, service, performance or event at a location other than where the sign is located.

(4) "Temporary Advertising Devices" (TADs) means banners, pennants, streamers, pinwheels, flags (other than national, State, religious or fraternal), windsocks, balloons or other gas-filled figures which are used to promote a special event, sale or product. The signs can be displayed no more than four times per calendar year for a maximum of thirty (30) days each time.

(5) "Portable Signs" means a sign not permanently affixed to a building, structure or the ground and can be moved from one location to another. These signs may be displayed for a maximum of thirty (30) days at one time up to four (4) times per year.

(6) "Non-conforming Signs" means signs which are lawful in existence on the effective date of the ordinance but does not conform to the regulations.

### E. Size

(1) Primary Class "A" Signs shall be allowed two and one-half (2½) square feet per linear foot of

total street frontage of the lot or parcel but shall not exceed a total of three hundred and fifty (350) square feet.

(2) Secondary Class "A" Signs. Each separate business establishment shall be allowed one square foot of surface area of sign for each linear foot of building frontage of the business up to a maximum of one hundred (100) square feet.

(3) Class "B" Signs shall not exceed four hundred (400) square feet in surface area.

### F. Permits

Prior to the erection, construction, installation or alteration of any sign, a permit shall be obtained from the Zoning Officer. This does not include normal maintenance of any sign. Signs must be erected within one (1) year of the permit issuance.

### G. Non-conforming Signs

Non-conforming signs shall be required to comply with these regulations if:

(1) The sign is removed, dismantled or relocated;

(2) The sign has been determined to be a hazard to the life, safety, property or welfare of the public;

(3) The sign has deteriorated or been damaged to an extent that its value is less than fifty percent (50%) of its replacement value; or

(4) The sign advertises a business, product, service or event no longer open or available to the public.

### H. Exempt Signs

(1) Professional nameplates or occupational signs not exceeding two (2) square feet in area listing the names, location or business of an occupant within a building.

(2) Legal notices.

(3) Street addresses not exceeding ten (10) square feet in area.

(4) Bulletin boards or directories for public, charitable or religious institution located on the premises and not exceeding forty (40) square feet in area.

(5) Signs denoting the architect, engineer, contractor, etc. where construction is occurring. These signs must be removed within ten (10) days after the project's completion.

(6) Signs advertising future construction or lease of a parcel providing the sign does not exceed forty (40) square feet in a residential area or two hundred (200) square feet in a commercial area. The signs shall be allowed for six (6) months or until the building is occupied, whichever comes first.

(7) Signs advertising property for sale or rent. This is limited to one (1) sign on a single-family residential lot not to exceed the standard signs used by area realtors. Signs must be removed within ten (10) days of the sale or lease of the property.

(8) Dedicatory tablets or memorial plaques setting forth the name or erection date of a building, commemorating a person or persons and like uses. Such signs shall be cast in metal or engraved in stone or concrete or otherwise suitably inscribed in or on a monumental material.

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(9) Non-structural signs consisting of letters, numerals or ornamentation painted or applied to awnings and canopies. No business shall have more than ten (10) square feet of area of said signs without a permit.

(10) Identification signs at the entrance to residences, farms, ranches, estates, etc. which do not exceed twelve (12) square feet in area.

(11) Vehicle signs located on a truck, bus, trailer, or taxi, being operated or parked on premises in the course of business provided the primary purpose of the said vehicle is not an advertisement.

(12) Directional signs or symbols such as "exit", "no trespassing", etc.

(13) Traffic or other signs erected by municipal, county, state or federal authorities.

(14) Street identification signs and entrance signs giving the name of a subdivision provided that the total number of signs is two (2) or less, they are located at the main entrance only, shall not exceed a combined total of more than one hundred (100) square feet in area and do not contain any other advertising.

(15) Temporary signs advertising activities of educational, religious, charitable or other non-profit institutions. Signs advertising a yard sale or special event at a residence, however these signs must be removed after the event or sale has concluded.

(16) Political Signs

(17) Flags indicating weather conditions or national or state flags or insignias of any governmental agency or civic, charitable, religious or fraternal organization.

(18) Athletic scoreboards.

(19) Holiday decorations

I. Permit Application and Fees

All applications for sign permits shall be made to the Zoning Officer and shall include a drawing to scale showing the description of the sign including size, type, materials, and approximate location on the property. If the zoning officer determines the sign is within these guidelines, a permit shall be issued and the sign shall be erected within one (1) year of the permit issuance.

A fee established by separate ordinance will be charged per application for signs which do not meet the classification of a temporary advertising device.

J. Prohibited Signs

(1) Any sign creating a traffic hazard.

(2) Signs which prevent free ingress or egress from any entrance, window, fire escape or attached to a standpipe.

(3) Signs deemed by community standards to be obscene or which constitute a public nuisance.

(4) Signs which contain lights that exceed 10 candle power per square foot of sign.

(5) Signs affixed to a tree or utility pole

(6) Roof signs.

K. Restrictions

(1) Signs over walkways or driveways which are not at least eight (8) feet above the surface of the walkway or driveway. Any sign located within the designated parking area of any property shall have a planter around the base not less than eighteen (18) inches high and

a minimum of eighteen (18) inches from any extremity of said sign.

(2) No ground sign shall have a total height greater than thirty (30) feet in commercial areas or fifteen (15) feet in the downtown commercial district.

(3) No signs shall be maintained in such location or position as to present any unsightly or objectionable unfinished side towards an adjacent property.

(4) Signs in single-family neighborhoods shall be constructed of wood and shall be affixed to the residence or attached to a post, less than four (4) feet in height. The sign shall include only the name of the business, proprietor, and hours, telephone number, etc. If both sides of the sign are visible, each side must have a finished surface. The sign cannot exceed twenty (20) square feet of surface area.

(5) Sandwich boards or easels used in the normal course of daily business may be displayed without obtaining a permit. However, these signs cannot be placed in a location that would hinder parking or pedestrian traffic and may be displayed outdoors only during business hours.

(6) A portable sign in a residential neighborhood may be used without a permit for up to seven (7) days to announce a birthday or other special event without the home owner applying for a permit. The sign may be lighted between the hours of 7 a.m. and 10:00 p.m. only. After seven (7) days, the sign must be removed or a permit application must be filed.

L. Penalties.

The penalty for violation of the sign regulations shall be in accordance with *Chapter 27.07. Enforcement.*

**§27.05.17. Off-Street parking and loading facilities.**

**§27.05.17.01. General requirements.**

A. No building or structure shall be erected, substantially altered, or changed in use, including creation of converted dwelling units, unless permanently developed and maintained off-street parking and/or loading spaces have been provided in accordance with this section or a variance granted by the Board of Zoning Appeals or Design Review Board. For the purpose of this section, the term "converted dwelling unit" shall mean:

(1) an existing, residential, owner-occupied dwelling unit converted by lease, rent or agreement for occupancy by those other than the owner or his/her family or;

(2) an existing commercial, industrial or institutional use or space converted to residential use.

B. The provisions of this section shall not apply to any existing building, structure, or use lawfully existing prior to the effective date of this section. Such use or building with deficient parking shall be considered a legal, non-conforming use and may be continued until such time as *Section (A), (C), or (D)* may apply.

C. Whenever a building or structure constructed after the effective date of this section and in compliance with these regulations is changed in use, enlarged in floor area, substantially increased in number of employees, increased in number of dwelling units, substantially increased in seating capacity, or otherwise requires a need

for an increase to existing parking spaces, additional spaces shall be provided according to the extent of enlargement or change of use.

D. Whenever a building or structure existing prior to the effective date of this section is enlarged to an extent of fifty percent (50%) or greater in usable floor area, substantially increased in number of employees, increased in number of dwelling units, substantially increased in seating capacity, increased in residential occupancy by addition of bedrooms, reviewed by the Design Review Board in accordance with the requirements of the Historic Preservation District, or otherwise changed to demand additional parking, such building, structure or use shall then and thereafter comply with the full parking requirements set forth herein.

**§27.05.17.02. General interpretations.**

In the interpretation of this section, the following rules shall govern:

A. Parking requirements for principally or conditionally permitted uses not specifically listed in this section shall be determined by the Zoning Officer based on similar uses. The Board of Zoning Appeals may hear and decide appeals from such determination of the Zoning Officer.

B. Fractional numbers shall be rounded up to the nearest whole number.

C. When there exists justifiable reason for fewer parking spaces than required by this section, the Board of Zoning Appeals or the Design Review Board, whichever may have jurisdiction, may reduce the number of spaces proportionately to the reduced or diminished demand.

**§27.05.17.03. Parking space dimensions.**

A parking space shall be not less nine (9) feet in width, twenty (20) feet in depth or a size determined by the Zoning Officer as adequate for parking considering but not limited to:

A. the angle of the parking space in relation to the access aisle or;

B. the type and size of the vehicle using the space.

All dimensions shall be exclusive of areas of access including aisles, drives and other vehicular circulation areas. Except for structures containing one (1) single-family dwelling unit where tandem parking is permitted, there shall be adequate provision for ingress and egress to all parking spaces as determined by the Zoning Officer as determined by standard engineering practices. The number of required parking spaces shall be in accordance with *Section 27.05.17.16*.

**§27.05.17.04. Loading space requirements and dimensions.**

Loading spaces required for buildings containing non-residential, commercial and/or industrial uses shall be not less than twelve (12) feet in width, fifty (50) feet in depth, and fifteen (15) feet in height, excluding drives, aisles and circulation areas or a size determined by the Zoning Officer as adequate based on the type of vehicle

using the space. For the purpose of this section “loading space” shall mean an area where:

A. commercial or private vehicles pick-up and/or deliver goods and wares; or

B. private passenger vehicles pick-up or drop off persons using a facility and may include, but not be limited to, personal vehicles, taxis or motor coaches.

One (1) loading space shall be required for a use having up to five thousand (5,000) square feet in gross floor area and one (1) additional space for every additional ten thousand (10,000) square feet of gross floor area or portion thereof. Uses requiring loading spaces include, but are not limited to, schools, churches, hospitals, business offices, hotels and motels, retail, wholesale, storage and manufacturing facilities, theaters, places of assembly, and others determined by the Zoning Officer.

**§27.05.17.05. Paving requirements.**

The number of parking and loading spaces required by this section, including driveways, aisles and other circulation areas shall be improved with a finished surface of asphalt, concrete or other durable material approved by the Zoning Officer. Durable surface finish material shall also be required for parking lots and other newly created parking spaces not otherwise required by this code in association with a use requirement. Parking spaces existing prior to the effective date of these regulations which do not meet the paving requirements shall be maintained at a minimum with a surface of stone or other suitable material so as to comply with *Traffic Code Section 7.01.07* which prohibits the placement of mud, earth or other materials upon a public street.

**§27.05.17.06. Drainage.**

All parking and loading spaces shall be drained to a public storm drainage utility or natural drainage way so as to prevent surface water from causing detriment to adjacent properties, uses, public walkways and/or public streets.

**§27.05.17.07. Lighting.**

Lighting of parking areas, if necessary, shall be determined by the Zoning Officer considering the type of use, number of spaces, principal hours of use or operation and other factors related to safety and security. Lighting illuminating a parking area shall be so arranged and directed as to reflect light toward the ground, not adversely impact traffic, and away from adjoining properties which may be adversely impacted, particularly residential use.

**§27.05.17.08. Maintenance.**

The owner of property used for parking and/or loading shall maintain such area in good condition, free of holes, dust, dirt, trash and other debris or hazard.

**§27.05.17.09. Location of parking spaces.**

A. Required parking for all residential uses shall be on the same lot, parcel, or tract where the use is located or on a continuous and contiguous lot in the same ownership as the intended use and reserved by covenant, deed restriction, or common sale and transfer so that the availability of the parking be preserved.

B. Required parking for commercial, industrial,

and/or institutional uses shall not be located not more than seven hundred (700) feet from the principal building or use.

C. Required parking for apartments or other multi-family residential uses shall not be more than three hundred (300) feet from the principal building or use.

**§27.05.17.10. Joint use.**

Two (2) or more non-residential uses may jointly provide, use, and share required parking spaces when their normal hours of operation do not conflict or overlap, provided that it is so determined and approved by the Zoning Officer and a written and notarized agreement between the parties involved is filed with the application for zoning certificate.

**§27.05.17.11. Encroachment and screening.**

Whenever a parking space or spaces extend to a property line or a public right-of-way, wheel blocks or other devices approved by the Zoning Officer shall be installed to preclude extension of any part of the vehicle beyond the lot, parcel, or tract. Whenever parking spaces for commercial, industrial, and/or institutional uses are adjacent to properties zoned or used for residential purposes, there shall exist a fence or planting buffer determined by the Zoning Officer as sufficient to minimize adverse impact to the adjacent property.

**§27.05.17.12. Width of driveway and access aisles.**

Notwithstanding the access requirements of *Section 27.05.07.02*, driveways serving single or two-family dwelling units shall be a minimum of ten (10) feet in width, for all other uses twelve (12) feet in width with one-way traffic and single loaded or parallel parking, and twenty-four (24) feet in width where parking aisles accommodate two-way traffic and/or double loaded parking, or other width determined sufficient by the Zoning Officer using standard engineering practices and based on the type and number of vehicles using the driveway and/or aisle.

**§27.05.17.13. Opening permit required.**

No person, organization or entity capable of holding title to real estate shall access a public street or alley until obtaining an opening permit from the City Manager. Such permit shall be reviewed in accordance with the access management plan and regulations of the City of Nelsonville or other traffic management plans, including but not limited to those of the Ohio Department of Transportation.

**§27.05.17.14. Parking restricted to certain areas.**

A. No person in charge or having control of any private property or premises within the corporate limits of the City of Nelsonville, whether as owner, operator, agent, tenant, lease holder, firm, corporation or entity capable of holding title of real property shall park or store any vehicle or equipment which is:

(1) In front of one or two-family dwellings or legal, non-conforming uses located in R-1 or R-2 zones, except in front of an attached or detached building, garage, carport, or open parking area not in front of the principal structure. On corner lots or lots having

more than one (1) property line abutting a public street, these restrictions shall extent to those areas of the structure as if it fronted on only a single street. Vehicle or equipment parking shall not be permitted on a permanent basis on areas not paved or graveled except as otherwise provided in this section or on a temporary basis if approved by the Zoning Officer.

(2) Abandoned, junk, abandoned junk, unlicensed, unused, wrecked, dismantled, partly dismantled, or inoperable, including licensed or unlicensed inoperable collector's vehicles and licensed or unlicensed inoperable historical vehicles, whether owned by them or another person on any street or highway or public or private property or premises for a period not to exceed thirty (30) days, except in a duly licensed junkyard, automobile salvage yard, motor vehicle salvage dealer's yard or towing service yard. The absence of current license plates from any such motor vehicle shall be prima facie evidence that the same is unlicensed and not in operating condition. Vehicles subject to *Section (A) (2)* which are not stored in an exempted facility shall be stored out of view inside a completely enclosed building or garage or under a covered carport but not including a vehicle only covered by a vehicle cover, tarp or cloth.

B. No person in charge or having control of any private property or premises within a residential zone or property used for residential purposes within the corporate limits of the City of Nelsonville, whether as owner, operator, agent, tenant, lease holder, firm, corporation or entity capable of holding title of real property shall park or store on any street or highway or public or private property or premises any:

(1) Commercial vehicle, semi-trailer, truck tractor, tractor trailer, heavy truck, moving van, delivery truck, step-up van, box truck, dump truck, tow truck, wrecker, bus, school bus, crane, dragline, earthmover, bulldozer, backhoe, trencher, or vehicle transporting hazardous or flammable materials except one (1) commercial vehicle not exceeding a gross weight of eight thousand five hundred (8,500) pounds or an overall height of eighty-two (82) inches. An exempt vehicle must be parked in a completely enclosed building or garage or on an approved hard-surfaced or gravel driveway.

(2) Recreational vehicle or equipment except one (1) recreational vehicle or piece of equipment not in excess of twenty-four (24) feet in overall length and in accordance with the following conditions:

(a) Recreational vehicles or equipment parked or stored shall not have fixed connections to electricity, water, gas or sanitary sewer facilities, and at no time shall this equipment be used for separate living or housekeeping purposes.

(b) Recreational vehicles or equipment may be parked or stored anywhere on the premises upon an approved hard-surface driveway or parking area or out of view inside a completely enclosed building or garage or under a covered carport. The vehicle or equipment shall be setback a minimum of five (5) feet from an adjacent property line.

(c) Notwithstanding the provisions of *Section (2) (a)* hereof, recreational vehicles and equipment, not in excess of twenty-four (24) feet in

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overall length, may be parked anywhere on the premises for loading or unloading purposes for a period of not more than twenty-four (24) hours.

(d) Recreational vehicles and equipment must be kept in good repair and carry a valid registration and current license.

C. Upon notice of a violation of this section, the Zoning Officer may, by certified mail with return receipt requested, send notice to the person having the right to the possession of the property on which is left a vehicle or equipment subject to *Section (A) (2) or (B)* hereof, send notice stating that the vehicle or equipment is a public nuisance and within ten (10) days of receipt of the notice, such vehicle or equipment shall be stored in a completely enclosed building or garage or under a covered carport, or shall be removed from the property. Vehicles or equipment in violation of *Section (A) (1)* may also store a licensed and operable vehicle or equipment on an approved hard-surfaced or gravel driveway.

D. Any person in violation of this section shall be deemed guilty of a minor misdemeanor, and upon conviction thereof, shall be fined not more than permitted by law for each day during which illegal location continues may be deemed a separate offense.

E. Upon conviction, the Zoning Officer, through the City Attorney, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding, or proceedings to prevent, enjoin, abate or remove such unlawful location.

F. The Zoning Officer, after ten (10) days notice to any person subject to *Section (F)* hereof and upon notification to the Chief of Police, may order removal and storage of any vehicle or equipment that has been left on any street or highway or public or private property or premises within the corporate limits of the City of Nelsonville subject to the following procedures:

(1) The Chief of Police shall designate the place of storage of any vehicle or equipment so ordered removed. The Chief of Police immediately shall cause a search to be made of the records of the bureau of motor vehicles to ascertain the owner and any lienholder of a vehicle or equipment ordered into storage by the Zoning Officer, and, if known, shall send or cause to be sent notice to the owner or lienholder at the owner's or lienholder's last known address by certified mail with return receipt requested, stating that the vehicle is a public nuisance and shall be disposed of if not claimed within ten (10) days of the date of mailing of the notice. The owner or lienholder of the vehicle or equipment may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the vehicle or equipment. If the owner or lienholder of the vehicle or equipment reclaims it after a search of the records of the bureau has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the owner of the place of storage or the owner's employee, and the notice was sent to the vehicle or equipment owner by the owner of the place of storage or the owner's

employee, the owner or lienholder shall pay to the place of storage a processing fee of twenty-five dollars (\$25.00), in addition to any expenses or charges incurred in the removal and storage of the vehicle.

(2) The owner of a vehicle or equipment that is ordered into storage pursuant to this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed ninety dollars (\$90.00), and storage, in an amount not to exceed twelve dollars (\$12.00) per twenty-four (24) hour period; except that the charge for towing shall not exceed one hundred fifty dollars (\$150.00), and the storage charge shall not exceed twenty dollars (\$20.00) per twenty-four (24) hour period, if the vehicle or equipment has a manufacturer's gross vehicle weight rating in excess of ten thousand (10,000) pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semi-trailer. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle or equipment, shall also be required for reclamation of the vehicle or equipment. If a vehicle or equipment that is ordered into storage remains unclaimed by the owner for thirty (30) days, the procedures established in this section shall apply.

(3) If the owner or lienholder makes no claim to the vehicle or equipment within ten (10) days of the date of mailing of the notice, and if the vehicle is to be disposed of at public auction as provided in *Ohio Revised Code Section 4513.62*, the Chief of Police, without charge to any party, shall file with the Athens County Clerk of Courts an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the Clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the Chief of Police. If the vehicle or equipment is to be disposed of to an automobile salvage yard, junkyard, motor vehicle salvage dealer, scrap metal processing facility, towing service yard or other facility designated by the Chief of Police, the Chief shall execute in triplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the vehicle or equipment and the manner in which it was disposed of, and that all requirements of this section have been complied with. The Chief of Police shall retain the original of the affidavit for the Chief's records, and shall furnish two (2) copies to the automobile salvage yard, junkyard, motor vehicle salvage dealer, scrap metal processing facility, towing service yard or other facility where the vehicle or equipment has been ordered into storage by the Chief of Police. Upon presentation of a copy of the affidavit by the automobile salvage yard, junkyard, motor vehicle salvage dealer, scrap metal processing facility, towing service yard or other facility, the Clerk of Courts, within thirty (30) days of the presentation, shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.

(4) Whenever an automobile salvage yard, junkyard, motor vehicle salvage dealer, scrap metal processing facility, towing service yard or other facility where the vehicle or equipment has been ordered into storage by the Chief of Police receives an affidavit for the disposal of a vehicle or equipment as provided in this section, the dealer or facility shall not be required to obtain

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an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.

Variance requests for off-street parking in all other zoning districts other than the Historic Preservation District shall be considered by the Board of Zoning Appeals pursuant to the conditions in *Section 27.08.02.04*.

**§27.05.17.15. Parking within the Historic Preservation District.**

In exercising its jurisdiction over properties and uses in the Historic Preservation District, the Design Review Board shall have authority to grant variances from these regulations. Applications for variance shall be attached to an application for Certificate of Appropriateness for activities and uses in the Historic Preservation District. Such request shall be reviewed by the Review Board and advertised in a manner consistent with the notification requirements of *Section 27.08.02.14*.

**§27.05.17.16. Parking space requirements.**

For the purpose of this section, the term "usable floor area" shall be the total floor area exclusively for tenant or business use, including sales areas, stock areas, basements, mezzanines or upper floors, and measured in areas or areas such as toilet rooms, closets, corridors, stairwells, elevators and shafts, machine, equipment and mechanical rooms, lobbies and vestibules or other areas not used for commercial, industrial or institutional purposes. The following parking space requirements shall apply.

**Off-Street Parking Requirements**

<u>Type of Use</u>	<u>Parking spaces required *</u>
One, two or multi-family dwellings including apartments, converted dwelling units, mobile homes and permanently sited manufactured homes	Two (2) per dwelling unit
Retail Stores	One (1) per two hundred (200) square feet of usable floor area
Professional, business or administrative office use	One (1) per four hundred (400) square feet of usable floor area
Funeral home	One (1) per four hundred (400) square feet of usable floor area
Taverns, night clubs, restaurants, dining rooms, and eating places	One (1) per two hundred and fifty (250) square feet of usable floor area
Banks, saving and loans and similar uses floor area	One (1) per two hundred and fifty (250) square feet of usable floor area
Boarding houses and rooming houses	One (1) per sleeping room
Hotel, motel, and bed and breakfast	One (1) per sleeping room plus one (1) per employee on a shift
Barber shop and beauty salon	Two (2) per work station
Medical or dental office or clinic	Four (4) per practioner
Gasoline and service stations on a shift	One (1) per pump and/or repair bay and one (1) per employee
Veterinary or animal clinic	Three (3) per practioner
Self-serve laundry	One (1) per each three (3) washers
Church or place of worship, auditoriums, and theatres	One (1) per three (3) seats
Civic, social or fraternal place of assembly	One (1) per three (3) persons of permitted capacity
Library	One (1) per four hundred (400) square feet of usable floor area
Public or private elementary or junior high school	Two (2) per classroom and one (1) per eight (8) auditorium seats
Business, trade or technical school, high school,	One (1) per each two (2) students and one (1) per faculty member



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college or university

Hospitals and nursing homes	One (1) per four (4) beds plus one (1) per employee on a shift
Nursery school and day care	One (1) per each five (5) children
Manufacturing, wholesale, storage, and freight terminals	One (1) per each two (2) employees on a shift

\* In the case of uses not specifically listed, the Zoning Official shall determine the number of spaces required by comparison to a similar use or if there exists no comparable use he/she may refer the matter to the Board of Zoning Appeals for interpretation and/or determination.

## Chapter 27.06. Non-Conformities.

- §27.06.01. Non-conforming uses.
- §27.06.01.01. Continuance of non-conforming uses.
- §27.06.01.02. Expansion or enlargement of non-conforming uses.
- §27.06.01.03. Discontinuance of non-conforming uses.
- §27.06.01.04. Reconstruction of non-conforming uses.
- §27.06.01.05. Non-conforming mobile homes.
- §27.06.01.06. Non-conforming uses under construction.
- §27.06.01.07. Change of non-conforming uses.
- §27.06.02. Non-conforming structures.
- §27.06.02.01. Continuance of non-conforming structures.
- §27.06.03. Non-conforming lots of record.
- §27.06.03.01. Non-conforming lots of record.

### §27.06.01. Non-conforming uses.

#### §27.06.01.01. Continuance of non-conforming uses.

Any lawful use of buildings or land existing at the effective date of this title or any relevant amendment hereto, may be continued, even though such use does not conform to the provisions hereof. The non-conforming use of a building may be extended throughout those existing parts of the building that were arranged or designed for such use but not into areas of a building designed, constructed, and previously used for uses conforming to the regulations of the district in which the structure is located, except with the approval of the Board of Zoning Appeals.

#### §27.06.01.02. Expansion or enlargement of non-conforming uses.

No non-conforming building or structure nor conforming or non-conforming building or structure containing a non-conforming use shall be moved, extended, enlarged, or altered and no non-conforming use of land shall be expanded, except with the approval of the Board of Zoning Appeals.

#### §27.06.01.03. Discontinuance of non-conforming uses.

A non-conforming use which is discontinued for a period of one (1) year shall not again be used except in conformity with the use regulations of the district in which it is located including but not limited to off-street parking requirements.

#### §27.06.01.04. Reconstruction of non-conforming uses.

A building containing a non-conforming use which has been damaged by fire, explosion, act of God or the public enemy less than fifty percent (50%) of its fair market value

may be repaired or reconstructed, and used as before the time of the damage, provided such repairs or reconstruction are started within one (1) year of the date of such damage and completed within two (2) years. If repair or reconstruction is not started within the one (1) year period, then it shall not be restored and reused as before such damage except in conformity with the regulations of the district in which it is located. Any building containing a non-conforming use damaged greater than fifty percent (50%) of its fair market value shall not be restored and used as before such damage unless it conforms to the development and use regulations of the district in which it is located, including provisions of the Flood Damage Reduction Ordinance, Historic Preservation Ordinance, and off-street parking requirements, except with the approval of the Board of Zoning Appeals or Design Review Committee.

#### §27.06.01.05. Non-conforming mobile homes.

Mobile homes, trailers, industrialized units, and manufactured homes that do not meet the definition of permanently sited manufactured homes and are located outside a manufactured home park licensed by the Ohio Manufactured Homes Commission shall be considered non-conforming uses and subject to the continuous use requirements of *Section 27.06.01.03*. Any such structure once removed, damaged in extent greater than fifty percent (50%) of its fair market value, or left unoccupied for more than one (1) year shall not be restored, replaced, or reoccupied and used as before such removal, damage or abandonment.

#### §27.06.01.06. Non-conforming uses under construction.

Any building arranged, intended or designed for a non-conforming use, the construction of which was started at the time of the passage of this ordinance or amendments hereto, must be both completed and put into such non-conforming use within one (1) year after this title or amendment hereto take effect.

#### §27.06.01.07. Change of non-conforming uses.

An existing non-conforming use may be changed to another non-conforming use provided that no structural alterations are proposed except as specifically required by enforcement of other codes and regulations, and provided that prior approval is granted by the Board of Zoning Appeals or Design Review Committee. In considering such a change, the Board of Zoning Appeals or the Design Review Committee may require specific conditions and additional development standards to minimize adverse impacts to adjoining property.

**§27.06.02. Non-conforming structures.**

**§27.06.02.01. Continuance of non-conforming structures.**

Where a lawful structure exists at the time of the effective date of this title or any amendment hereto that could not be built under the terms of this ordinance because of regulations on building size, lot coverage, height, yard requirements, or similar dimensional requirements, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, except with the approval of the Board of Zoning Appeals or Design Review Committee, but any structure or portion thereof may be altered to decrease its non-conformity.

B. Non-conforming structure which has been damaged by fire, explosion, act of God or the public enemy less than fifty percent (50%) of its fair market value may be repaired or reconstructed, and used as before the time of the damage, provided such repairs or reconstruction are started within one (1) year of the date of such damage and completed within two (2) years. If repair or reconstruction is not started within the one (1) year period, then it shall not be restored except in conformity with the development regulations of the district in which it is located. Any structure damaged greater than fifty percent (50%) of its fair market value shall not be reconstructed except in conformance with the development requirements of the district which it is located including but not limited to the Flood Damage Reduction Ordinance, the Historic Preservation Ordinance, and off-street parking requirements, except with the approval of the Board of Zoning Appeals or Design Review Committee.

C. Should a non-conforming structure for any reason be moved, demolished, repaired, or restored in an amount greater than fifty percent (50%) of its fair market value, it shall thereafter conform with all of the development and use regulations of the district in which it is located, including but not limited to the Flood Damage Reduction Ordinance, the Historic Preservation Ordinance and off-street parking requirements, except with the approval of the Board of Zoning Appeals or Design Review Committee.

**§27.06.03. Non-conforming lots of record.**

**§27.06.03.01. Non-conforming lots of record.**

A. In any district, a permitted structure and customary accessory buildings may be erected on any single lot of record after the effective date of adoption of or amendment to this code, notwithstanding limitations imposed by other provisions of this code. This provision shall apply even though such lot fails to meet the requirements for area or width, or both. All other requirements for development of the lot such as yard requirements and maximum lot coverage shall conform to the regulations for the district in which such lot is located. Variances from requirements other than non-conforming lot area or lot width shall be obtained only through action of the Board of Zoning Appeals.

B. If two (2) or more lots or combinations of lots and portions of lots with or without continuous frontage are of record in single ownership at the time of passage or

amendment of this code contain a structure or structures and if all or part of the lots do not meet the minimum requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this code and no portion of such parcel shall be used, sold or divided in a manner which diminishes compliance with lot width and area requirements stated in this code or *Nelsonville City Code Title 23, Subdivision Regulations*, whichever is the most restrictive.

C. Prior to development or conditioned upon issuance of a zoning certificate for one (1) or more vacant, undeveloped, non-conforming lots where there is a contiguous lot or lots in same ownership, said lot, lots or portions thereof necessary to meet the minimum lot width and/or area requirements of this code or *Nelsonville City Code Title 23, Subdivision Regulations*, whichever is more restrictive, shall be required either to be re-platted and a new metes and bounds description recorded with the Athens County Recorder or a new deed shall be recorded with the Athens County Auditor for said parcels containing language describing them to be and remain continuous and contiguous.

D. Prior to development or conditioned upon issuance of a zoning certificate for two (2) or more lots, conforming or non-conforming as to minimum lot width and/or area requirements of this code or *Nelsonville City Code Title 23, Subdivision Regulations*, whichever is more restrictive, where such development is proposed upon, over or above an existing property line and where such property is in same ownership, said lots shall be required either to be re-platted and a new metes and bounds description recorded with the Athens County Recorder or a new deed shall be recorded with the Athens County Auditor for said parcels containing language describing them to be and remain continuous and contiguous.

**Chapter 27.07. Enforcement.**

- §27.07.01. Zoning certificates.
- §27.07.01.01. Zoning certificates required.
- §27.07.01.02. Zoning certificates for existing uses which may be non-conforming.
- §27.07.01.03. Application and issuance of zoning certificates.
- §27.07.01.04. Fees for zoning certificates.
- §27.07.01.05. Zoning certificate records.
- §27.07.02. Violations and penalties.
- §27.07.02.01. Penalties.
- §27.07.02.02. Remedies.
- §27.07.02.03. Enforcement.

**§27.07.01. Zoning certificates.**

**§27.07.01.01. Zoning certificates required.**

It shall be unlawful for an owner to use or to permit the use of any structure, building or land, or part thereof, hereafter created, erected, changed, converted or enlarged, wholly or partly, until a zoning certificate is issued by a Zoning Officer. It shall be the duty of the Zoning Officer to issue a certificate, once satisfied that the structure, building or premises and the proposed use thereof conform to all the requirements of this title. No permit for excavation, construction, or reconstruction shall be issued by the Zoning

Officer unless the plans, specifications and the intended use conform to the provisions of this title. A zoning certificate shall be required for any of the following, except as herein provided:

- A. Construction or structural alteration of any building, including accessory buildings.
- B. Change in use of an existing building or accessory building to a use of a different classification.
- C. Occupancy and use of vacant land.
- D. Change in the use of land to a use of a different classification.
- E. Any change in the use of a non-conforming use.

**§27.07.01.02. Zoning certificates for existing uses which may be non-conforming.**

Upon written request from the owner or tenant, the Zoning Officer shall issue a zoning certificate for any building or premises existing at the time of enactment of this code that certificates, after inspection, the extent and kind of use made of the building and premises and whether such use conforms to the provisions of this code.

**§27.07.01.03. Application and issuance of zoning certificates.**

Written application shall be made for a zoning certificate for the construction of a new building or the expansion or structural alteration of an existing building. Said certificate shall be issued within thirty (30) working days after a complete written request for the same has been made to the Zoning Officer or his agent, provided such construction or alteration is in conformity with the provisions of this title and the off-street parking regulations. Every application for a zoning certificate shall be accompanied by a site plan and such other plans as may be necessary to show the location and type of buildings to be erected or alterations to be made. Where construction or physical improvement of the land is involved, the lot shall be staked out on the ground before construction is started, and all dimensions shown on filed plans shall be true. Each plan shall show:

- A. The street providing access to the lot and the exact location of the lot in relation to the nearest cross street.
- B. The name of the plan, if any, and the lot numbers of the abutting properties.
- C. The actual dimensions of the lot, the yard and other open space dimensions thereof, and the location and size of any existing structure thereon.
- D. The location and size of the proposed structure and/or the proposed enlargement of the existing structure.
- E. Any other information that, in the judgment of the Zoning Officer, may be necessary to enforce this title.

**§27.07.01.04. Fees for zoning certificates.**

A non-refundable application fee shall accompany each application for a zoning certificate. City Council by separate ordinance shall establish a schedule of fees for applications and permits. Permit application fees shall be applied to the cost of permits approved administratively or where the Board of Zoning Appeals reverses the determination of the Zoning Officer, approves a request for variance, authorizes a conditional or special use, or approves a change in a non-conforming use. The application fee for applications or appeals denied by the Board shall be deposited with the

City Auditor and shall not be refunded. The Zoning Officer shall act upon the original application within thirty (30) days, and shall either issue a zoning certificate or describe in writing the reasons why a permit cannot be issued. He will also be responsible for collection and deposit of all fees for credit to the general revenue fund of the City. Zoning certificates shall be issued for a period of one (1) year. A written request for a one (1) year extension may be submitted prior to expiration of the permit, and shall be reviewed by the authority approving the original application. Zoning certificates shall be revocable by the Zoning Officer if conditions change to the extent that the permit is no longer representative of the proposed activity, or if requirements are not being met. Revocation of a zoning certificate shall constitute an order to cease construction. Application for a zoning certificate shall constitute consent for access onto the premises under construction. If an application is submitted for review by a higher authority, such submittal for review shall constitute consent for access onto the premises by the reviewing authority.

**§27.07.01.05. Zoning certificate records.**

A record of all zoning certificates shall be kept on file in the office of the Zoning Officer or his/her agent, and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

**§27.07.02. Violations and penalties.**

**§27.07.02.01. Penalties.**

It shall be unlawful for any individual, corporation, or other responsible entity to locate, erect, construct, reconstruct, enlarge, structurally alter, maintain or use any building or land in violation of any regulation or any provisions of this title or any amendment. Whoever violates this title shall be deemed guilty of a minor misdemeanor, and upon conviction thereof, shall be fined not more than permitted by law for each day during which such illegal location, erection, construction, reconstruction, enlargement, structural alteration, maintenance, or use continues may be deemed a separate offense.

**§27.07.02.02. Remedies.**

Any zoning certificate issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statements shall be established to the satisfaction of the issuing authority, the zoning certificate shall be revoked by notice in writing to be delivered to the holder of the voided certificate upon the premises concerned or if such holders be not found there, by posting the said notice of revocation in some conspicuous place upon the said premises. Any person who shall proceed thereafter with such work or use without having obtained a new zoning certificate according to this code shall be deemed guilty of violating this code.

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, structurally altered, maintained or used or any land is or is proposed to be used in violation of this title or any amendment or supplement thereto, the Zoning Officer, through the City Attorney, or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other

remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action, actions, proceeding, or proceedings to prevent, enjoin, abate or remove such unlawful location, erection, construction, reconstruction, enlargement, structural alteration, maintenance or use.

**§27.07.02.03. Enforcement.**

It shall be the duty of the Zoning Officer to enforce this code. It shall also be the duty of all officials and employees of the City to help with the enforcement of this code by reporting to the Zoning Officer facts concerning new construction, reconstruction, or land uses or seeming violations. An appeal from the decision of the Zoning Officer may be made to the Board of Zoning Appeals.

**Chapter 27.08. Administration.**

- §27.08.01. Planning Commission.
- §27.08.01.01. Organization of the Planning Commission.
- §27.08.01.02. Powers and duties.
- §27.08.01.03. Hearings and rules.
- §27.07.01.04. Minutes and records.
- §27.08.01.05. Witnesses and oaths.
- §27.08.02. Board of Zoning Appeals.
- §27.08.02.01. Organization of the board of zoning appeals.
- §27.08.02.02. Powers and duties.
- §27.08.02.03. Alleged errors or matters of interpretation.
- §27.08.02.04. Variances.
- §27.08.02.05. Conditional uses.
- §27.08.02.06. Expiration of approval of conditional uses.
- §27.08.02.07. Change to non-conforming uses.
- §27.08.02.08. Expiration of approval of changes to non-conforming uses.
- §27.08.02.09. Hearings and rules.
- §27.08.02.10. Minutes and records.
- §27.08.02.11. Witnesses and oaths.
- §27.08.02.12. Department assistance.
- §27.08.02.13. Applications.
- §27.08.02.14. Notification.
- §27.08.02.15. Decisions of the Board.

**§27.08.01. Planning Commission.**

**§27.08.01.01. Organization of the Planning Commission.**

The City of Nelsonville Planning Commission has been established and organized under *Nelsonville City Charter Section 7.05*.

**§27.08.01.02. Powers and duties.**

With respect to the administration of this code, the Planning Commission shall have the following responsibilities:

- A. To initiate proposed amendments to this code.
- B. To review amendments to this code proposed by the City Council, City Manager, property owners or residents.
- C. To review proposed use variances and make recommendations to the City Council.

**§27.08.01.03. Hearings and rules.**

The hearings of the Planning Commission shall be public. However, they may go into executive session for

discussion according to applicable laws, but not for vote on any case before it. The Planning Commission shall adopt from time to time such rules and regulations as it may deem necessary to effectuate the provisions of this title.

**§27.08.01.04. Minutes and records.**

The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Office of the City Auditor and shall be a public record.

**§27.08.01.05. Witnesses and oaths.**

The Planning Commission shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents under such regulations as it may establish.

**§27.08.02. Board of Zoning Appeals.**

**§27.08.02.01. Organization of the Board of Zoning Appeals.**

The City of Nelsonville Board of Zoning Appeals has been established and organized under *Nelsonville City Charter Section 7.06*.

**§27.08.02.02. Powers and duties.**

The Board of Zoning Appeals shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Zoning Officer in the enforcement of this code or any amendments thereto. The Board shall also interpret provisions of this code as needed to carry out the purpose and intent of this code. This includes interpretation of the zoning map when and if questions arise as to the boundaries of zoning districts.

B. To consider variances from the terms, provisions or requirements of this code as will not be contrary to the public interest; so that the spirit of the code shall be observed, public safety and welfare secured and substantial justice done.

C. To review and act upon applications for conditional uses.

D. To review and act upon changes to non-conforming uses.

**§27.08.02.03. Alleged errors or matters of interpretation.**

An appeal to the Board involving an alleged error of interpretation by the Zoning Officer, or a matter of interpretation, may be made by any person aggrieved or by an officer of the City affected by any decision of the Zoning Officer or the matter of the interpretation.

**§27.08.02.04. Variances.**

In authorizing a variance, the Board may attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of this code. The Board may grant a variance in the application of the provisions of this code only if all of the following findings are made:

A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions that do not apply generally to other properties in the neighborhood or district in which the property is located.

B. That because of such physical circumstances or conditions the property cannot be developed in strict conformity with the provisions of this title and that the authorization of a variance is therefore necessary to enable reasonable use of the property.

C. That such unique conditions have not been created by the appellant.

D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

E. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

**§27.08.02.05. Conditional uses.**

Within zoning districts, there may be uses listed as conditional. The Board of Zoning Appeals shall have the power to decide applications for conditional uses in those cases specified in this code. In considering such applications, the Board shall give due regard to the nature and condition of all adjacent uses and structures and may impose such requirements and conditions as the Board may deem necessary for the protection of adjacent properties and the public interest, which includes additional landscaping, screening, buffering, or other site design modifications. To approve a conditional use, the Board must find that all of the following conditions are true:

A. That the proposed use is in fact listed as conditional use in the zoning district;

B. That the proposed use will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity;

C. That the proposed use will not be hazardous or disturbing to existing or future neighboring uses;

D. That the proposed use would be served adequately by essential public services such as highways, police and fire, drainage, refuse disposal, water and sewer or schools;

E. That the proposed use will not create excessive additional requirements at public cost for facilities or services, unless the City Council agrees, in writing, to provide such facilities or services;

F. That the proposed use will not involve activities, processes, materials, equipment, or conditions of operation that would be detrimental to the neighborhood because of excessive traffic, noise, smoke, or odors;

G. That the proposed use will not have vehicular approaches to the property that will create interference with traffic movement.

**§27.08.02.06. Expiration of approval of conditional uses.**

Approval of a conditional use shall be deemed to authorize only one particular conditional use. Such approval

shall expire if such use has not been instituted in one (1) year or if discontinued for more than one (1) year.

**§27.08.02.07. Change to non-conforming uses.**

To approve a substitution of a new non-conforming use for an existing non-conforming use, the Board must find that the proposed non-conforming use is substantially similar to the existing non-conforming use in terms of impact on the neighborhood. The Board may impose additional requirements upon the new non-conforming use as may be considered reasonable to minimize impacts upon surrounding property. An expansion of a non-conforming use may only be approved if it is found that such expansion will not be detrimental to the neighborhood.

**§27.08.02.08. Expiration of approval of changes to non-conforming uses.**

Approval of a change to non-conforming uses shall be deemed to authorize only one particular use. Such approval shall expire if such use has not been instituted in one (1) year or if discontinued for more than one (1) year.

**§27.08.02.09. Hearings and rules.**

The hearings of the Board of Zoning Appeals shall be public. However, the Board may go into executive session for discussion according to applicable laws, but not for vote on any case before it.

**§27.08.02.10. Minutes and records.**

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions; all of which shall be immediately filed in the office of the City Auditor and shall be a public record.

**§27.08.02.11. Witnesses and oaths.**

The Board shall have the power to subpoena witnesses, administer oaths, and punish for contempt, and may require the production of documents as it may deem necessary.

**§27.08.02.12. Department assistance.**

The Board may call upon the various officials and employees of the City for assistance in the performance of its duties and it shall be the duty of such departments to render such assistance to the Board as may reasonably be required.

**§27.08.02.13. Applications.**

An application, in a case in which the Board has original jurisdiction under the provisions of this code, may be submitted to the Zoning Officer who shall transmit the application to the Board. Applications concerning an alleged error in determination of the Zoning Officer or appeal from a refused application must be submitted within thirty (30) days of said determination. Applications for conditional or special or change to non-conforming use shall be properly advertised for hearing and transmitted to the Board for consideration at their next regular meeting. Application fees for hearings under the original jurisdiction of the Board shall be determined by City Council and established by separate ordinance.

**§27.08.02.14. Notification.**

The Board shall fix a reasonable time for a hearing of a matter to come before it, and shall give at least ten (10) days public notice thereof in a newspaper of general circulation in the municipality and at least ten (10) days notice to parties having proprietary interest in land within two hundred (200) feet of any property in question. At the hearing, the applicant party must appear in person or by a representative. Any other interested party may appear in person or by a representative. The hearings of the Board shall be public.

**§27.08.02.15. Decisions of the Board.**

The Board shall decide all applications and appeals within thirty (30) days after the final hearing thereon, a copy of the Board's decision shall be transmitted to the Zoning Officer and to the applicant. Such decision shall incorporate the terms and conditions of the same in the permit *as* authorized by the Board. In accordance with *Ohio Revised Code Sections 2505.03 and 2506.01*, any person or persons, jointly or severally aggrieved by any final order, adjudication, or decision of the Board, or any resident, or any officer, department, or appointed body of the municipality, may request review by the Athens County Court of Common Pleas and present a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the decision of the Board.

**Chapter 27.09. Amendments and Use Variances.**

- §27.09.01. General.
- §27.09.02. Use Variances.
- §27.09.03. Action by Planning Commission.
- §27.09.04. Action by City Council.
- §27.09.05. Appeals.
- §27.09.06. Notice and public hearings.
- §27.09.06.01. Hearings and notifications.
- §27.09.06.02. Application fees.

**§27.09.01. General.**

The City Council may amend or change the number, shape, area, or regulations of or within any district or grant a variance for a use not otherwise principally or conditionally permitted in a zoning district, but no such amendment, change or use variance shall become effective unless the ordinance proposing it is first submitted to the Planning Commission for review and suggestions and the Planning Commission is allowed a reasonable time, not less than thirty (30) days, for consideration and report.

**§27.09.02. Use Variances.**

No appeal for a use variance for a use which is not permitted in a specific district shall not be recommended by the Planning Commission or granted by City Council unless the Planning Commission and City Council determine by clear and convincing evidence that an unnecessary hardship exists or will result from the literal enforcement of this code. The following standards shall be considered and weighed by the Planning Commission and City Council in determining

whether the granting of a use variance is warranted to afford relief of an unnecessary hardship:

A. Whether principally or conditionally permitted uses in the district may be reasonably established on the property and whether the principally or conditionally permitted uses are economically viable on the property in question without the variance.

B. Whether the use variance is the minimum variance necessary to afford relief to the property owner, occupant, tenant or lease holder.

C. Whether the essential character of the neighborhood will be substantially altered or adjoining properties will suffer interference with their proper future development rights as a result of the use variance.

D. Whether the use variance requested arises from an exceptional condition or circumstance which is unique to the subject site, including but not limited to historical, architectural or cultural considerations and which may not be generally shared by other properties in the same zoning district or general vicinity.

E. Whether any hardship condition was created by actions of the owner or applicant.

F. Whether the spirit and intent of this code will be observed and substantial justice done by granting the use variance.

G. Whether the use requested is similar in character to the permitted uses in the subject district.

H. Whether the subject property is adequate to meet the needs and requirements of the proposed use.

I. Whether the historical, architectural or cultural significance of the building, structure or premise where the use variance is proposed will be preserved, enhanced or damaged.

**§27.09.03. Action by Planning Commission.**

In recommending approval of a use variance, the Planning Commission may prescribe appropriate conditions, stipulations, requirements and safeguards in conformity with this code. Violations of such conditions, stipulations, requirements and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this title. In denying a use variance request, the Planning Commission shall state in writing which of the standards for consideration was not met and such determination shall be transmitted to the City Council as part of the Planning Commission's recommendation.

**§27.09.04. Action by City Council.**

City Council shall consider the recommendation of the Planning Commission along with the variance application, including any and all conditions, stipulations, requirements and safeguards recommended by the Planning Commission. City Council may include and attach the conditions, stipulations, requirements and safeguards recommended by the Planning Commission, may modify the recommendations of the Planning Commission, and/or may prescribe such additional conditions, stipulations, requirements and safeguards as it may deem necessary and appropriate as terms and conditions under which the use variance is granted. Violations of such conditions, stipulations, requirements and safeguards, when made a part of the terms under which the use

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variance is granted, shall be deemed a violation of this chapter.

**§27.09.05. Appeals**

In accordance with *Ohio Revised Code Sections 2505.03 and 2506.01*, any person or persons, jointly or severally aggrieved by any final order, adjudication, or decision of the Planning Commission or the City Council, or any resident, or any officer, department, or appointed body of the municipality, may request review by the Athens County Court of Common Pleas and present a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the decision of the Planning Commission or the City Council.

**§27.09.06. Notice and public hearings.**

**§27.09.06.01. Hearings and notifications.**

Before this title or any measure, regulation, amendment or use variance thereto are passed, the City Council shall hold a public hearing thereon, and shall give at least thirty (30) days' notice of the time and place thereof in a newspaper of general circulation in the City. If the ordinance, measure or regulation intends to re-zone or redistrict ten (10) or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, at least thirty (30) days before the date of the public hearing to the owners of property having proprietary interest in land within two hundred (200) feet of any property in question and to the addresses of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list, and to such other list or lists that may be specified by the City Council. The future of delivery of such notice shall not invalidate any such ordinance, measure, regulation or use variance. During such thirty (30) days the text or copy of the text of such ordinance, measure, regulation or use variance, together with the maps or plans or copies thereof forming part of or referred to in such ordinance, measure, regulation or use variance and be on file, for public examination, in the Office of the Clerk of Council, Office of the City Manager or in such other location as is designated by the City Council.

**§27.09.06.02. Application fees.**

At the time an application for a change of any measure, regulation, amendment or use variance thereto, either change to text, zoning district or use regulation is filed, there shall be deposited with the municipality a fee determined by City Council and established by separate ordinance.

**Chapter 27.10. Validity and Separability.**

§27.10.01. Validity and separability.

**§27.10.01. Validity and separability.**

If any article, section, subsection, paragraph, sentence or phrase of this title is for any reason held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**Chapter 27.11. Effective Date.**

§27.11.01. Effective date.

**§27.11.01. Effective date.**

This ordinance and subsequent amendments hereto shall become effective at the earliest date provided by law after their adoption.