

Conditional Uses

**Chapter
1123**



Section 1123-1 Purpose

Conditional uses are uses of land specifically permitted within a zoning district only with the approval of the Planning and Zoning Commission, following a review of the use and its potential impact on its surroundings. These uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations within the district. Factors such as traffic, hours of operation, noise, odor or similar potential nuisance effects require that the conditional use be evaluated relative to its appropriateness on a case-by-case basis. This chapter establishes the review procedure and the general standards that must be met for all conditional uses. In addition, more specific requirements are established for certain individual uses, as necessary, to mitigate their potential negative impacts.

Section 1123-2 Procedures

Applications for conditional uses shall be considered in accordance with the following procedures:

- A. *Application.* An application for conditional use approval shall be made to the City Planner in writing, on a form for that purpose, and shall be filed prior to the deadline established by the City Planner in order to be on the agenda of the next regularly scheduled Planning and Zoning Commission meeting at which it is to be heard. The application must be accompanied by a fee, as established by the City Council, a site plan in accordance with the requirements of Chapter 1131 and such other material as deemed necessary.
- B. *Notice of Hearing.* The following notices shall be provided:
 - i. Written notice of the hearing shall be mailed by first class mail from the office of the City Planner to all property owners within 200 feet of the subject property. The notice shall be sent at least ten (10) days before the day of the hearing and shall contain the time, place and purpose of the hearing. A failure to notify, as provided in this section, shall not invalidate any proceedings or actions taken by the Planning and Zoning Commission or City Council.
 - ii. Notice to the general public of the Commission's agenda shall be publicized in a newspaper of general circulation at least fourteen (14) days prior to the date of the hearing.
 - iii. Fourteen (14) days prior to the date of the public hearing, the agenda shall be displayed on the City's website and on the public bulletin board at City Hall, containing information as to the time and place(s) at which the application and all related plans and information may be
 1. The specific request being made,
 2. Date of the public hearing,
 3. Location of the public hearing, and
 4. Location where additional information may be obtained regarding the request
- C. *Representation.* The applicant shall appear at the public hearing in person or by agent. If the applicant or authorized representative is not present, no action shall be taken by the Planning and Zoning Commission on that application.
- D. *Record of Proceedings.* The Planning and Zoning Commission shall keep minutes of its proceedings showing the action of the commission and the vote of each member or, if absent or failing to vote, indicating such fact. The commission shall act by motion.
- E. *Required Vote.* The concurring vote of a majority of Planning and Zoning Commission members present and constituting a quorum shall be necessary to approve a conditional use application.

- F. *Review Criteria.* The Planning and Zoning Commission shall review the application in relation to the general standards of this chapter for conditional uses, as provided in Section 1123-3, and any specific standards required for the use proposed, as identified in this chapter.

Section 1123-3 General Standards

Any request for a conditional use shall only be approved upon a finding, by the Planning and Zoning Commission, that each of the following general standards is satisfied, in addition to any applicable requirements pertaining to the specific use:

- A. The proposed use will be consistent with the intent and purposes of this zoning code and the City of Hilliard Comprehensive Plan.
- B. The proposed use will comply with all applicable requirements of this code, except as specifically altered in the approved conditional use.
- C. The proposed use will be compatible with the character of the general vicinity.
- D. The proposed use and site layout will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Due consideration will be given to the location and height of proposed buildings and structures, location and type of proposed fences or walls, location and screening of parking areas, and the location and type of proposed landscaping.
- E. The area and proposed use will be adequately served by essential public facilities and services, as applicable, such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewer. The applicant or landowner will be required to install public utilities, streets or other public infrastructure as required by the city, state or other agencies to applicable specifications that are necessitated by the conditional use development. Dedication of said public infrastructure may be required.
- F. The proposed use will not involve uses, activities, processes, materials, equipment or conditions of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the zoning district.
- G. The location and scale of the use, the nature and intensity of the proposed operations, the site layout and the relation of the proposed use to surrounding streets will not cause undue traffic congestion or hazards adjacent to the site or in the immediate vicinity beyond that which would be normally expected based on the existing pattern of uses and the planned character reflected in the city's Comprehensive Plan. Peak hour volumes, turning movements, existing street capacity, driveway spacing, sight distances and pedestrian traffic shall all be considered.

Section 1123-4 Conditions of Approval

Reasonable conditions may be imposed on the approval of a conditional land use in order to achieve the following:

- A. Ensure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads necessitated by the proposed use.
- B. Ensure that the use is compatible with adjacent conforming land uses and activities.
- C. Protect natural resources; the health, safety, and welfare; and the social and economic well being of those who will use the land or activity under consideration, the residents, business

owners and landowners immediately adjacent to the proposed use or activity, and the community as a whole.

- D. Relate to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- E. Meet the purpose of the zoning code, be in compliance with the standards established in the code for the land use or activity under consideration, and be in compliance with the zoning district standards.

Section 1123-5 Expiration

Approval of a conditional use shall expire 12 months after it is granted, unless construction is complete or commencement of the use has begun, or significant progress has been made towards its initiation. The Planning and Zoning Commission may, upon written request by the applicant, extend the term of the conditional use approval by one additional period of up to 12 months upon a finding that there have been no changed conditions in the area which would require reconsideration of the conditional use application or site plan. A request for an extension of the initial permit period shall be submitted in writing to the zoning inspector prior to the expiration of the initial approval.

Section 1123-6 Revocation

If a violation of any conditions or standards imposed on a conditional land use is found to exist, the zoning inspector shall notify the owner of the premises, the Planning and Zoning Commission and the Director of Public that a violation exists and that the permit will be revoked within the time frame contained in the notification. If the violation is not corrected within that time frame, the zoning inspector shall revoke the permit and the conditional use is thereby terminated. Furthermore, the violation shall be declared to be a violation of the zoning code, subject to all remedies and penalties provided for in this code.

Section 1123-7 Performance Guarantees

To assure compliance with this code and any conditions of approval, performance guarantees may be required by the Planning and Zoning Commission, as authorized by Section 1141-5.

Section 1123-8 Specific Use Requirements

In addition to the general standards of Section 1123-3, applicable to all conditional uses, additional requirements may be applicable to specific conditional uses and shall be satisfied in order to obtain approval. Conditional uses for which added requirements apply are listed in the following sections.

Section 1123-9 Use Requirements – Agriculture and Animal-Related Uses

- A. *Kennels and Pet Daycare.*
 - 1. Minimum lot area shall be one acre.
 - 2. Buildings housing animals, dog runs and outdoor exercise areas shall not be located closer than 100 feet to any Residential District boundary or use if the use is not zone residential in such case as a PUD.

3. Dog runs and outdoor exercise areas shall be securely fenced to contain animals within the fenced area.
4. Dog runs or animal exercise areas shall not be located in a front yard or in any required rear or side yard setback.

B. *Riding Stables.*

1. Minimum lot area shall be ten acres.
2. Buildings housing animals shall not be located closer than 100 feet to any property line.
3. The storage of manure or other odor or dust-producing materials shall not be stored closer than 100 feet to any property line.
4. Areas for riding trails or riding purposes shall be located on the same premises, unless written permission has been granted from an adjacent property owner for that purpose. Access to riding areas shall not necessitate riding or leading animals across a public street.

Section 1123-10 Use Requirements – Food, Drink, Entertainment & Hospitality

A. *Brew Pubs and Similar Establishments.*

1. No more than 50 percent of the total gross floor area of the establishment shall be used for the brewery function including, but not limited to, the brewhouse, boiling and water treatment areas, bottling and kegging lines, malt milling and storage, fermentation tanks, conditioning tanks and serving tanks;
2. Retail carryout of beer may be permitted, if allowed by Ohio state law.
3. All mechanical equipment visible from the street (excluding alleys), an adjacent residential use or residential zoning district shall be screened using architectural features consistent with the principal structure or a landscape screen;
4. Loading bays shall not face toward any street, excluding alleys;
5. Loading bays facing an adjacent residential use or residential zoning district, shall have the doors closed at all times, except during the movement of raw materials, other supplies and finished products into and out of the building;
6. Loading and unloading of materials and equipment shall be permitted only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday;
7. Outdoor storage shall not be allowed. This prohibition includes the use of portable storage units, cargo containers and tractor trailers.

B. *Restaurants with Drive-Thru Facilities.*

1. Sufficient vehicular stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of eight stacking spaces for each service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation, parking spaces and egress from the property by vehicles not using the drive-through portion of the facility.
2. A minimum of two parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.

3. The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.
4. Internal circulation and access to or egress from the site shall not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.
5. Amplified speakers and sound equipment shall be located at least 50 feet from any adjoining residential property. Additional landscaping and fencing shall be installed between such equipment and the adjoining residential property and between such equipment and the City's right of way if such equipment can be seen from the right of way to minimize associated noise impacts.

Section 1123-11 Use Requirements – Sexually Oriented Businesses

A. *Classification.* Sexually oriented business shall be classified as follows:

1. Adult arcades
2. Adult bookstores, adult novelty stores, adult video stores
3. Adult cabarets
4. Adult motels
5. Adult entertainment out-call service in the form of semi-nude dancing or exhibition
6. Adult motion picture theaters
7. Adult theaters
8. Semi-nude model studios
9. Sexual encounter establishments

B. *License Required.*

1. Sexually Oriented Business License.

- a. It shall be unlawful for any person to establish and/or operate a sexually oriented business or to conduct such services in the City without a valid sexually oriented business license issued by the City for the particular type of business.
- b. An applicant for a sexually oriented business license shall file in person with the zoning inspector a completed application made on a form entitled "Sexually Oriented Business License" prescribed and provided by the City. The applicant shall be qualified according to the provisions of this chapter. The application shall be signed under oath by the applicant and notarized. If the applicant is other than an individual, the application shall be signed under oath by a duly authorized agent of the applicant and notarized. The application shall include the following information:
 - i. The applicant's full true name and any other names (including trade names or aliases) used by the applicant in the preceding five years;
 - ii. The applicant's current business address or, if the applicant is an individual and does not have a business address, the applicant's current residential address;
 - iii. If the applicant is an individual, a set of the applicant's fingerprints suitable for conducting necessary background checks pursuant to this Section. If the applicant is other than an individual, the applicant's duly authorized agent shall provide a set of

- fingerprints suitable for conducting necessary background checks pursuant to this Section;
- iv. The name, business location, business mailing address and business phone number of the sexually oriented business or proposed sexually oriented business;
 - v. If the applicant is an individual, written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency. If the applicant is other than an individual, the applicant's duly authorized agent shall provide written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency.
 - vi. The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to a sexually oriented business, whether any such license or permit has been denied, revoked or suspended and, if so, the reason or reasons therefor; and
 - vii. The applicant's answer to the question, "Have you ever been convicted of a crime?"
- c. The information provided pursuant to paragraphs 1.b.i. through 1.b.vii. of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the zoning inspector within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

2. Sexually Oriented Business Operator's License.

- a. It shall be unlawful for any person who will participate directly in decisions relating to a sexually oriented business, whether or not such business has obtained a sexually oriented business license, to operate such business without a valid "sexually oriented business operator's license."
- b. An applicant for a sexually oriented business operator's license shall file in person with the zoning inspector a completed application made on a form entitled "Sexually Oriented Business Operator's License" prescribed and provided by the City. The applicant shall be qualified according to the provisions of this Section. The application shall be signed under oath by the applicant and notarized. If the applicant is other than an individual, the application shall be signed under oath by a duly authorized agent of the applicant. The application shall include the information called for as follows:
 - i. The applicant's full name and any other names (including aliases) used by the applicant in the preceding five years;
 - ii. The applicant's current business address or, if the applicant does not have a business address, the applicant's residential address;
 - iii. If the applicant is an individual, a set of the applicant's fingerprints suitable for conducting necessary background checks pursuant to this Section. If the applicant is other than an individual, the applicant's duly authorized agent shall provide a set of fingerprints suitable for conducting necessary background checks pursuant to this Section;
 - iv. The name, business location, business mailing address and business phone number of the sexually oriented business or proposed sexually oriented business where the applicant intends to operate;

- v. If the applicant is an individual, written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency. If the applicant is other than an individual, the applicant's duly authorized agent shall provide written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency.
 - vi. The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to a sexually oriented business, whether any license or permit has been denied, revoked or suspended and, if so, the reason or reasons therefor; and
 - vii. The applicant's answer to the question, "Have you ever been convicted of a crime?"
- c. The information provided pursuant to paragraphs 2.b.i. through 2.b.vii. of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the zoning inspector within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.
3. Sexually Oriented Business Employee's License.
- a. It shall be unlawful for any individual to be employed by a sexually oriented business, whether or not such business has obtained a sexually oriented business license, without a valid "sexually oriented business employee license."
 - b. An applicant for a sexually oriented business employee license shall file in person with the zoning inspector a completed application made on a form entitled "Sexually Oriented Business Employee License" prescribed and provided by the City. The applicant shall be qualified according to the provisions of this Section. The application shall be signed under oath by the applicant and notarized. The application shall include the information called for as follows:
 - i. The applicant's full name and any other names (including aliases) used by the applicant in the preceding five years;
 - ii. The applicant's current business address or, if the applicant does not have a business address, the applicant's residential address;
 - iii. A set of the applicant's fingerprints suitable for conducting necessary background checks pursuant to this Section;
 - iv. The name, business location, business mailing address and business phone number of the sexually oriented business or proposed sexually oriented business where the applicant intends to be employed;
 - v. Written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency;
 - vi. The issuing jurisdiction and the effective dates of any license or permit held by the applicant relating to a sexually oriented business, whether any license or permit has been denied, revoked or suspended and, if so, the reason or reasons therefor; and
 - vii. The applicant's answer to the question, "Have you ever been convicted of a crime?"
 - c. The information provided pursuant to paragraphs 3.b.i. through 3.b.vii. of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the zoning

inspector within ten working days of a change of circumstances which would render the information originally submitted false or incomplete.

4. It shall be unlawful for any sexually oriented business, whether or not such business has obtained a sexually oriented business license, to be operated by any person who participates directly in decisions relating to the management of the sexually oriented business without a valid sexually oriented business operator's license.
5. It shall be unlawful for any sexually oriented business, whether or not such business has obtained a sexually oriented business license, to employ any employee without a valid sexually oriented business employer's license.
6. A person who possesses a valid video center license or theater license, or other similar license, if required by the City, is not exempt from the requirement of obtaining a sexually oriented business license. A person who operates a sexually oriented business and possesses a video center license shall comply with the requirements and provisions of this Section, when applicable.
7. The information provided by an applicant in connection with the application for a sexually oriented business license, a sexually oriented business operator's license, or a sexually oriented business employee's license under this Section shall be maintained by the City on a confidential basis, except that such information may be disclosed to other governmental agencies in connection with a law enforcement or public safety function, or as may otherwise be required by law.

C. *Issuance of License.*

1. The zoning inspector shall approve or issue a written notice of intent to deny the issuance of a license to an applicant for a sexually oriented business, operator or employee license within 20 days after receipt of the results of the background check and a completed application. The zoning inspector shall approve the issuance of the applicable license unless one or more of the following is found to be true:
 - a. An applicant or an applicant's duly authorized agent is less than 18 years of age.
 - b. An applicant or applicant's duly authorized agent is delinquent in the payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.
 - c. An applicant has failed to provide information required by Section 1123-11B for issuance of the license or has falsely answered a question or request for information on the application form.
 - d. An applicant; a business entity for which the applicant had, at the time of an offense leading to a criminal conviction described herein, a management responsibility or a controlling interest; or a business entity which is a "related member" of the applicant (as "related member" is defined in Ohio Revised Code Section 5733.042, without regard to division (B) of that section), has been convicted of or plead guilty (including an "Alford" plea or plea of nolo contendere) to a violation of a provision of this Section, other than an offense of operating a sexually oriented business without a sexually oriented business, operator or employee license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
 - e. The license application fee required by Section 1123-11D has not been paid.

- f. An applicant has falsely answered a question or request for information on the application form.
- g. An applicant; a business entity for which the applicant had, at the time of an offense leading to a criminal conviction described herein, a management responsibility or a controlling interest; or a business entity which is a “related member” of the applicant (as “related member” is defined in Ohio Revised Code Section 5733.042, without regard to division (B) of that section), has been convicted of or plead guilty (including an “Alford” plea or plea of nolo contendere) to any offense in violation of Chapter 2907 of the Ohio Revised Code and committed in the State of Ohio or any offense committed outside of Ohio which if committed in Ohio would constitute an offense in violation of Chapter 2907 for which:
 - i. An action is pending in any State or Federal Court as delineated in paragraphs ii, iii, or iv below;
 - ii. Less than two years have elapsed since the date of conviction or plea of guilty (including an “Alford” plea or plea of nolo contendere), or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the specified criminal acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations; or
 - iii. Less than five years have elapsed since the date of conviction or plea of guilty (including an “Alford” plea or plea of nolo contendere), or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense for the specified criminal acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations; or
 - iv. Less than five years have elapsed since the date of conviction or plea of guilty (including an “Alford” plea or plea of nolo contendere), or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses for the specified criminal acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations; for two or more offenses occurring within any 24-month period.
2. The fact that a conviction is being appealed shall result in disqualification of the applicant, until such time as a judgment of acquittal is granted.
3. An applicant ineligible for a license due to paragraph 1.d. or 1.g. of this subsection may qualify for the applicable sexually oriented business, operator, or employee license only when the time period required by the applicable paragraph has elapsed.
4. The applicable license, if granted, shall state on its face the name of the individual or other person to whom it is granted, the number of the license issued to that applicant, the expiration date, and the address of the sexually oriented business. A sexually oriented business operator’s license and sexually oriented business employee license shall contain a photograph of the licensee or, if the operator is other than an individual, the duly authorized

agent thereof. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. A sexually oriented business operator, or the duly authorized agent thereof, and/or a sexually oriented business employee, shall keep the operator or employee license on his/her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon lawful request by a zoning inspector or other authorized city official.

D. *Fees.* The nonrefundable initial license fee and annual renewal fee for a sexually oriented business, operator, or employee license shall be set by the City Council at an amount determined to be sufficient to pay the cost of administering the provisions of this section.

E. *Inspection.*

1. Licensees shall permit law enforcement officers, the zoning inspector and any other Federal, State, County or City agency in the performance of any function connected with the enforcement of this Section, normally and regularly conducted by such agencies, for the purpose of ensuring compliance with this Section, to inspect those portions of the premises of a sexually oriented business where patrons, customers or the general public (invitees) are permitted to occupy, at any time the business is occupied or open for business.
2. The provisions of this subsection do not apply to areas of an adult motel that are currently being rented by a patron or customer for use as a permanent or temporary habitation.

F. *Expiration of License.* Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed upon the filing of a new application and the payment of a fee, as provided in Section 1123-11B. The renewal application is subject to all the requirements of the initial application as provided in Section 1123-11B. Application for renewal shall be made at least 30 days prior to the expiration date, and if made less than 30 days prior to that date, the expiration of the license shall not be affected.

G. *Suspension.*

1. Suspension of Sexually Oriented Business License. The zoning inspector shall suspend a sexually oriented business license for a period not to exceed 30 days if it is determined that the licensee has either violated the provisions of this Section or is otherwise not in compliance with the same, or has refused to allow a lawful inspection of the sexually oriented business premises, as required by Section 1123-11E.
2. Suspension of Sexually Oriented Business Operator License. The zoning inspector shall suspend a sexually oriented business operator license for a period not to exceed 30 days if it is determined that the licensee has either violated or is not in compliance with the provisions of this Section or has refused to allow a lawful inspection of the sexually oriented business premises, as required by Section 1123-11 E.
3. Suspension of Sexually Oriented Business Employee License. The zoning inspector shall suspend a sexually oriented business employee license for a period not to exceed 30 days if it is determined that the licensee has either violated or is not in compliance with the provisions of this Section.

G. *Revocation.* The zoning inspector shall revoke a sexually oriented business, operator or employee license if a cause for suspension, as set forth in Section 1123-11G occurs and the license has been suspended at least twice within the preceding 12 months.

1. Revocation of Sexually Oriented Business License. The zoning inspector shall revoke a sexually oriented business license if the inspector believes the licensee:
 - a. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) gave false or misleading information in the application or in any document or diagram related to the operation of the sexually oriented business;
 - b. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed the possession, use, or sale of controlled substances on the premises;
 - c. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed prostitution on the premises;
 - d. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - e. Has been convicted, plead guilty (including an "Alford" plea, or plea of nolo contendere) for an offense listed in Section 1123-11 C.1.g. for which the time periods required in Section 1123-11 C.1.g. ii, iii and iv have not elapsed;
 - f. On two or more occasions within a 12 month period, a licensed operator or employee, while in or on the licenses premises, committed an offense listed in Section 1123-11 C.1.g. ii for which a conviction has been obtained (or a plea of nolo contendere or guilty, including "Alford" plea, has been rendered);
 - g. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed any sexual activity to occur in or on the licensed premises. The term "sexual activity" shall have the same meaning as in the Ohio Revised Code, Section 2907.01; or
 - h. Is delinquent in payment to the City of taxes or fees related to the sexually oriented business.

2. Revocation of Sexually Oriented Operator License. The zoning inspector shall revoke a sexually oriented business operator license if the inspector that the licensed operator:
 - a. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) gave false or misleading information in the application for a sexually oriented business operator license;
 - b. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed the possession, use, or sale of controlled substances on the premises;
 - c. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed prostitution on the premises;
 - d. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) operated the sexually oriented business during a period of time when the operator's sexually oriented business license was suspended;
 - e. On two or more occasions within a 12 month period, while in or on the licensed premises, committed an offense listed in Section 1123-11 C.1.g. ii for which a conviction

- has been obtained (or a plea of nolo contendere or guilty, including “Alford” plea, has been rendered);
- f. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed any sexual activity to occur in or on the licensed premises. The term “sexual activity” shall have the same meaning as in Ohio Revised Code, Section 2907.01; or
 - g. Is delinquent in payment to the City of taxes or fees related to the sexually oriented business.
3. Revocation of Sexually Oriented Business Employee License. The zoning inspector shall revoke a sexually oriented business employee license if the inspector determines that the licensed employee:
- a. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) gave false or misleading information in the application for a sexually oriented business employee license;
 - b. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed possession, use, or sale of controlled substances on the premises;
 - c. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed prostitution on the premises;
 - d. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) was employed by a sexually oriented business during a period when the employee’s sexually oriented business license was suspended;
 - e. On two or more occasions within a 12 month period, while in or on the licensed premises, committed an offense listed in Section 1123-11 C.1.g. ii for which a conviction has been obtained (or a plea of nolo contendere or guilty, including “Alford” plea, has been rendered);
 - f. Knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed any sexual activity to occur in or on the licensed premises. The term “sexual activity” shall have the same meaning as in the Ohio Revised Code, Section 2907.01; or
 - g. Is delinquent in payment to the City of taxes or fees related to the sexually oriented business.
4. Appeal of Conviction. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
5. Not Applicable to Adult Motels. Paragraphs 1.g, 2.f. and 3.f. of this subsection do not apply to adult motels as a grounds for revoking the applicable license, unless the licensee, licensed operator or licensed employee knowingly, recklessly, or negligently (as defined in Section 2901.22 of the Ohio Revised Code) allowed sexual activity to occur in a public place or within public view.
6. Time Period. When the zoning inspector revokes a license, the revocation shall continue for one year and the licensee shall not be issued the applicable license for one year from the date the revocation became effective. If, subsequent to revocation, the zoning inspector finds that the basis for the revocation found in subsections H.1.a., H.1.d., H.1.h, H.2.a.,

H.2.d., H.2.g., H.3.a., H.3.d., or H.3.g. has been corrected or abated, the applicant shall be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under subsections H.1.b., H.1.c., H.1.e., H.1.f., H.1.g., H.2.b., H.2.c., H.2.e., H.2.f., H.3.b. H.3.c., H.3.e., or H.3.f., an applicant may not be granted another license until the appropriate number of years required under subsection C.1.g.ii.

H. *Hearing; Appeal; Temporary License.*

1. Hearing. If the zoning inspector determines that facts exist for denial, suspension, or revocation of a license under this Section, he/she shall notify the applicant or licensee (the "Respondent") in writing of the intent to deny, suspend or revoke the license, including the grounds therefore, by personal delivery, or by certified mail, return receipt requested. The notification shall be directed to the address designated by the applicant or licensee in the application on file with the City. Within five working days of receipt of such notice, the Respondent shall provide to the zoning inspector a written response that shall include a statement of reasons why the license should not be denied, suspended or revoked. Within ten working days of the receipt of such response, the Board of Zoning Appeals shall conduct a hearing at which the Respondent shall have the opportunity to appear and be heard in person or by Respondent's attorney, in opposition to the notice of intent to deny, suspend or revoke, and do any of the following:
 - a. Present Respondent's position, arguments and contentions;
 - b. Offer and examine witnesses and present evidence;
 - c. Cross-examine witnesses, including, but not limited to, the zoning inspector and/or designees, purporting to refute Respondent's position, arguments and contentions;
 - d. Offer evidence to refute evidence and testimony offered in opposition to Respondent's position, arguments and contentions; and
 - e. Proffer any such evidence into the record, if the admission is denied by the Magistrate.
2. Notification and Testimony. All testimony shall be given under oath. The Magistrate shall have the power to subpoena witnesses or evidence and shall make such power available to the Respondent. The Magistrate shall have a complete record of the adjudication kept, including any evidence admitted or proffered. The Magistrate shall notify the Respondent in writing, by personal delivery, or by certified mail, return receipt requested, of the hearing date within three days of the receipt of Respondent's written response. If a response is not received from the Respondent in the time stated or, if after the hearing the Magistrate finds that grounds as specified in the Section exist for denial, suspension or revocation of the license, the such action shall become final and the zoning inspector shall, within five working days of the hearing, send written notice of such to the Respondent, describing the basis for the denial, suspension or revocation. Such notice shall be sent by personal delivery or by certified mail, return receipt requested. The notice shall include a statement advising the Respondent of the right to appeal the decision to a court of competent jurisdiction. If the Magistrate finds that no grounds exist for denial, suspension or revocation of a license, then the zoning inspector shall so notify the Respondent of such action in writing by personal delivery or by certified mail, return receipt requested, and issue the applicable license.

3. Appeal. When a decision to deny, suspend or revoke a license becomes final, the Respondent shall have the right to appeal such action to a court of competent jurisdiction pursuant to Ohio Revised Code Chapter 2506. Upon the filing of an appeal by the Respondent, the zoning inspector shall, within two business days of receiving notification, issue a temporary sexually oriented business, operator or employee license to the applicant. Such temporary license shall be effective pending the entry of a final judgment on the appeal by the court of competent jurisdiction.
 4. Application of Code to Temporary License Holder. Holders of a temporary sexually oriented business, operator or employee license shall be subject to all provisions of this Section.
 5. Stay of Suspension or Revocation. A suspension or revocation shall be stayed until the earlier of the following:
 - a. The Respondent fails to respond in writing to the notice of intent to suspend or revoke the license issue by the zoning inspector within the time period prescribed in subsection I.1.; or
 - b. The entry of a final judgment by a court of competent jurisdiction on appeal of a suspension or revocation.
- J. *Transfer of License Prohibited*. A licensee shall not transfer his/her license to another, nor shall the holder of a sexually oriented business, operator or employee license operate or be employed by a sexually oriented business under the authority of a license at any place other than the address designated in the most recent application.
- K. *Live Nudity*. It shall be unlawful for a person to knowingly and intentionally appear in a state of nudity in a sexually oriented business. This section does not apply to the private rooms in an adult motel. Any sexually oriented business that is found in violation of the provision shall be subject to the license suspension and/or revocation procedure in this Section.
- L. *Regulations Applicable to All Sexually Oriented Businesses*.
1. General Compliance. It shall be the duty of the sexually oriented business licensee, and its licensed operator(s) and/or employee(s) to ensure that all licensed premises and sexually oriented business establishments shall comply with the provisions of this Section and with the provisions of all other applicable City ordinances, codes, rules and regulations and all other applicable federal, state and local laws.
 2. Hours of Operation.
 - a. No sexually oriented business establishment, except for an adult motel, shall be open for business on Sunday or any State of Ohio or Federal holiday.
 - b. No sexually oriented business establishment, except for an adult motel, shall be open to do business before 12:00 PM (noon) or remain open to do business after 12:00 AM (midnight), Monday through Saturday.

- c. A sexually oriented business that has a valid liquor license from the State of Ohio shall be permitted to be operated beyond the hours specified in subsection L.2.b., but only to the extent permitted by the liquor license.
3. Animals. No animals, except seeing eye dogs required to assist the blind, shall be permitted at any time at or in any sexually oriented business establishment or licensed premises.
4. Restrooms. All restrooms in sexually oriented business establishments shall be equipped with standard toilets, sinks and other traditional lavatory facilities. No adult materials or live performances shall be provided or allowed at any time in the restrooms. Separate male and female restrooms shall be provided for and used by employees and patrons.
5. Restricted Access. No patron of a sexually oriented business establishment shall be permitted at any time to enter into any of the non-public portions of the establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the licensed premises. These persons shall remain in the non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
6. Specified Prohibited Acts.
 - a. No sexually oriented business employee, patron or any other person, other than a licensed employee who is employed to provide adult entertainment in accordance with the regulations in this Section, shall appear, be present or perform while nude or semi-nude. Further, no such employee shall appear, be present or perform while nude at any sexually oriented business that serves or otherwise provides alcoholic liquor pursuant to a license issued by the State of Ohio.
 - b. No sexually oriented business employee, patron or any other person shall perform or conduct any specified sexual activity with or for any employee, patron or other person at any sexually oriented business establishment.
7. Exterior Display. No sexually oriented business establishment shall be maintained or operated in any manner that causes, creates or allows public viewing of any adult material or any entertainment depicting, describing or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the licensed premises is located. No portion of the exterior of a sexually oriented business establishment shall utilize or contain any flashing lights, search lights or spotlights; any other similar lighting systems; or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent specifically allowed pursuant to the provisions of Chapter 1129, Signs. This subsection shall apply to any advertisement, display, promotional material, decoration or sign; to any performance or show; and to any window, door or other opening.
8. Noise. No amplified sound audible beyond the licensed premises shall be permitted.

9. Manager's Station. Each sexually oriented business establishment shall have one or more manager's stations. The interior of each establishment shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager's station to every part of the establishment, except restrooms, to which any patron is permitted access for any purpose.
10. Loitering, Exterior Lighting and Monitoring Requirements. It shall be the duty of a sexually oriented business licensee and its licensed operator(s) to:
 - a. Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the business is located;
 - b. Post conspicuous signs stating that no loitering is permitted on the property;
 - c. Designate one or more employees to monitor the activities of persons on the property by visually inspecting the property at least once every 30 minutes or monitoring the property by use of surveillance cameras; and
 - d. Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed at the manager's station.
11. Prohibition Against Minors. It shall be unlawful for a sexually oriented business licensee, its licensed operator(s) and/or its licensed employees to knowingly and intentionally allow any person under 18 years of age to remain on the premises of the establishment at any time it is open for business.
12. Fulfillment of Duty. It shall be unlawful for any person having a duty under this Section to knowingly fail to fulfill that duty.

M. *Exhibition of Sexually Explicit Films or Videos*.

1. A person who operates or causes to be operated a sexually oriented business, whether or not such business has obtained a sexually oriented business license, other than an adult motel, which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, DVD, or other video reproduction which exhibits specified sexual activities or specified anatomical areas, shall comply with the following requirements:
 - a. Each application for a sexually oriented business license shall contain a floor plan of the premises showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms. All portions of the premises where patrons will not be permitted shall also be shown. Restrooms shall not contain video equipment. The floor plan shall also indicate the location where the business license shall be conspicuously posted, if granted. A professionally prepared floor plan shall not be required; provided, the drawing shall be oriented to the north or a designated street and shall be drawn to scale or suitably dimensioned to provide accuracy of plus or minus six inches. The zoning inspector may waive the floor plan requirement for renewal applications if the applicant certifies that the

interior configuration of the premises will not be altered and will conform to the previously prepared floor plan.

- b. The application shall be sworn to be true and correct by the applicant.
- c. No alteration in the configuration or location of a manager's station or viewing room may be made without the prior approval of the zoning inspector.
- d. It shall be the duty of the sexually oriented business licensee, its licensed operator(s) and its licensed employee(s) present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated in the application pursuant to subsection M.1.a as an area in which patrons will not be permitted.
- e. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot candle, as measured at the floor. It shall be the duty of the sexually oriented business licensee, licensed operator(s) and licensed employee(s) present on the premises, to ensure that the required illumination is maintained at all times that the premises is occupied or open for business.
- f. It shall be the duty of the sexually oriented business licensee, licensed operator(s) and licensed employee(s) present on the premises to ensure that no sexual activity occurs in or on the premises.
- g. It shall be the duty of the sexually oriented business licensee, licensed operator(s) and licensed employee(s) present on the premises to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.
- h. It shall be the duty of the sexually oriented business licensee, licensed operator(s) and licensed employee(s) present on the premises who discovers two or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such person(s) from the premises.
- i. It shall be the duty of the sexually oriented business licensee, licensed operator(s) and licensed employee(s) present on the premises who discovers an opening of any kind between viewing rooms to immediately secure such room and prevent entry into the room by any patron until such time as the wall has been repaired to remove the opening. Removal and repairing openings between viewing rooms shall be in a manner that is structurally substantial, consistent with the original wall construction.
- j. It shall be the duty of the sexually oriented business licensee, licensed operator(s) and licensed employee(s) present on the premises during each business day to regularly inspect the walls between viewing rooms for opening of any kind.
- k. It shall be the duty of the sexually oriented business licensee and its licensed operator(s) to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - i. That no loitering is permitted in viewing rooms;
 - ii. That the occupancy of viewing rooms is limited to one person;
 - iii. That sexual activity on the premises is prohibited;
 - iv. That the making of openings between viewing rooms is prohibited;
 - v. That violators will be required to leave the premises; and
 - vi. That violations of ii, iii, and iv are unlawful.

N. *Additional Regulations for Adult Motels.* Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two or more times in less than ten consecutive hours creates a rebuttable presumption that the establishment is an adult motel, as defined in this Code.

O. *Additional Regulations Relating to Live Performances.*

1. A sexually oriented business which regularly features persons who appear in a state of nudity or a state of semi-nudity or live performances which are characterized by the display or simulation of specified sexual activities or the exposure of specified anatomical areas shall be operated in accordance with the following regulations. It is unlawful for a sexually oriented business licensee or licensed operator to knowingly fail to ensure compliance with the regulations of this Section.
 - a. It shall be a violation of this Section for a person to knowingly appear in a sexually oriented business in a state of nudity or a state of semi-nudity, unless the person is an employee who, while nude or semi-nude, is at least six feet from any patron or customer and on a stage at least two feet from the floor.
 - b. It shall be a violation of this Section for any employee, while nude or semi-nude in a sexually oriented business, to receive any pay or gratuity directly from any patron or customer or for any patron or customer to pay or give any gratuity directly to any employee, while the employee is nude or semi-nude in a sexually oriented business.
 - c. It shall be a violation of this Section for any employee, while nude or semi-nude in a sexually oriented business, to intentionally touch a customer or patron or the clothing of a customer or patron.
2. References to appearing “nude” or in a “state of nudity” are not intended and should not be construed or interpreted to allow persons to appear nude or in a state of nudity during live performances.
3. A sign in a form to be prescribed by the zoning inspector and summarizing the provisions of subsections O.1.a., b. and c., shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to customers or patrons upon entry.

P. *Applicability to Existing Businesses.* The provisions of this Section shall apply to the activities of all persons and sexually oriented businesses described herein, whether such businesses or activities were established or commenced before, or after the effective date of this Code. Any existing sexually oriented business, operator(s) or employee will be granted a de facto provisional permit to continue operation or employment for a period of 90 days following the effective date of this Code. Prior to the expiration of the 90 day period, all sexually oriented businesses, operators and employees shall make application for a license pursuant to this Section. Within that 90 day period, existing sexually oriented businesses shall make any necessary changes to the interior configurations, furnishing or finishes of the regulated business premises to conform to the requirements of this section.

Q. *Penalty.*

1. A person who violates any provisions of this section shall be guilty of a misdemeanor of the first degree and shall be fined not less than \$500.00 for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
2. The City Law Director is hereby authorized to institute civil proceedings necessary for the enforcement of this Section to restrain or correct violations hereof. Such civil proceedings, including injunction, shall be brought in the name of the City of Hilliard; provided, however, that nothing in this subsection and no action taken hereunder, shall be held to exclude such criminal proceedings as may be authorized by this Section, or any laws or ordinances in force in the City or to exempt anyone violating this Section or any part of the said laws from any penalty which may be incurred.

Section 1123-12 Use Requirements – Personal Services

A. Mortuaries and Funeral Homes.

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
2. Minimum lot area shall be one acre and minimum lot width shall be 150 feet.
3. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
4. The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.

B. Short-term Lending Establishments.

1. No short-term lending establishment shall be located within 1,000 feet of another such establishment, as measured in a straight line between the nearest public entrance of each establishment.
2. No short-term lending establishment shall be located within 200 feet of the boundary of a Residential District, as measured in a straight line between the nearest public entrance of the short-term lending establishment and the residential zoning boundary.

C. Veterinary Clinics.

1. Veterinary hospitals shall be for the care of household domestic pets only.
2. Buildings within which animals are kept, dog runs, and/or exercise areas shall be set back a minimum of 100 feet from any Residential District boundary.
3. Dog runs or animal exercise areas shall not be located in a front yard or in any required rear or side yard.

Section 1123-13 Use Requirements - Residential

A. *Bed and Breakfast.*

1. A bed and breakfast shall not provide more than six guest rooms plus a common area for use by all guests.
2. A bed and breakfast establishment shall be located only in a detached single-family dwelling, designed and constructed for single family use, which shall contain at least 1,500 square feet of useable floor area. For each guest room in excess of two, an additional 100 square feet of floor area shall be required.
3. The bed and breakfast shall be the principal residence of the owner or manager, who shall reside there when the bed and breakfast is in operation.
4. There shall be at least one off-street parking space provided for each guest room, in addition to the parking spaces required to serve the principal residence.
5. One sign, not exceeding four square feet, shall be allowed for identification purposes only and shall either be mounted on the front wall of the dwelling or placed within the front yard no closer than 10 feet to the front lot line. Sign lighting shall be indirect and shielded from view off site. Internally lighted signs are not permitted.
6. Cooking facilities shall not be permitted in bed and breakfast guest rooms.
7. Exterior refuse storage facilities shall be screened from view on all sides by a six foot solid decorative fence, wall, vegetation or similar visual barrier.
8. In addition to the site plan required by this chapter, a floor plan of the dwelling unit and the use of each room shall be submitted with the conditional use application.

B. *Dwellings on Upper Floors of Buildings with Non-Residential Uses at Street Level.*

1. Dwelling units shall not be located on the street level.
2. Nonresidential uses, including storage, shall not be located on the same floor as a dwelling unit.
3. One on-site parking space shall be provided for each dwelling unit; provided, the required parking may be permitted to be located off-site if the following requirements are met:
 - a. The required parking spaces are located off-street within 300 feet of the entrance to the dwelling unit;
 - b. The parking area meets all applicable requirements of this code for off-street parking;
 - c. The owner provides written assurance that the spaces will be permanently available; and
 - d. A maintenance agreement is provided to ensure the continued upkeep of the parking area.

C. *Group Home.*

1. One on-site parking space shall be provided for each employee in addition to the parking required for the dwelling unit.
2. If the facility provides day programs for non-residents, a designated passenger loading/unloading area of adequate dimensions shall be provided near a barrier-free entrance to the home.

3. A landscaped buffer shall be provided along all property lines that abut a less intense use and around the visible perimeters of all parking and loading/unloading areas if the group home has employees and/or if there are loading and unloading areas..
4. Exterior lighting of entryways, parking spaces, or loading/unloading areas shall not reflect onto adjacent properties and, preferably, should be motion activated.
5. The proposed facility shall not be located within 700feet from any other group care facility.

D. *Manufactured Home Community.*

1. Minimum development requirements. All manufactured home communities shall be designed and developed in accordance with the following requirements:
 - a. Minimum site size for a manufactured home community shall be ten acres.
 - b. A minimum of 50 manufactured home lots shall be provided in the manufactured home community.
 - c. Each site for a manufactured home community shall have direct access to an arterial or collector street, as defined in the City of Hilliard Comprehensive Plan.
 - d. No access to the site shall be located closer than 200 feet from the intersection of any arterial street.
 - e. Minimum street widths within the manufactured home community shall be in accordance with the requirements of the *Development Handbook* for residential subdivisions.
 - f. At least 20 percent of the gross area of the site shall be devoted to a common recreation area for residents of the community. Such area may be a single space conveniently located to serve all parts of the development or smaller, individual spaces distributed throughout the community. Facilities and equipment shall be provided to accommodate active recreation as well as passive enjoyment.
 - g. Sidewalks or paved paths shall be provided along the perimeter street(s) abutting the site and on both sides of the interior streets within the manufactured home community.
 - h. The manufactured home community shall provide a minimum of a 40 foot buffer strip separating the manufactured home community from adjacent property. This strip shall be landscaped with trees or shrubbery and maintained by the owner or operator of the manufactured home community. No part of this strip shall be used for any building, right-of-way, drive, or parking space. However, the area may be counted toward the recreation area requirement and contain play equipment or similar recreational facilities.
 - i. The manufactured home community shall conform to all County and State Health Department requirements.
2. Utility requirements. Water, sanitary sewer, storm sewer and other utilities shall be provided in accordance with the following requirements:
 - a. All utilities shall be underground.
 - b. All lots shall be provided with municipal public water and sanitary sewer service, and all manufactured homes shall be connected to those utilities.
 - c. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of streets or lots. On-site storm water detention or retention may be required where deemed necessary by the City Engineer.
3. Minimum lot requirements. Each lot within the manufactured home community shall meet the following requirements at a minimum:

- a. Each manufactured home lot, exclusive of streets shall have a minimum size of 5,000 square feet and a minimum width of 40 feet. No more than one manufactured home shall be parked on any one lot, and no manufactured home shall be occupied by more than one family.
 - b. The minimum setback between any part of a manufactured home and/or structure permanently or temporarily attached thereto including, but not limited to, storage sheds, cabanas, decks and porches shall be 15 feet from the inside of the sidewalk; and the minimum spacing from any side or rear lot line shall be ten feet.
 - c. No dwelling unit shall be located within 50 feet of the boundary line of the manufactured home community.
 - d. Each lot shall provide a minimum of two off-street, paved parking spaces meeting the minimum dimensional requirements of this code.
 - e. The front, rear, and side yards of every lot shall be landscaped with grass and properly maintained thereafter. At least one shade tree shall be provided for every two lots. Trees shall be located to provide shade for the adjacent lots.
4. Dwelling unit requirements. Each manufactured housing unit within the community shall meet the following minimum requirements:
- a. Hitches and other towing mechanisms shall be removed.
 - b. All manufactured homes shall be placed on a concrete foundation, piers or ribbons and securely anchored in place. The base of the unit shall be fully screened with solid material matching or complementing the exterior of the dwelling unit.
 - c. Each manufactured home shall have a minimum width of 20 feet across any horizontal surface, exclusive of carports or overhangs.
 - d. Each manufactured home shall contain a minimum floor area of 1,000 square feet.

Section 1123-14

Use Requirements – Transportation and Warehousing

A. Heliports and Helipads.

1. The proposed heliport or helipad and all appurtenant facilities and equipment shall be constructed, operated and maintained in accordance with the published rules, regulations and guidelines of the Federal Aviation Administration and the Ohio Department of Transportation, Office of Aviation.
2. No person shall cause or permit a helicopter to land or takeoff between the hours of 11:00 p.m. and 7:00 a.m., nor shall any person cause or permit more than 15 landings and 15 takeoffs a month from any one site, nor more than two landings and two takeoffs per day from any site.
3. The touchdown and lift-off area (TLOF), as defined in Federal Aviation Administration Advisory Circular 150/5390-2B, or any successor advisory circular, shall comply with the following minimum separation distances:
 - a. from the boundary of any property zoned Industrial 150 feet;
 - b. from the boundary of property in any other zoning district: 300 feet;
 - c. from a building on property, other than property owned by the applicant, zoned Industrial 200 feet; and
 - d. from a building on property in any other zoning district: 500 feet.

4. A helicopter shall not remain in operation on the ground for a period of time greater than that necessary for startup/shutdown, loading and otherwise essential ground operations (generally no longer than five minutes).
5. As a condition of approval, the Planning and Zoning Commission may impose additional limits on:
 - a. the size and type of rotorcraft permitted to use the facility;
 - b. the allowable hours of use of the facility;
 - c. the frequency of helicopter operations permitted at the facility; and
 - d. the location, design, type, size, and use of any exterior lighting, buildings, fuel storage or other equipment or facilities associated with the heliport.
6. The provisions of this section shall not apply to emergency operations conducted by law enforcement, public safety agencies or medical service providers or dignitary landings and takeoffs.

B. *Cartage, Express, Parcel Delivery Services, Warehouses, Distribution Centers and Truck Terminals.*

1. The site shall have a minimum area of ten acres, provided the Planning and Zoning Commission may reduce the site area to no less than five acres where the operation will be compatible with other surrounding uses.
2. The site shall be designed so all vehicles are able to enter and leave the site without having to back-out onto the street. Driveways shall be curbed for their full length in the front yard.
3. The Planning and Zoning Commission shall determine that traffic will be no more hazardous, nor the volume of traffic any greater, than is normal for the street involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, volume and size of trucks, and proximity and adequacy of interchanges.
4. All access to the site shall be from arterial streets built to a standard to accommodate heavy trucks; provided, if the site is located within a planned industrial park, the site may be located on an interior street that intersects with an arterial street.

Section 1123-15 Use Requirements – Utilities

A. *Recycling, Collection and/or Processing Facilities (non-hazardous).*

1. The principal and accessory buildings and structures shall not be located closer than 200 feet to any residential use or residential district property line.
2. A six foot fence or wall shall be constructed along the rear and side lot lines to keep trash, paper and other debris from blowing off the premises.

B. *Wireless Communication Facilities.*

1. Required Approvals. The placement of wireless communications facilities and towers shall meet the following approval requirements:
 - a. Installation of New Antenna: The installation of new antenna(s) on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the zoning inspector subject to all requirements of this section. Any new antenna that will add either 10 percent or 25 feet, whichever is less, above the highest point of any existing tower or alternative structure shall be subject to the provisions of this section for the installation of new towers as described below.
 - b. Installation of a New Tower: The installation of any new tower(s) shall be reviewed as a special use by the Planning and Zoning Commission.
 - c. Installation of New Accessory Structures: The installation of new accessory structure(s), such as equipment buildings, to support the installation of additional antennas on existing towers or alternative structures may be approved by the zoning inspector.
2. Removal. Any tower unused or left abandoned for 12 consecutive months shall be removed by the property owner at his/her expense. Regardless of the tower ownership, the property owner shall be responsible for removal. Upon the request of the zoning inspector, the operator of any facility to which this provision applies shall provide documentation of the use of that facility for the purpose of verifying any abandonment.
3. Interference with Public Safety Facilities. No new wireless communications facilities or tower shall result in any interference with public safety telecommunications.
4. Required Documentation for all Facilities. In addition to the requirements provided in this chapter for the receipt of special use approval and/or a zoning compliance permit, applications for new towers, new antenna, and new related facilities shall include the following. Where the equipment is mounted on an existing building, the comparable information for that structure shall be provided.
 - a. Engineer's Report: A report from a professional engineer licensed in the State of Ohio that:
 - i. Describes the height and design of any new tower and/or antenna including a cross-section, latitude, longitude, and elevation;
 - ii. Describes or updates (in the case of new antenna) the tower's capacity, including the type and number of antenna it can accommodate;
 - iii. Certifies compliance of the construction specifications with all applicable building codes (including but not limited to, the foundation for the tower, anchors for the guy wires if used, co-location, and strength requirements for natural forces; ice, wind, earth movements, etc.);
 - iv. Certifies that the facility will not interfere with established public safety telecommunication facilities; and
 - v. Includes the engineer's seal and registration number.
 - b. Letter of Intent: A letter of intent committing the tower owner, property owner, antenna owners, and their successors to allow the shared use of the tower.
 - c. Proof of Compliance: Copies of any required approvals from the Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and all other appropriate state and federal agencies.
 - d. Removal Affidavit: A letter committing all parties, including the property owner and his/her successors, to remove the tower and all related accessory structures, fences,

landscaping, and equipment if the tower is abandoned (unused for a period of 12 consecutive months). The removal affidavit shall be recorded in Franklin County, with a copy of the recorded affidavit provided to the zoning inspector.

5. Determination of New Tower Need. Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification from a professional engineer licensed in the State of Ohio that the antenna(s) planned for the proposed tower cannot be accommodated on any existing or approved towers or other structures within a two mile radius of the proposed tower location due to one or more of the following reasons:
 - a. Inadequate Structural Capacity: The antenna(s) would exceed the structural capacity of the existing or approved tower or other structure.
 - b. Interference: The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site.
 - c. Inadequate Height: The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at the height necessary.
 - d. Land Availability: Additional land area is not available (when necessary).

6. Design Requirements for new Towers and Related Facilities. All telecommunications facilities shall meet the following design requirements:
 - a. Lighting: Tower lighting shall only be as required for safety or security reasons or as required by the FAA or other federal or state authority. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties, and shall have 90 degree cut-off luminaries (shielded downlighting).
 - b. Co-location: All telecommunication towers shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's equipment and at least one additional user for every 50 feet in total tower height in excess of 75 feet.
 - i. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.
 - ii. Towers must be designed to allow for rearrangement of antennas and to accept antennas mounted at varying heights.
 - c. Height: All towers and antenna shall conform to FAA tall structure requirements. The maximum height of all accessory structures shall be 15 feet.
 - d. Signs: Signs for all telecommunications facilities shall be permitted up to a total of four square feet per user.

7. Site Requirements for new Towers and Related Facilities. All telecommunications facilities shall meet the following site requirements:
 - a. Vehicular Access: Vehicle access drives may be gravel or paved and shall be located within an access easement that is a minimum of 20 feet in width. Any portion of the entrance located in a public right-of-way shall meet the applicable public street design, construction, and pavement requirements, as specified in the *Development Handbook*.
 - b. Site Area: The lot (or lease area) where the tower is located shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users. The site shall also be of sufficient size to allow the location of one additional tower and associated support facilities.

- i. The arrangement of the initial tower and the topography of the site shall be considered in determining the sufficiency of the site area.
 - ii. At a minimum, the width and depth of the tower site shall be a distance equal to the tower height. The tower shall be placed within the property so it is no closer to any lot line than one-half (1/2) the tower height.
 - iii. All tower supporting and stabilizing wires shall be located within the site area.
- c. Setback: The required setbacks for the tower and related facilities shall be as follows:
- i. Side and Rear Setback: The minimum side and rear setback for all facilities other than the tower, including the security fence, shall be ten feet.
 - ii. Front Setback: The minimum front setback for all facilities shall be as specified by this code for the zoning district in which it is located. No part of a wireless telecommunications facility, including the security fence, and any required guide wires or bracing shall be permitted in any required front setback.
 - iii. Additional Setback from Residential Zoning Districts: No facility shall be placed closer than one and one-half (1 ½) times the total height of the tower or 200 feet, whichever is greater, to any property included in any residential zoning district.
 - iv. Additional Landscaping: Landscape screening in addition to the requirements of this code may be provided in the setback area.
- d. Encroachment: No part of any telecommunications facility nor associated lines, cables, equipment, wires or braces shall at any time extend across or over any part of a public right-of-way, sidewalk, or property line.
- e. Fencing: An eight foot high security fence shall completely surround the tower and accessory equipment building site. Barbed wire, concertina wire or sharpened stakes shall be at least six feet above grade.
- i. An area ten feet in width shall remain outside of the fence for the purpose of providing the landscape screening described in subsection 8, below.
 - ii. The required security fence enclosing the facility shall be 100% opaque and of wood, brick, or stone construction. Opaque, eight foot tall gates shall be provided for access. In no instance shall the use of chain link fencing or gates with screening inserts be considered as opaque.
8. Landscape Screening. Evergreen plantings shall be located and maintained around the outermost perimeter of the security fence to buffer wireless communications facilities from adjacent streets and residential or non-residential districts. The landscape plan for the site shall screen the fence, all equipment and the base of the tower, as determined by the Planning and Zoning Commission. Plantings and other landscaping shall conform to the standards specified in the *Development Handbook*.

Section 1123-16 **Uses**

Use Requirements – Vehicle Sales, Service and Related

- A. *Drive-in or Drive-Thru Facilities for Pharmacies, Dry Cleaners or Others Not Specified (Not including Drive-Thru Restaurants, See Sec. 1123-10B).*

1. The drive-in or drive-thru facility must be attached to a building; except that an automated teller machine may be in a stand-alone structure with a canopy or similar roof to protect users from the elements.
2. The facility shall be screened from any adjacent residential district or use and lighting shall be limited and fully shielded to prevent glare and light trespass.
3. Drive-thru and stacking lanes and parking lot access shall be clearly identified and delineated.
4. A drive-thru shall have an escape lane to allow a vehicle to pass those waiting to be served. The Planning and Zoning Commission may waive this requirement if the applicant can demonstrate that such a waiver will not adversely impact public safety or inconvenience patrons.
5. All drive-thru service windows shall be located on the side or rear of the building to minimize visibility from a public or private street.
6. Amplified speakers and sound equipment shall be located at least 50 feet from any adjoining Residential District boundary, or residential use. A buffer, as required by Chapter 1125 shall be installed between such equipment and the adjoining Residential use to minimize associated noise impacts.
7. At least three stacking spaces shall be provided per each drive through lane.
8. In addition to the above, a drive-in/drive-thru facility in the OH-MD, Old Hilliard Mixed Use District shall be subject to the following:
 - a. All facilities shall be behind the required building line and shall be screened, to the extent possible, from view of the street by the building served. Any portion of the facility visible from the street shall be screened by landscaping.
 - b. Access to the stacking lanes shall not be from a public street.

B. *Sale of New and Used Automobiles, Trucks, Recreational Vehicles, Construction Equipment, Farm Implements, and Similar Vehicles and Equipment.*

1. The minimum lot size shall be one acre with a minimum lot width of 200 feet.
2. Signs shall conform to the requirements of Chapter 1129. Flags, pennants, balloons, ribbons, or other attention getting devices are not permitted.
3. Temporary or portable structures are not permitted.
4. Outdoor displays shall conform to the following:
 - a. Vehicles, for sale or lease, shall be parked only on improved surfaces, as defined in this code.
 - b. Vehicle display areas shall meet the setback requirements for parking areas, as required for the respective zoning district.
 - c. Vehicle display or storage shall not be permitted in areas required for visitor, employee or service parking, as required by Chapter 1127 (off-street parking and loading)
 - d. All other merchandise available for sale, including, but not limited to, clothing, accessories, collectibles etc. shall be sold and displayed within an enclosed building.
5. All service work, including car washing, repair and general maintenance, shall be entirely conducted within an enclosed building.
6. Audible paging systems or outdoor speakers are not permitted.
7. The use of spotlights or similar equipment is prohibited.

C. *Vehicle Repair, Major.*

1. All main and accessory structures shall be set back a minimum of 75 feet from any Residential District.
2. There shall be a minimum lot frontage of 100 feet on an arterial or collector street; and all access to the property shall be from that street.
3. The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.
4. A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
5. Overhead doors shall not face a public street or Residential District. The Planning and Zoning Commission may modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be diminished through use of building materials, architectural features and landscaping.
6. Where applicable, vehicle queuing space for at least one vehicle shall be provided in front of each service bay.
7. All maintenance and repair work shall be conducted completely within an enclosed building.
8. There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
9. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted up to 30 days in a designated area. Such area shall be appropriately screened from public view in accordance with the screening requirements of Section 1125-8.
10. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the City of Hilliard Fire Department and city engineer.

D. Vehicle Repair, Minor.

1. All main and accessory structures shall be set back a minimum of 40 feet from any Residential District.
2. The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.
3. Equipment, including hydraulic hoists, pits, and lubrication, greasing, and other automobile repairing equipment shall be located entirely within an enclosed building. Outdoor storage or display of merchandise, such as tires, lubricants and other accessory equipment is not permitted.
4. Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted only in a designated area. Such area shall be appropriately screened from public view in accordance with the requirements of Section 1125-8.
5. All activities shall occur inside a building. No vehicle may be stored on the property for more than 30 days.
6. Storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gas above ground shall not be permitted.

7. Floor drains shall not connect to the sanitary sewer system.
8. There shall be a minimum lot frontage of 100 feet on an arterial or collector street; and all access to the property shall be from that street.
9. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the City of Hilliard Fire Department and city engineer.
10. If the use includes fuel sales, the requirements for a vehicle service station shall also be met.

E. *Vehicle Service Stations.*

1. There shall be a minimum lot area of one acre and minimum lot width of 150 feet on an arterial street.
2. The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.
3. Pump islands shall be a minimum of 30 feet from any public right-of-way or lot line. Tanks, propane, and petroleum products shall be set back at least 15 feet from any lot line.
4. Overhead canopies shall be setback at least 20 feet from the right-of-way and constructed of materials consistent with the principal building. The proposed clearance of any canopy shall be noted on the site plan. All signs, logos, or identifying paint scheme shall be in accordance with Chapter 1129, Signs. The canopy shall not exceed 18 feet in height. Lighting in the canopy shall be recessed, fully shielded, and directed downward to prevent off-site glare.
5. The intensity of lighting within a site shall satisfy the standards of the *Development Handbook*.
6. If the use includes installation of oil or other automotive fluids except for fuel, the applicant shall submit a Pollution Incidence Protection Plan (PIPP). The PIPP shall describe measures to prevent groundwater contamination caused by accidental spills or leakage of gasoline or other hazardous materials, such as special check valves, drain back catch basins, and automatic shut off valves, as approved by the City of Hilliard Fire Department and city engineer.
7. In the event that a vehicle service station has been abandoned or terminated for a period of more than 12 months, all underground gasoline storage tanks shall be removed from the premises, in accordance with State requirements.
8. A vehicle service station may be combined with other uses, such as convenience store, vehicle wash, and/or restaurants; provided all requirements, including parking, are met for each use and the most restrictive requirements applicable to any single use shall apply.

F. *Vehicle Wash Facilities.*

1. All washing activities must occur inside a building.
2. The building exit for washed vehicles shall be at least 75 feet from the point at which the entrance drive that accesses the site intersects the right-of-way line.
3. Required stacking spaces for waiting vehicles shall not be located within a public right-of-way or private easement and shall not conflict with maneuvering areas, parking spaces and other activities. Stacking lanes shall be designed to prevent vehicle queues from extending beyond the property.

4. Wastewater must be recycled, filtered or otherwise cleansed to minimize discharge of soap, wax and solid matter into public sewers.
5. The number, location and design of driveways shall be subject to review and approval by the city traffic engineer.
6. For automated drive-through wash facilities, a by-pass lane shall be provided to allow by-passing waiting vehicles.
7. Overhead doors shall not face a street, except as approved by the Planning and Zoning Commission, in the following circumstances:
 - a. When the doors of a through-garage are located at the front and rear of a building; or
 - b. When a garage is located on a corner or through lot; or
 - c. When determined that a rear garage door would negatively affect an abutting residential use or district.
8. A vehicle wash facility building and any accessory buildings and uses, including vacuums, shall be located at least 100 feet from a street right-of-way line and any Residential District boundary.
9. The property owner or operator must comply with all city noise regulations. Air handling equipment shall be located within the building or on a roof and equipped with intervening noise reduction baffles and be in proper working condition.

Section 1123-17 Use Requirements – Other

A. Chemical Manufacturing and Storage.

1. As part of the application, the applicant shall provide documentation, reports, studies and other materials required by the city specifying the materials to be handled, safety measures, existing soil conditions, methods of protecting groundwater and all other information required by the city in the course of reviewing the proposed use and its location.
2. The facility shall at all times operate according to all applicable local, Franklin County, State of Ohio and Federal regulations. Adequate safety measures shall be implemented and in use at all times.
3. There shall be no storage of hazardous materials outdoors, except in tanks or containers designed for that purpose that are inaccessible to anyone not authorized to process or handle such materials, and that meet all applicable safety regulations.
4. The applicant shall provide a disaster mitigation plan and fire pre-plan, approved by the appropriate authorities, as part of the application for a special use.
5. Truck routes to and from the facility shall be subject to approval by the Planning and Zoning Commission.

B. Mineral Extraction.

1. Requirements. Conditional approval shall be required for mineral extraction operations, including removal of soil sand or gravel, where more than 600 cubic yards will be removed in a one year period. The approval may be reviewed annually by the Planning and Zoning Commission to ensure that the operation conforms to all plans, progress, conditions, and

sureties. Removal operations shall not begin until the approval is granted and a zoning compliance permit is issued.

2. Application. In addition to the submittals for a conditional approval, as outlined in Section 1123-2, an application for a mineral extraction permit shall be accompanied by the following:
 - a. A topographic map with two foot contour intervals including the locations of all streets, buildings, and existing drainage facilities within 300 feet of the property.
 - b. A topographic map with two foot contour intervals showing final elevations, including the proposed locations of access drives, parking areas, and equipment.
 - c. An estimated schedule for removal and an agreement conforming to all provisions of this section.
 - d. A traffic control plan showing proposed truck routes to and from the site.
 - e. A written description of proposed post removal use of the property.
 - f. A fee, determined by resolution of the city council, to defray review, administration, and inspection costs.

3. Conditions. A conditional use approval shall not be granted unless activities comply with all the following conditions. Conditional use approval may be revoked if the use is found in violation of any part of this section:
 - a. Activities shall comply with applicable soil erosion and sedimentation control regulations.
 - b. Final grades shall not exceed five percent and shall meet existing elevations at all property lines. Grades in excess of five percent may be permitted by the Planning and Zoning Commission if the applicant demonstrates that an increase is essential to implement a plan for future use.
 - c. Mineral extraction shall not create permanent depressions that may fill with water. All storm runoff must discharge into existing drainage systems.
 - d. Since artificial lakes and water bodies can present threats of ground water pollution and stagnant water, thereby adversely affecting the public health, safety, and welfare, they shall not be created as part of removal operations unless the applicant demonstrates:
 - i. Engineering and geological studies find there will be a positive source of unpolluted underground or stream-fed water in adequate amounts to produce positive water flow at all times;
 - ii. Plans for the proposed artificial lake or water body have received all State of Ohio approvals and conform to all federal, state, county, and municipal standards;
 - iii. A site plan of the proposed future development has been approved by the city; and
 - iv. In an artificial lake or water body, a channel or lagoon shall not project beyond the main body of water greater than two times the width of the lagoon or channel.
 - e. Other conditions may also be imposed, to protect the public health, safety and welfare.
 - f. The city may require a financial guarantee in accordance with Section 1141-5 to ensure compliance with the zoning ordinance and any conditions of approval.

C. *Outdoor Storage Accessory to an Allowed Principal Use.*

1. The outdoor storage and display area shall be arranged to provide safe pedestrian and vehicular circulation and safe emergency access. Maneuvering aisles shall be kept free of all obstruction.

2. A drive shall be provided, graded, paved, and maintained from the street to the rear of the property, to permit free access of emergency service vehicles and firefighting equipment at any time.
3. The sale or outdoor display of merchandise shall not be permitted within the required setback areas.
4. Outdoor storage and display areas located on parking lots shall not reduce the available parking spaces to fewer than those required by Chapter 1127.
5. No outdoor display area or parking serving an outdoor display area shall be located within 75 feet of any Residential District boundary line.
6. The storage of soil, sand, mulch, and similar loosely packaged materials shall be contained and covered to prevent it from blowing onto adjacent properties. The outdoor storage of fertilizers, pesticides, and other hazardous materials, unless packaged in approved containers, is prohibited.
7. The Planning and Zoning Commission may require a sight obscuring screen around any storage or display area, that meets maximum fence height requirements for the zoning district. Stored materials and stockpiles shall not be piled or stacked higher than the height of the obscuring screen.
8. All outdoor display and sales areas shall be paved with a permanent, durable, and dustless surface and shall be graded and drained to dispose of all surface water.
9. All loading and truck maneuvering shall be accommodated on-site or on a dedicated easement. Maneuvering in the public right-of-way is prohibited.
10. Lighting for security purposes may be required, as determined by the Planning and Zoning Commission. All lighting shall be shielded from adjacent residential areas and shall conform to the standards of the City of Hilliard *Development Handbook*.