



City of North Canton

145 N. Main Street
North Canton, OH 44720
Phone: (330) 499-8223, Option 4
permits@northcantonohio.gov



SPECIAL PLANNING COMMISSION MEETING

The Planning Commission has scheduled a meeting for 7:00 p.m., on Thursday, September 17, 2020 via teleconference.

Recent, and temporarily amended sections of Ohio's Revised Code, specifically R.C. 121.22 Public meeting - exceptions, together with orders and directives from the Ohio Attorney General and the Ohio Department of Health, as well as the safety directives from the President and Center for Disease Control regarding health risks posed by COVID-19, compel the City of North Canton to take unprecedented actions to continue the business of government while limiting gatherings so as to prevent the spread of COVID-19. Accordingly, in this limited circumstance, where the Governor has declared a state of emergency and the Director of the Ohio Department of Health is limiting gatherings to prevent the spread of COVID-19, the City shall hold its public meetings via teleconference; all other requirements of Ohio's Open Meetings Act, R.C. 121.22, shall be fulfilled.

Meeting notices shall provide instructions for the public on how they may hear the discussions and deliberations of all members of the public body, and in certain circumstances, address the public body themselves. Instructions to hear and perhaps participate in the meeting described below are as follows:

Copy and paste the following URL into a web browser to join the meeting on your computer:

<https://us02web.zoom.us/j/87124908233?pwd=eWpURU5xWlQyOHdPVjFZQkxla1FTdz09>

Meeting ID: 871 2490 8233

Or, you may also dial in using your phone:

Dial: [+1-301-715-8592](tel:+1-301-715-8592)

Meeting ID: 871 2490 8233

AGENDA

1. Call to Order.
2. Roll Call.
3. Submit August 5, 2020 meeting minutes for approval.

4. Consider the following amendments to the City's Planning and Zoning Code from City Council:
 - a. Redact the text "in completely enclosed building" from NC Ord. 1137.03 Business District Regulations, Schedule of permitted uses, item (d)(12), to allow restaurants additional outdoor dining throughout the City's Main Street and General Business Districts. Please refer to Exhibit #1 for a strikeout copy of the draft language;
 - b. Redact from NC Ord 1145.06, Conditional Use Regulations, Schedule of Minimum Lot and Yard Dimensions for Conditional Uses in Commercial and Industrial Districts, item (m), Outdoor Dining, to remove the conditional use requirement for "Outdoor Dining" throughout the City's Main Street and General Business Districts. Please refer to Exhibit #2 for a strikeout copy of the draft language; and
 - c. Redact from NC Ord. 1145.07, Conditional Use Regulations, Supplemental Regulations for Certain Uses, item (n), Outdoor Dining. Please refer to Exhibit #2 for a strikeout copy of the draft language.
5. Adjourn.



City of North Canton Office of City Council

Agenda Request Form

DATE: 8/26/2020

SUBJECT: Amendments to outdoor dining

I am requesting:

Ordinance **Resolution** **Discussion** **Vote of Council**

FOR: Council to consider, according to the process laid out in Chapter 1181, amendments to the Zoning Code relating to the use of outdoor dining in order to encourage such dining in light of the circumstances created by the COVID-19 pandemic. See attached sheets for further detail.

EMERGENCY REQUEST: **YES** **NO**

RATIONALE FOR EMERGENCY:

SIGNED: Stephan B. Wilder **Title:** Mayor **Date:** 8/26/2020

Only requests originating from anyone other than the Directors of Administration, Finance, or Law, the Clerk of Council, or elected officials must have appropriate approval shown below.

APPROVAL NEEDED:

Dir. of Administration Dir. of Finance Dir. Of Law Council Pres.

APPROVED BY:

_____ **Title:** **Date:**

City of North Canton

145 N. Main Street
North Canton, Ohio 44720
Northcantonohio.gov



Stephan B. Wilder

Mayor

330-499-8223 Ext. 1004

mayorwilder@northcantonohio.gov

August 26, 2020

To: Daniel "Jeff" Peters,
Council President

Re: Amending City Ord. 1137.03, 1145.06 1145.07 to allow the use of outdoor dining and seating

Dear President Peters,

I direct this letter to your attention, respectfully requesting North Canton City Council to consider amending a portion of the City zoning code as described below. This request is presented to council concerning the lengthened and important safety changes and demands caused by the COVID-19 pandemic on city restaurants and food establishments. Therefore, I appeal to City council to take into consideration the need to help promote, protect, and preserve the public health, safety, and general welfare for the community. These general goals include among others, the following specific purposes:

- To attract residents and non-residents to the City of North Canton.
- To provide an additional way for restaurants or food establishments to expand their operations.
- To promote outdoor seating as useful and properly planned visual amenities.
- To provide adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes or outdoor seating and to ensure access to adjacent commercial and retail uses.
- To promote the most desirable use of land and buildings and thereby protect the city's tax revenues.

Allowing restaurants and food establishments make use of outdoor dining facilities aids the recovery of lost business. Businesses and food operations shall comply with social distancing recommendations and requirements as specified by the Stark County Health Department, the Ohio Department of Health and Centers for Disease Control and Prevention.

The proposed amendments would not change the usage or zoning of any land but merely enable business owners to efficiently use their current property and make full utilization of outdoor dining areas which currently they do not have any opportunity to do so. Therefore, I do not believe such changes would create conflict with the Comprehensive Land Use Plan.

The proposed amendments are as follows:

1. Redact the text "in completely enclosed building" from NC Ord. 1137.03 Business District Regulations, Schedule of permitted uses, item (d)(12), to allow restaurants additional outdoor dining throughout the City's Main Street and General Business Districts.
2. Redact from NC Ord 1145.06, Conditional Use Regulations, Schedule of Minimum Lot and Yard Dimensions for Conditional Uses in Commercial and Industrial Districts, item

(m), Outdoor Dining, to remove the conditional use requirement for “Outdoor Dining” throughout the City’s Main Street and General Business Districts.

3. Redact from NC Ord. 1145.07, Conditional Use Regulations, Supplemental Regulations for Certain Uses, item (n), Outdoor Dining.

These few changes expand opportunities for active living and social interaction all the while profiting restaurants and food establishments to help maximize the economic impact and community benefits of new development opportunities.

Please see the attached Exhibits to see these amendments as they would appear in the Codified Ordinances.

Sincerely,

A handwritten signature in blue ink that reads "Stephan B. Wilder". The signature is written in a cursive, flowing style.

Stephan B. Wilder
Mayor

1137.01 INTENT.

Business Districts (OB, MSB, GB-A, and GB-B) and their regulations are established in order to achieve, among others, the following purposes:

(a) To provide in appropriate and convenient locations, sufficient areas for business activities, the exchange of goods and services;

(b) To protect residential neighborhoods adjacent to business uses by regulating the types of establishments, particularly at the common boundaries, that would create congestion, noise or other objectionable influences;

(c) To protect and stabilize both residential and nonresidential developments from congestion by requiring off-street parking facilities;

(d) To provide Office Building Districts (OB) to create an environment that is conducive to well-located and designed offices building sites to accommodate all types of offices and limited business service activities.

(e) To provide a Main Street Business District (MSB) that maintains and promotes the central portion of Main Street as a core area for retail sales by permitting buildings to be close to the street and to one another, and by modifying the parking requirements for this district.

(f) To provide General Business Districts (GB-A) to accommodate a variety of retail and service establishments in generally a shopping center environment, and where only limited outdoor sales is permitted.

(g) To provide General Business Districts (GB-B) to accommodate uses in addition to those specified for in the GB-A District, and to thereby provide service and sales in support of the primary business activities in the community. Their location is advantageous at specified points on major thoroughfares and at outlying locations in the community.

1137.02 USE REGULATIONS.

(a) Uses Permitted by Right. A use listed in Schedule [1137.03](#) shall be permitted by right as a principal use in a district when denoted by the letter "P" provided that all requirements of other city ordinances and this Zoning Ordinance have been met;

(b) Conditional Uses. A use listed in Schedule [1137.03](#) shall be permitted as a conditional use in a district when denoted by the letter "C", provided the Planning Commission first makes the determination that the requirements of Chapter [1145](#) have been met according to the procedures set forth in Chapter [1177](#);

(c) Accessory Uses. A use listed in Schedule [1137.03](#) shall be permitted as an accessory use in a district when denoted by the letter "A". Such use shall be permitted as a subordinate building or use when it is clearly incidental to and located on the same lot as the principal building or use. Accessory uses are further regulated in subsequent sections of this Ordinance.

(d) Use Not Listed in Schedule. Although a use may be indicated as a permitted principal, conditional or accessory use in a particular district, it shall not be approved on a parcel unless it can be located thereon in full compliance with all of the standards and other regulations of this Ordinance applicable to the specific use and parcel in question. Any use not specifically listed as either a permitted principal or conditional use shall be a prohibited use in these zoning districts and shall only be permitted upon amendment of this Ordinance and/or the Zoning Map as provided in Chapter [1181](#) or upon a finding that a use is substantially similar as provided in Section [1177.09](#).

1137.03 SCHEDULE OF PERMITTED USES.

Land Use Category	Office Building District	Main Street District	General Business District	
	OB	MSB	GB-A	GB-B
(a) Residential				
(1) Multi-family dwellings	P		P	P
(2) Residential units accessory to a commercial use		C	C	C
(3) Residential care facility	C		C	C
(b) Office and Professional Services				
Offices, including administrative, business and professional	P	P	P	P
Sales office with only samples of products	P	P	P	P
Banks or banks with accessory drive- through lanes	C	P	P	P
(c) Medical Facilities				
(1) Medical or dental office	P	P	P	P
(2) Hospital	C		C	C
Land Use Category	Office Building District	Main Street District	General Business District	
	OB	MSB	GB-A	GB-B
(d) Retail/Services				
(1) Retail in completely enclosed building	A, subject to Section 1137.09	P	P	P
(2) Personal service establishment including barber, beauty shops, and repair shop for personal items such as shoes, watch, camera, but excluding tattoo and/or body piercing businesses and the like	A, subject to Section 1137.09	P	P	P
(3) Business equipment and supplies			P	P
(4) Studios for instruction	C	C	P	P
(5) Drive-through facility in association with a permitted use		C	C*	C*
(6) Dry cleaning counter service		P	P	P
(7) Funeral home, mortuary	P	C	P	P
(8) Furniture, home furnishing, office equipment and office supplies store			P	P
(9) Motels, hotels	C		C	P

Exhibit #1

(10) Mainstream media shop in compliance with Section 1137.13		P	P	P
(11) Photographic reproduction services		P	P	P
(12) Restaurant in completely enclosed building		P	P	P
(13) Outdoor dining		C	C	C
(14) Self serve laundry facility			P	P
(15) Veterinary hospitals with associated cages, runs and kennels			C	P
(16) Adult uses				C
P = Principal use permitted by right C = Conditional use A = Accessory use		*Amended 11-14-03; Ord. 107-03		

1145.01 PURPOSE.

(a) Conditional uses are a classification of uses that are determined to generally be compatible in the district in which they are listed as a conditional use. However, this category of uses is so classified because of the need to adequately monitor the proposed use in order to ensure that the use and its operational aspects are indeed appropriate in the specific location in which the use is proposed. Such monitoring is necessary because the external impacts of a particular use are either sufficiently varied or indeterminable in advance and therefore may vary from site to site, making it possible that, without the Planning Commission's review, a particular use could be inappropriate in a certain location within the district.

(b) These regulations are intended to ensure that conditional uses are reviewed in a reasonable and equitable manner, while safeguarding the property rights of all individuals and the health, safety, and general welfare of the community. Toward these ends, it is recognized that this Ordinance should provide for more detailed evaluation of each use listed as a conditional use in a specific district with respect to such considerations as location, design, size, method(s) of operation, intensity of use, requirements for public facilities and traffic generation. In considering a proposed conditional use, the Planning Commission may assign reasonable requirements to ensure that the proposed development is appropriate in the location in which it is proposed. Accordingly, conditional use permits shall conform to the procedures and requirements of Chapter 1177.

1145.02 GENERAL CRITERIA FOR ALL CONDITIONAL USES.

A conditional use, and uses accessory to such conditional use, shall be permitted in a district only when specified as a conditional use in such district, and only if such use conforms to the following general criteria, which are in addition to specific conditions, standards and regulations set forth in Sections 1145.03 through 1145.06. The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following criteria and shall find adequate evidence that the use as proposed:

(a) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not essentially change the character of the same area;

(b) Will not be detrimental to property values in the immediate vicinity.

(c) Will not restrict or adversely affect the existing use of the adjacent property owners.

(d) Will be designed and constructed so that all access drives, access points to public streets, driveways, parking and service areas shall be in compliance with the regulations set forth in Chapter 1153.

(e) Will meet the requirements of EPA for stormwater runoff, when applicable.

(f) Will be properly landscaped in accordance with Chapter 1155.

(g) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety or general welfare;

(h) The hours of operation of the proposed use are similar to a use permitted in the district.

Exhibit #2

(i) The establishment of the conditional use in the proposed location will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

(j) Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;

(k) Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets;

(l) The establishment of the conditional use should not be detrimental to the economic welfare of the community by creating excessive additional requirements at public cost for public facilities such as police, fire and schools;

(m) There is minimal potential for future hardship on the conditional use that could result from the proposed use being surrounded by uses permitted by right that may be incompatible.

1145.03 SPECIFIC STANDARDS FOR CONDITIONAL USES.

In addition to the general criteria established in Section 1145.02, the following specific conditions pertaining to each use or group of uses shall apply.

(a) Supplementary Conditions and Safeguards. Nothing in these regulations shall prohibit the Planning Commission from prescribing supplementary conditions and safeguards in addition to these requirements in order to ensure compliance with the criteria set forth in Section 1145.02.

(b) Conformance with District Regulations. A conditional use shall conform to the regulations of the district in which it is located and to other substantive requirements of this Zoning Ordinance, as well as satisfy the conditions, standards and requirements of this Chapter. Whenever there is a difference between the provisions of the conditional use regulations and the district regulations, the most restrictive provision shall prevail, unless clearly indicated differently in the regulations.

(c) Specific Development Standards.

(1) The Planning Commission may limit the hours of operation to ensure that the conditional use is compatible with the surrounding uses.

(2) No lighting shall constitute a nuisance and in no way shall impair safe movement of traffic on any street or highway. All outside lighting shall comply with the requirements specified in Section 1155.11.

(3) Floodlights, loudspeakers or similar structures shall not be erected or used in any manner that will cause hazards or annoyance to the public generally or to the occupants of adjacent property.

(4) All trash receptacles shall be adequately screened in compliance with the regulations set forth in Chapter 1155.

(5) Grading and surface drainage provisions shall be prepared by a registered engineer and reviewed or approved by the City Engineer.

(6) In a residential district, on lots of one acre or more, all points of entrance or exit should be no closer than 50 feet from an intersection.

(7) A building permitted to exceed the maximum height set forth for the district in which the building is located shall have adequate building setbacks to ensure that the surrounding area is not negatively impacted by the additional building height.

1145.04 SCHEDULE OF MINIMUM LOT AND YARD DIMENSIONS FOR CONDITIONAL USES IN PARK AND INSTITUTIONAL DISTRICT.

Schedule 1145.04 sets forth regulations governing minimum lot area, minimum lot width and minimum yard requirements for principal and accessory buildings and parking areas for conditional uses in a Park and Institutional district. Supplemental requirements pertaining to such uses are set forth in Section 1145.07, and the specific subsections are referenced in Schedule 1145.04, below.

Schedule 1145.04

Minimum Area, Width and Yard Regulations for Conditional Uses in P/I Districts

Conditional Use	Minimum Lot Regulations		Minimum Building Setbacks		Minimum Parking Setbacks		Also see Section
	Area	Width	Front	Side-Rear	Front	Side-Rear	
(a) Accredited college or university, including associated on-campus student housing and athletic fields	5 acres	300 ft.	100 ft.	100 ft. (1)	50 ft.	15 ft.	1145.07(p)
(b) Administrative government offices	(2)	(2)	(2)	(2)	(2)	(2)	---
(c) Cemetery	5 acres	300 ft.	100 ft.	100 ft.	50 ft.	15 ft.	1145.07(c)
(d) Civic facility for public assembly	2 acres	150 ft.	50 ft.	40 ft.	50 ft.	15 ft.	1145.07(d)
(e) Day care facility, adult or child	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(e)
(f) Facility providing government sponsored adult education	(2)	(2)	(2)	(2)	(2)	(2)	--
(g) Golf course	50 acres	300 ft.	100 ft.	100 ft.	50 ft.	15 ft.	1145.07(m)
(h) Hospital and associated medical offices	5 acres	300 ft.	50 ft.	40 ft.	(2)	(2)	1145.07(i)
(i) Library, museum	(2)	(2)	(2)	(2)	(2)	(2)	---

Exhibit #2

(j) Monuments	None	None	(2)	(2)	(2)	(2)	---
(k) Parish residence, convent or other residential use associated with a place of worship	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(p)
(l) Place of worship	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(p)
(m) Residential care facility	2 acres	150 ft.	50 ft.	40 ft.	50 ft.	15 ft.	1145.07(q)

(n) Safety facility, public	(2)	(2)	(2)	(2)	(2)	(2)	---
(o) School facility, public or private	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(p)
(p) Swimming pool	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(m)
(q) Technical college or business and trade school	(2)	(2)	(2)	(2)	(2)	(2)	---
(r) Temporary outdoor special events lasting longer than 45 days	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(t)
(s) Wireless telecommunication facility	See Chapter 1157						
<u>Notes to Schedule 1145.04:</u>							
(1) Including outdoor athletic facilities.							
(2) Shall comply with district regulations.							
NA Not applicable.							

1145.05 SCHEDULE OF MINIMUM LOT AND YARD DIMENSIONS FOR CONDITIONAL USES IN RESIDENTIAL DISTRICTS.

Schedule 1145.05 sets forth regulations governing minimum lot area, minimum lot width and minimum yard requirements for principal and accessory buildings and parking areas for conditional uses in residential districts. Supplemental requirements pertaining to such uses are set forth in Section 1145.07, and the specific subsections are referenced in Schedule 1145.05, below.

Schedule 1145.05

Minimum Area, Width and Yard Regulations for Conditional Uses

Conditional Use	Minimum Lot Regulations		Minimum Building Setbacks		Minimum Parking Setbacks		Also See Section:
	Area	Width	Front	Side- Rear	Front	Side- Rear	
(a) Bed and breakfast in association with a permitted dwelling	(1)	(1)	(1)	(1)	(2)	(1)	1145.07(b)
(b) Day care facility, adult or child	1 acre	150 ft.	50 ft.	40 ft.	50 ft.	15 ft.	1145.07(e)
(c) Family home for handicapped persons	(1)	(1)	(1)	(1)	(2)	(1)	1145.07(g)
(d) Group home for handicapped persons	(1)	(1)	(1)	(1)	(2)	(1)	1145.07(h)
(e) Home occupation	See Section 1131.09						
(f) Library, museum	1 acre	150 ft.	50 ft.	40 ft.	50 ft.	15 ft.	---
(g) Off-street parking as principal use of lot	(1)	(1)	NA	NA	(1)	15 ft. (3)	1145.07(l)
(h) Place of worship	1 acre	150 ft.	50 ft.	40 ft.	50 ft.	15 ft.	1145.07(p)
(i) Public park and/or playground	None	None	(1)	15 ft.	(2)	15 ft.	1145.07(m)
(j) Residential care facility	2 acre	150 ft.	50 ft.	40 ft.	50 ft.	15 ft.	1145.07(q)
(k) Safety facility, public	1 acre	150 ft.	40 ft.	40 ft.	50 ft.	15 ft.	----
(l) School, public or private	1 acre	150 ft.	40 ft.	40 ft.	50 ft.	15 ft.	1145.07(p)

Notes to Schedule 1145.05:

- (1) Shall comply with district regulations.
 - (2) Parking spaces for more than 2 vehicles shall comply with the building setback requirement.
 - (3) When abutting a “R” or “RMF” parcel; minimum parking setback shall be 5 feet when abutting parcels in a non-residential district.
- NA Not applicable.

1145.06 SCHEDULE OF MINIMUM LOT AND YARD DIMENSIONS FOR CONDITIONAL USES IN COMMERCIAL AND INDUSTRIAL DISTRICTS.

Schedule 1145.06 sets forth regulations governing minimum lot area, minimum lot width and minimum yard requirements for principal and accessory buildings and parking areas for conditional uses in a commercial or industrial district. Supplemental requirements pertaining to such uses are set forth in Section 1145.07, and the specific subsections are referenced in Schedule 1145.06, below.

Schedule 1145.06

Area, Width and Yard Regulations for Conditional Uses

Conditional Use	Minimum Lot Regulations		Minimum Building Setbacks		Minimum Parking Setbacks		Also See Section:
	Area	Width	Front	Side- Rear (1)	Front	Side- Rear (1)	
(a) Adult use	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(a)
(b) Bank or bank with accessory drive-through lanes	(2)	(2)	(2)	(2)	(2)	(2)	---
(c) Business or trade school	(2)	(2)	(2)	(2)	(2)	(2)	---
(d) Club, lodge or assembly hall	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(d)
(e) Day care facility, adult or child	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(e)
(f) Drive-through facility in association with a permitted use	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(f)
(g) Funeral home, mortuary	(2)	(2)	(2)	(2)	(2)	(2)	---
(h) Hospital	5 acre	300 ft.	50 ft.	40 ft.	(2)	(2)	1145.07(i)
(i) Manufacture of products from raw materials	5 acre	300 ft.	100 ft.	100 ft.	(2)	(2)	1145.07(j)
(j) Mini/self storage facility	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(k)
(k) Motel, hotel	(2)	(2)	(2)	(2)	(2)	(2)	---

Exhibit #2

(l) Outdoor commercial recreation	(2)	(2)	(2)	(2)	(2)	(2)	1145.07(m)
Notes to Schedule 1145.06:							
(1) Regulations apply to all side and rear setbacks unless a greater setback is specified in the district regulations for lots adjacent to residential districts.							
(2) Shall comply with district regulations.							
-- Not applicable							

Conditional Use	Minimum Lot Regulations		Minimum Building Setbacks		Minimum Parking Setbacks		Also See Section:
	Area	Width	Front	Side- Rear (1)	Front	Side- Rear (1)	

(m) Outdoor dining			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(n)
(am) Outdoor display of merchandise for sale			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(o)
(en) Place of worship			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(p)
(po) Residential care facility			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(q)
(ap) Residential unit accessory to a commercial use			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(r)
(fg) School, public or private			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(p)
(sr) Studio for instruction			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(s)
(ts) Temporary outdoor special event lasting longer than 45 days			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(t)
(ut) Truck transfer terminal, motor freight garage			5 acre	300 ft.	100 ft.	100 ft.	(2)	(2)	1145.07(u)
(vu) Veterinary hospital with associated cages, runs and kennels			(2)	(2)	(2)	(2)	(2)	(2)	1145.07(v)
(wv) Wireless telecommunications facility	See Chapter 1157								

Notes to Schedule 1145.06:

- (1) Regulations apply to all side and rear setbacks unless a greater setback is specified in the district regulations for lots adjacent to residential districts.
- (2) Shall comply with district regulations.
- Not applicable

(Ord. 96-07. Passed 9-24-07.)

1145.07 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.

The following are specific conditions, standards and regulations for certain conditional uses and are in addition to the criteria and standards set forth in Sections 1145.02, 1145.03, 1145.04, 1145.05 and 1145.06.

(a) Adult Uses. North Canton has determined that permitting adult uses, as defined in this Section, in proximity to residential, institutional, and non-adult oriented retail uses would have a detrimental effect on such adjacent uses. It has been demonstrated that adult uses, as defined in this Section, have been known to cause undesirable secondary effects on residential and institutional uses, particularly those where children are present, as well as adjacent non-adult use oriented retail uses. Therefore, in order to prevent potential deterioration in North Canton's retail areas; and to avoid potential adverse impacts on residential and institutional uses particularly those where children are present, and thereby protecting the public health, safety and welfare, adult uses, as defined in this Section, shall be permitted only in the GB-B District subject to the following requirements.

(1) For purposes of this Ordinance adult uses shall include but not be limited to any of the following:

A. Adult media shop. An establishment that rents and/or sells media and that meets any of the following three (3) tests:

- 1. More than 33 percent of the gross public floor area is devoted to adult media.
- 2. More than 33 percent of the stock-in-trade consists of adult media.
- 3. It advertises or holds itself out in any forum as "XXX", "adult", "sex" or otherwise is a sexually oriented business.

B. Adult motion picture theater. An enclosed motion picture theater which regularly uses or utilizes 5 percent or more of its total viewing time, for presenting material distinguished or characterized by an emphasis on matter depicting, describing or related to adult material as defined in this Section.

C. Adult only live entertainment business. An establishment where the patron directly or indirectly is charged a fee, and where the establishment features:

- 1. Entertainment or services that constitute adult entertainment or services as defined in this section; or

Exhibit #2

2. Exhibitions, dance routines, or gyrational choreography of persons totally nude, topless, bottomless, or strippers, male or female impersonators or similar entertainment or services that constitute adult entertainment or services as defined in this section.

D. Sex shop. An establishment offering goods for sale or rent and that meets any of the following tests:

1. The establishment offers for sale items from any two of the following categories: (a) adult media; (b) lingerie, or (c) leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitutes more than 10 percent of its stock in trade or occupies more than 10 percent of its floor area.

2. More than five (5) percent of its stock-in-trade consists of sexually oriented toys or novelties.

3. More than five (5) percent of the total area of the building that is accessible to the public is devoted to the display of sexually oriented toys or novelties.

E. Sexually oriented business. An inclusive term used to describe collectively: adult only live entertainment business; adult motion picture theater; video arcade; bath house; and/or sex shop.

(2) To further determine whether the above facilities are adult uses, the following definitions shall apply.

A. Adult media, adult entertainment and adult service. Any media, entertainment or service capable of creating sexual interest through sight, sound or touch, and;

1. Which media, entertainment or service is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or

2. Which entertainment or service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.

B. Bottomless. Less than full opaque covering of male or female genitals, pubic area or buttocks.

C. Nude or nudity. The showing, representation, or depiction of human male or female genitals, pubic area, or buttocks with less than full, opaque covering of any portion thereof, or female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.

D. Public display. The act of exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway, or public sidewalk, or from the property of others, or from any portion of the premises where items and material other than adult media are on display to the public.

E. Sadomasochistic practices. Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of another.

F. Sexual activity. Sexual conduct or sexual contact, or both.

Exhibit #2

G. Sexual contact. Any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is female, a breast, for the purpose of sexually arousing or gratifying either person.

H. Sexual excitement. The condition of the human male or female genitals, when in a state of sexual stimulation or arousal.

I. Sexually oriented toys or novelties. Instruments, devices, or paraphernalia either designed as representatives of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

J. Topless. The showing of a female breast with less than a full opaque covering of any portion thereof below the top of the nipple.

(3) Adult uses shall be located in accordance with the following distance requirements:

A. A minimum of 800 feet from the boundaries of any lot containing a church, library, public park or playground, day care center, school or any other institution where children are kept day or night;

B. A minimum of 800 feet from any residentially zoned parcel in North Canton or any adjacent community; and

C. A minimum of 800 feet from any other adult use.

(b) Bed and Breakfast in association with a Permitted Dwelling shall comply with the following:

(1) The bed and breakfast facility shall be located on a parcel abutting, or adjacent to an arterial or collector street; park; or OB, MSB, GB-A, or GB- B District.

(2) Meals shall be provided only to guests taking lodging in the facility.

(3) Guestrooms shall not contain cooking facilities. A common lounge area may be provided for guests.

(4) The building shall be compatible with surrounding land use and shall not exceed three (3) guestrooms.

(c) Cemeteries shall comply with the following:

(1) Except for office uses incidental to cemetery operation, no business or commercial uses of any kind shall be permitted on the cemetery site.

(2) Interior drives having a minimum width of 20 feet shall be installed as development progresses and as indicated in the final plans by the Planning Commission.

(3) Sufficient pull-off areas for vehicles shall be provided throughout the cemetery so as not to hinder traffic flow.

(4) No gravesite, mausoleum or crematory shall be located within 50 feet of a public street right-of-way or residential property line.

(5) All maintenance equipment and materials shall be stored in a completely enclosed building.

Exhibit #2

(d) Clubs, Lodges or Assembly Halls, Civic Facilities for Public Assembly shall comply with the following:

(1) All activities, programs and other events shall be directly related to the conditional use permit so granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.

(2) Outdoor activities shall be approved by the Planning Commission.

(e) Day Care Center, Adult or Child shall comply with the following:

(1) All outdoor activity areas shall be enclosed by a fence or wall having a height of at least five feet. An entry gate shall be securely fastened.

(2) A drop-off/pick-up location that will not impede traffic on or off the site shall be provided to ensure the safety of the children and adults.

(f) Drive-Through Facilities shall comply with the following:

(1) Such facilities shall be located in an area least disruptive to pedestrian or vehicular traffic.

(2) Any proposed loudspeaker system shall be approved as part of the development plan.

(g) Family Home for Handicapped Persons shall comply with the following:

(1) The persons residing in such residential home shall live as a single housekeeping unit in a single dwelling unit and maintain said home as their sole, bona fide, permanent residence. The term "permanent residence" means:

A. The resident intends to live at the dwelling on a continuing basis; and,

B. The resident does not live at the dwelling in order to receive counseling, treatment, therapy or medical care.

(2) Prior to a handicapped person commencing residence in the home, either the applicant or the placement agency shall certify that the resident is handicapped as defined in 42 U.S.C. §3602(h) and that the resident can function adequately in a community residential setting. The applicant or the placement agency shall have a continuing duty to provide such certification to the Planning Commission for each handicapped person who resides in the home after a conditional use permit is granted;

(3) The applicant shall demonstrate that adequate qualified supervision will exist in the home on a 24 hour per day basis;

(4) In order to maintain the single-family residential character of the area in which the family home is located, the applicant is required and shall agree that upon termination of this conditional use for any reason the applicant shall restore the premises to a condition in which it is marketable as a single-family dwelling, unless ownership and/or possession of the premises is transferred to a person(s) who has obtained a similar conditional use permit for the premises;

Exhibit #2

(5) Signs or other means of identification as a family home for handicapped persons shall not be permitted;

(6) The applicant shall comply with the applicable parking regulations of the Zoning Ordinance for the type of residential structure used by the residential home and shall make adequate provision for on-site parking of vehicles used by visitors and the home supervisors;

(7) In considering whether to grant the conditional use permit, Planning Commission shall take into consideration the proximity and location of other such homes for handicapped persons within the neighborhood so as not to change the character of the area, create undue congestion in the public ways, or otherwise adversely impact upon a given area with such use, but in no event shall a family home be closer than 600 feet from where another family home or group home for handicapped persons is located;

(8) Evidence shall be presented that the proposed facility meets the certification, licensing or approval requirements of the appropriate state agency. Failure to maintain such license, certification or other approval requirements shall result in immediate revocation of the home's conditional use permit;

(9) Conversion of an existing dwelling to a family home shall require that the dwelling be brought into conformity with existing City regulations.

(h) Group Homes for Handicapped Persons shall comply with the following:

(1) Evidence shall be presented that the proposed facility meets the certification, licensing, or approval requirements of the appropriate state agency. Failure to maintain such license, certification or other approval requirements shall result in immediate revocation of the home's conditional use permit;

(2) The applicant shall comply with the applicable parking regulations of this Zoning Ordinance for the type of residential structure used by the residential home and shall make adequate provision for on-site parking of vehicles used by visitors and the home supervisors;

(3) In considering whether to grant the conditional use permit, the Planning Commission shall take into consideration the proximity and location of other such homes for handicapped persons within the neighborhood so as not to change the character of the area, create undue congestion in the public ways, or otherwise adversely impact upon a given area with such use, but in no event shall a group home be closer than 600 feet from where a family home or group home for handicapped persons is located;

(4) The architectural design and site layout of a group home and the height of any walls, screens, or fences connected with any said group home shall be compatible with adjoining land uses and the residential character of the neighborhood.

(i) Hospitals shall comply with the following:

(1) Such use shall be located on an arterial or collector street.

(2) Outdoor storage of ambulances and other vehicles used in the operation of the principal use may be permitted provided such storage areas shall be located in the side or rear yard in off-street parking areas.

(j) Manufacturing of Products from Raw Materials shall comply with the following:

Exhibit #2

(1) The outdoor storage shall comply with the building setback requirements.

(2) The outdoor storage of any raw materials shall be enclosed by a solid wall or fence, including solid gates, having a minimum height of seven feet, which shall be maintained at all times.

(3) All fences or walls required in this section shall be constructed of uniform materials painted or otherwise preserved, and approved by the Commission. Additional fences, walls or shrubs may be required by the Commission, if necessary, to adequately screen the materials from adjoining districts or public streets.

(k) Mini/Self Storage Facility shall comply with the following:

(1) The leases for all self-storage units shall include clauses prohibiting:

A. The storage of flammable liquids, radioactive, highly combustible or explosive materials or hazardous materials.

B. The use of property for uses other than dead storage.

(2) The North Canton Fire Department forces shall be provided with 24-hour accessibility to the grounds. A lockbox shall be provided for its use.

(3) The maximum size of individual storage compartments shall be 500 square feet.

(4) Such uses should be located on an arterial street.

(l) Off-Street Parking as a Principal Use on Lot. In an R-70, R-50, R-2F, RMF-A, or RMF-B District, parking lots or garages constructed as the principal use on a lot that is contiguous to and within 150 feet of a OB, MSB, GB-A, or GB-B or P/I District when the parking spaces are accessory to a use located within that nonresidential district shall comply with the following:

(1) For the purposes of this section, contiguous includes a parcel directly across a public right-of-way. The start of the 150 foot distance shall be measured from the side of the public right-of-way on such contiguous lot.

(2) An approved parking area shall be used solely for the parking of the passenger automobiles of the employees and customers of the use to which it is accessory.

(3) The off-street parking lot or garage shall not be located closer to the street than the setback of the existing dwelling on the adjacent lot, or the setback required for the district in which the lot or garage is located, whichever is greater.

(4) Such off-street parking garages shall be of a design, scale, and massing to complement the adjacent residential buildings.

(m) Public Parks and/or Playgrounds; Golf Courses; Swimming Pools, Athletic Fields Associated with a School, College or University, and Outdoor Commercial Recreation shall comply with the following:

(1) The proposed use shall not generate excessive noise, odor, dust or smoke beyond the premises. In order to minimize any effects of the above, the Planning Commission may require all applicable surface areas to be paved, and impose additional noise reduction measures, including

Exhibit #2

mounding, landscaping and sound barriers, to ensure that the level of noise is less than or the same as the prevailing noise levels of permitted uses in the District.

(2) The Planning Commission may require active recreation areas to be enclosed by a fence having a minimum height of five (5) feet.

(3) Rifle ranges, skeet shooting ranges, pistol ranges and other uses involving the use of firearms including high powered air rifles; paint ball activities, motor-cross and/or go-cart tracks/racing; amusement parks; outdoor/drive- in movie theatre and all other concentrated outdoor commercial recreation uses shall not be permitted.

(4) Outdoor commercial recreation shall be permitted only in when it is specifically listed as a conditional use in the schedule of permitted uses in the district in which it is proposed.

(5) Delivery trucks shall not be used as refreshment stands, souvenir stands, and/or concession stands.

(6) Only retail uses that are customarily accessory and incidental to the main recreational use shall be permitted as part of the recreational area. Included as such retail uses are refreshment stands, souvenir stands, concession stands, and an office.

(7) All activities, programs and other events shall be directly related to the conditional use permit so granted, and shall be adequately and properly supervised so as to prevent any hazard and to assure against any disturbance or nuisance to surrounding properties, residents or to the community in general.

(8) An adequate number of public restrooms for both men and women shall be provided and maintained.

(9) Vehicular approaches to the property shall be designed so as not to create an interference with traffic on surrounding public streets or roads.

(10) Commercial recreation establishments shall not be permitted in residential districts unless specifically permitted otherwise.

(11) In a residential district, no retail uses such as a snack bar, shall be permitted as an accessory use to a public park and/or recreation facility.

(12) Swimming pools shall comply with the following additional requirements:

A. Pools shall be adequately fenced to prohibit unauthorized access to the facility.

B. Pools and their enclosures shall comply with the building setback requirements set forth in Schedule 1145.04, 1145.05, or 1145.06, as applicable.

C. The enclosure required in this subsection (12) shall be kept locked at all times the pool is not in use.

D. The Planning Commission may limit the maximum lot coverage of related buildings and lounging/deck areas.

(13) Golf courses, including tees, fairways, greens and golf driving ranges shall be designed and landscaped in such a manner as to reasonably prevent a misfired ball from landing out of the golf course.

~~(n) Outdoor Dining shall comply with the following:~~

~~—(1) The facility shall be used in conjunction with, and is under the same management and exclusive control of, a restaurant located on the same or contiguous property;~~

~~—(2) The outside seating capacity shall not exceed 25 percent of the restaurant seating capacity;~~

~~—(3) The facility shall not interfere with the public right of way. The Planning Commission shall determine to what extent, if any, such use may encroach upon the public right of way.~~

~~—(4) Noise shall be adequately controlled to ensure that patrons do not create a nuisance.~~

(en) Outdoor Display of Merchandise for Sale shall comply with the following:

(1) All displays shall meet the principal building setbacks established for the district in which the principal use is located.

(2) Displays shall not be located in areas intended for traffic circulation according to the site plan.

(po) Places Of Worship, Schools, and Accredited Colleges and Universities shall comply with the following:

(1) Such uses should be located on an arterial or collector street or have direct access to an arterial or collector street without going through a residential neighborhood to lessen the impact on the residential area.

(2) The Planning Commission may require outdoor activity areas to be enclosed by a fence or wall having a height of at least five feet and an entry gate that can be securely fastened.

(3) Places of worship may be erected to a height not to exceed 75 feet if the building is set back from each lot line one (1) foot for each foot of additional building height in excess of the district limitation.

(4) Associated uses such as a convent, faculty residence, cafeteria, or infirmary shall be located on the same lot as a place of worship, school, college or university and shall comply with the building setback requirements set forth in this chapter.

(5) Athletic facilities shall also comply with the supplemental regulations set forth in Section 1145.07(m).

(rp) Residential Care Facility shall comply with the following:

(1) A residential care facility may include, but is not limited to, one or more of the following types of residential facilities:

A. Congregate living; which for the purposes of this Section shall be residential accommodations for which congregate dining, recreation, and/or other social and community facilities are provided as integral part of the design and expected to be utilized by the occupants on a regular basis.

Exhibit #2

B. Assisted living, which for the purposes of this Section shall be residential accommodations designed for and intended to be occupied by individuals who require supervision, assistance and health care services or who are otherwise dependent on the services of others by reason of age or physical or mental impairment.

C. Nursing home;

D. Hospice facility.

(2) Density:

A. The number of beds for nursing facilities shall not exceed one bed for every 1,000 square feet of net lot area devoted to the facility and its related parking.

(3) Such uses shall be located on an arterial or collector street or have direct access to an arterial or collector street without going through a residential neighborhood to lessen the impact on the residential area.

(4) The development plan shall indicate the parking and emergency entrances or exits and other safety precautions.

(5) Evidence shall be presented that the proposed facility meets the certification, licensing or approval requirements of the appropriate state agency. Failure to maintain such license, certification or other approval requirements shall result in immediate revocation of the facility's conditional use permit;

(6) In considering whether to grant the conditional use permit, the Planning Commission shall take into consideration the intensity of the use and building coverage compared to the surrounding uses and the uses permitted in the district so as not to change the character of the area or otherwise adversely impact upon a given area with such use.

(~~fg~~) Residential Units Accessory to a Commercial Use shall comply with the following:

(1) In the MSB district, accessory residential units should be located on the second floor of retail buildings.

(2) Any accessory residential use located on the first floor of a commercial building shall not occupy more than 50% of the first floor area of the building and shall be located within the building so as not to interfere with the principal use of the building.

(3) Parking spaces for the accessory residential use shall be clearly marked and shall be in addition to and separate from the parking spaces required for the principal use.

(~~st~~) Studios for Instruction shall comply with the following:

(1) All activities shall take place in a fully enclosed sound-resistant building, with closed windows and double-door entrances that provide a sound lock.

(2) Such establishment offering non-academic instruction should be located so as to minimize the amount of space inactive during normal business hours that is located in the middle of a retail setting. Studios are encouraged to have associated retail uses located in the first floor space nearest the street in order to contribute to the retail environment of the district.

Exhibit #2

(~~ts~~) Temporary Outdoor Special Events Lasting Longer than 45 Days shall, in addition to Section 1123.06, comply with the following:

- (1) The conditional use permit shall authorize a specific duration for the proposed event.
- (2) The applicant shall submit a parking plan to ensure that the proposed special event does not impede or disrupt the existing principal use(s).
- (3) The Planning Commission may require the applicant to post a bond as required in Section 1175.16, Development Plan Review.

(~~tt~~) Truck or Transfer Terminal, Motor Freight Garage shall comply with the following:

- (1) Such uses shall be located on an arterial street.
- (2) Vehicular approaches to the property shall be designed so as not to create an interference with traffic on surrounding public streets or roads.

(~~vu~~) Veterinary Hospitals with Associated Cages, Runs and Kennels shall comply with the following:

- (1) Outdoor areas devoted to kennel operations shall be located in the rear yard and shall comply with the building setback requirements set forth in Schedule 1145.06.
- (2) Odor and noise shall be adequately controlled to ensure that animals do not create a nuisance.