

CHAPTER 1141

Permitted, Conditional and Nonconforming Uses

- [1141.01](#) Interpretation of regulations; unlisted uses.
[1141.02](#) Special and residence district permitted and conditional uses.
[1141.03](#) Business and industrial district permitted and conditional uses.
[1141.04](#) Nonconforming uses.
[1141.05](#) **Conditional uses.**
[1141.06](#) **Variances.**

CROSS REFERENCES

Nonconforming uses; retroactive measures - see Ohio R.C. 713.15

Previously existing conforming buildings - see P. & Z. [1125.01](#)

Certificate for nonconforming uses - see P. & Z. [1125.05](#)

1141.01 INTERPRETATION OF REGULATIONS; UNLISTED USES.

The permitted and conditional uses for each district are shown on the tables contained in Sections [1141.02](#) and [1141.03](#). The interpretation of uses given in categorical terms shall be as defined in Chapter [1121](#) of this Code.

(Ord. 13-05, Passed 3-21-05.)

1141.02 SPECIAL AND RESIDENCE DISTRICT PERMITTED AND CONDITIONAL USES
PERMITTED USES

"S-1" Special	"R-1" Suburban Residence	"R-2" Low Density Residence	"R-3" Medium Density Residence	"R-4" High Density Residences and Offices	"R-5" Manufactured Home Residence
Parks	Single-family dwelling	Single-family dwelling	Single-family dwelling	Single-family dwelling	Single-family dwelling
Public uses	Public uses	Public uses	Duplex	Duplex	
Semipublic uses	Semipublic uses	Semipublic uses	Multiple-family dwelling	Multiple-family dwelling	
Essential services	Public service facility	Plant cultivation	Public uses	Public uses	
Accessory uses	Essential services	Essential services	Semipublic uses	Semipublic uses	
Conservation & highway interchange areas	Accessory uses	Accessory uses	Essential service	Essential service	
Noncommercial recreational facility	Noncommercial recreational facilities		Accessory uses	Accessory uses	
Agriculture & forestry	Agriculture & forestry				
Plant cultivation	Plant cultivation			Rooming & boarding houses	
				Institutions & banks	
				Regional offices	
				Insurance & real estate offices	
				Personal services	
				Professional activities	

CONDITIONAL USES REQUIRING BOARD APPROVAL

"S-1" Special	"R-1" Suburban Residence	"R-2" Low Density Residence	"R-3" Medium Density Residence	"R-4" High Density Residences and Offices	"R-5" Manufactured Home Residence
Public service facility	Cemetery	Duplex	Public service facility	Noncommercial recreational facilities	Agriculture
Restricted commercial recreation facility	Specialized animal raising & care	Public service facility	Home occupations	Nursery schools	Duplex multi-family
Cemetery	Oil & gas wells	Noncommercial recreational facility	Rooming & boarding houses	Nursing homes	
Airports	Sand & gravel extraction	Home occupations	Conversion of dwellings	Home occupations	
Specialized animal raising & care	Home occupations	Green spaces	Nursing homes	Conversion of dwellings	
Sand & gravel extraction			Noncommercial recreation facility	Mortuaries	
			Insurance and real estate activities	Business services	

			Mobile home parks	Public service facility	
			Personal services	Plant cultivation	
			Professional services	Restaurants and taverns	
			Plant cultivation Uses authorized by Section 1121.561	Uses authorized by Section 1121.561	

(Ord. 24-19. Passed 5-6-19.)

1141.03 BUSINESS AND INDUSTRIAL DISTRICT PERMITTED AND CONDITIONAL USES.
PERMITTED USES

"B-1" Local or Community Shopping Center	"B-2" Highway or General Business	"B-3" Central Business	"M-1" Restricted Industrial	"M-2" General Industrial
Retail goods:	Retail business	Retail business	Restricted manufacturing	General manufacturing
Food	Personal services	Personal services	Printing & publishing	Manufacturing, sale & storage of building materials
Apparel	Business services	Business services	Research & testing facilities	Transport & trucking terminals
Hardware	Professional activities	Professional activities	Public service facilities	Wholesale business
Home furnishings	Offices & banks	Commercial schools	Essential services	Warehousing
Eating & drinking	Restaurants & taverns	Offices & banks	Accessory uses	Sand & gravel extraction
Services:	Motel & hotels	Restaurants & taverns	Agriculture	Agriculture
Professional	Entertainment facilities	Automotive sales & repair	Automotive sales and repair	Food processing
Personal	Essential services	Hotels & motels	Construction related businesses	Grain elevators
Business	Accessory uses	Entertainment facilities	Self-service storage facilities	Offices
Financial	Automotive sales & repairs	Mortuaries	Indoor shooting ranges	Restricted manufacturing
Entertainment	Mortuaries	Public uses		Automotive sales and repair
Essential services	Shopping centers	Semipublic uses		Accessory uses
Accessory uses	Convenience shopping centers	Social activities		Construction related businesses
Shopping centers	Gasoline and service stations	Essential services		Self-service storage facilities
Convenience shopping centers	Printing and publishing	Convenience shopping centers		Indoor shooting ranges
	Bakeries and dairies	Accessory uses		
		Printing and publishing		
		Bakeries and dairies		
	Uses authorized by Section 1121.561	Social activities and uses authorized by Section 1121.561	Uses authorized by Section 1121.561	Uses authorized by Section 1121.561

CONDITIONAL USES REQUIRING BOARD APPROVAL

"B-1" Local or Community Shopping Center	"B-2" Highway or General Business	"B-3" Central Business	"M-1" Restricted Industrial	"M-2" General Industrial
Gasoline stations	Semipublic uses	Gasoline stations	Food processing	Restaurants
Drive-in banks				
Drive-in banks	Wholesale business	Wholesale business	Furniture manufacturing	Mineral extraction, storage & processing
Public uses	Sale or storage of building material	Drive-in commercial uses	Wholesale business	Auto & metal salvage operations
Semipublic uses	Food processing	Animal hospitals or clinics	Bakeries & dairies	Stockyards
Multiple dwellings	Animal hospitals & clinics	Recreational facilities	Retail services	Slaughterhouses
Noncommercial recreational facility	Noncommercial recreational facility	Tourist homes	Personal services	Petroleum refining & storage
Nursery schools	Nursery schools	Sale or storage of building material	Business service	Oil & gas wells
Nursing home	Public uses	Upper story residences	Professional activities	Printing and publishing
Automotive sales and repair	Construction related businesses	Multiple dwellings	Commercial schools	
Mortuaries	Social activities	Noncommercial recreational facility	Offices and banks	Specialized animal raising and care
Construction related businesses	Multiple dwellings	Nursery schools	Restaurants and taverns	Research and testing facilities
Social activities	Nursing home	Nursing home	Entertainment facilities	Offices and banks

Self-service storage facilities	Transportation truck terminals	Shopping centers	Noncommercial recreational facility	Personal services
Indoor shooting ranges	Skill games businesses, adult oriented arcades, internet gaming cafes, sweepstakes businesses	Warehousing facilities	Public and semipublic uses	Business service
	Self-service storage facilities	Skill games businesses, adult oriented arcades, internet gaming cafes, sweepstakes businesses	Social activities	Professional activities
	Indoor shooting ranges	Self-service storage facilities	Restaurants and taverns	Commercial schools
		Indoor shooting ranges	Entertainment facilities	Noncommercial recreational facility
				Public and semipublic uses
				Social activities
				Retail services

(Ord. 24-19. Passed 5-6-19.)

PERMITTED USES

"H-1"
Health Services District
Public Use
Semi-Public Use
Essential Services
Accessory Uses
Hospitals
Clinics
Medical Offices
Dental Offices

CONDITIONAL USES REQUIRING BOARD APPROVAL

"H-1" Health Services District
Nursing Homes
Professional Health Care-related offices

(Ord. 24-19. Passed 5-6-19.)

1141.04 NONCONFORMING USES.

(a) Any lawful use of any dwelling, building, structure or land existing at the effective date of this Zoning Ordinance may be continued, even though such use does not conform to the provisions thereof.

(b) Subject to the provisions of subsection (c), below, whenever the use of a building or land shall become nonconforming through a change in this Zoning Ordinance or a change in the district boundaries, such use may be continued, and may be changed to another nonconforming use of the same or of a more restricted classification.

(c) A nonconforming use of a building or land, or portions thereof, which are hereafter voluntarily discontinued for a continuous period of two years or more, shall not again be used except as in conformity with the regulations of the district in which such building or land is located.

(d) Any building arranged, intended or designed for a nonconforming use, the construction of which has been started at the time of the passage of this Zoning Ordinance, but not completed as of the date of passage hereof, may be completed and put into such nonconforming use, provided it is done within one year after the effective date of the within Zoning Ordinance.

(e) Except as otherwise provided in this section, no nonconforming building or structure shall be moved, extended, enlarged or altered, and no nonconforming use of land shall be expanded, except when authorized by the Board of Zoning Appeals in accordance with the provisions of this chapter.

- (1) The Board may permit the extension of a use or building into a more restricted district immediately adjacent thereto, but not more than twenty-five feet beyond the dividing line of the two districts, under such conditions as will safeguard development in the more restricted district.
- (2) In any event the Board shall permit the movement, extension or expansion of a nonconforming use to any applicant who demonstrates that a failure to obtain permission to use the property in the nonconforming manner will remove all economic viability from the property at issue.
- (3) In any event the Board shall permit the movement, extension or expansion of a nonconforming structure to any applicant who demonstrates that failure to obtain permission to move, extend or expand the structure will result in practical difficulties for the landowner.

(f) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification without prior authorization by the Board. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of the adoption of this Zoning Ordinance.

(Ord. 13-05. Passed 3-21-05.)

(g) Structural alterations to existing, nonconforming single family or duplex residence dwellings may be made without the prior approval of the Board in any of the following circumstances:

- (1) If the improvement is being made to more nearly conform with other dwellings in the district; or
- (2) If structural alterations are being made in order to comply with or improve sanitary, health and safety conditions or requirements on any such dwelling. In such case, said alteration or additions may not project beyond the sideline or wall of the existing dwelling, and in no instance come closer than three feet to any side lot line or ten feet from any rear lot line. The addition or structural alteration shall not increase the total floor area of said single family dwelling by more than fifty square feet.

(h) The Board may permit the temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in this Zoning Ordinance for the district in which it is located, provided that such use is of a temporary nature and does not involve the erection of a substantial structure. A Zoning Certificate for such use shall be granted in the form of a temporary and revocable permit, pursuant to the terms of Chapter [1125](#), for not more than a twelve month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare.

(i) A nonconforming building which has been damaged by fire, explosion, act of God or the public enemy, may be repaired or reconstructed and used as before the time of the damage, provided such repairs or reconstruction are commenced within one year of the date of such damage.

(j) Nonconforming trailers or mobile homes located on a lot in any district other than an "R-3" district, once removed, shall not be relocated on such lot. (Ord. 13-05. Passed 3-21-05; Ord. 60-08. Passed 1-5-09.)

1141.05 CONDITIONAL USES.

(a) The Board of Zoning Appeals shall have the power to hear and decide in accordance with the provisions of this Zoning Ordinance, applications, filed as provided in Chapter [1125](#), for Conditional Uses. In considering an application for conditional use, the Board shall give due regard to the nature and condition of all adjacent uses and structures. In authorizing a conditional use, the Board may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those considerations expressly stipulated in the Dover City Zoning Ordinance for the particular conditional use or special exception as the Board may deem necessary for the protection of adjacent properties and the public interest.

(b) In determining whether to grant a request for a conditional use for property within any Residential or Special district as provided for in Section [1141.02](#), the Board shall consider effect that the proposed use would have on the health, safety and welfare of the City of Dover and its residents, including, but not limited to the following factors:

- (1) The effect that the location and size of the proposed use, and the nature and intensity of the operations involved or conducted in connection with the proposed use, will have on the general character of the existing neighborhood;
- (2) The effect that the location, size, nature and intensity of the operations contemplated by the proposed use will have upon pedestrian and vehicular traffic in the immediate and surrounding neighborhood;
- (3) Whether the location, physical properties, and nature of the proposed use are such so as to interfere with the use and development of adjacent land or buildings, or impair the value thereof.

(c) In determining whether to grant a request for conditional use for property within any Business or Industrial district as provided for in Section [1141.02](#), the Board shall consider effect that the proposed use would have on the health, safety and welfare of the City of Dover, including, but not limited to the following factors:

- (1) The effect that the location, size, nature and intensity of the operations contemplated by the proposed use will have upon pedestrian and vehicular traffic in the immediate and surrounding neighborhood;
- (2) Whether the nature, location, size and site layout of the proposed use directly conflicts with the general character of the commercial or industrial district in which it is situated;
- (3) Whether the location, physical properties and nature of the proposed use are such so as to interfere with the use and development of adjacent land or buildings or impair the value thereof; and
- (4) Whether the location, physical properties, and nature of the proposed use are such so as to subject nearby residential dwellings to hazardous or dangerous materials, fumes, or other byproducts of the proposed use.

(d) The Board shall award a conditional use permit to any applicant who demonstrates that failure to obtain permission to use the property in the conditional manner proposed will result in the removal of all economic viability of the property.

(e) When an application is filed with the Board of Zoning Appeals for a conditional use permitting a mobile home park in an area zoned "R-3", the Board will recommend whether to grant said application to the Dover City Council. Said recommendation shall be considered by City Council in determining whether to grant a conditional use permit for such purpose. No request for a conditional use permit for the use of property as a mobile home park shall be granted unless formally approved by Dover City Council. A request for a conditional use permitting a mobile home park in an "R-3" zone shall be considered denied if not acted on by Council within ninety days following the issuance of the recommendation provided for herein.

(Ord. 13-05. Passed 3-21-05.)

1141.06 VARIANCES.

(a) The Board shall have the power to authorize upon appeal in specific cases, filed as provided in the Dover City Zoning Ordinances, such variances from the provisions or requirements of said Zoning Ordinances as will not be contrary to the public interest so that the spirit of said Zoning Ordinances shall be observed and substantial justice shall be done. In granting a variance, the Board may impose such conditions as it may deem necessary to protect the public health, safety and well being, and in furtherance of the purposes and intent of said Zoning Ordinances.

(b) When determining whether or not to award a variance from the requirements of the Dover City Zoning Ordinances, the Board shall consider the following factors:

- (1) Whether the existing Dover City Zoning Ordinances create a situation in which the applicant is unable to yield a reasonable return or enjoy any beneficial use of the property without the variance requested;
- (2) Whether the variance requested requires a significant departure from the City of Dover Zoning Ordinances;
- (3) Whether the essential character of the neighborhood where the variance is sought, will be substantially altered if said variance is granted;
- (4) Whether the owners of land adjoining the property for which the variance is sought will be suffer a substantial detriment;
- (5) Whether the award of the variance sought would adversely affect the delivery of governmental services, including, but not limited to, the provision of water, sewer, garbage collection or fire protection;
- (6) Whether the applicant's predicament giving rise to the request for a variance can be feasible obviated through a method other than the issuance of a variance;
- (7) Whether the applicant for the variance purchased the property with knowledge of the zoning restriction that gave rise to the request for the variance; and
- (8) Whether the spirit and intent of the zoning restriction giving rise to the request for the variance will be substantially preserved if the variance requested is granted.

(c) With due consideration of the totality of the circumstances, including the factors listed in subsection (b) above, the Board shall grant an application for a variance to the area requirements and restrictions of the Dover City Zoning Ordinances, only if the applicant demonstrates that such area requirements and restrictions impose a practical difficulty upon the applicant. For purposes of the within provision, the term "area requirements and restrictions", shall include, but not be limited to, provisions set forth in the Dover City Zoning Ordinances relating to setback, height, frontage, percentage of lot coverage, minimum lot area, minimum floor area, and yard requirements and restrictions.

(d) With due consideration of the totality of the circumstances, including the factors listed in subsection (b) above, the Board shall grant an application for a variance to the use requirements and restrictions of the Dover City Zoning Ordinances, only if the applicant demonstrates that a failure to obtain the variance requested will remove all economic viability of the property. For purposes of the within provision, the term, "use requirements and restrictions", shall include, but not be limited to, the provisions set delineated in Sections [1141.02](#) and [1141.03](#) relating to the particular manner that property may be put to use. The application for a conditional use shall not be considered a request for a use variance, but shall be determined pursuant to the terms set forth in Section [1141.05](#).

(e) No request for a variance shall be granted unless the Board determines that the condition or situation applicable to the affected property, and/or the intended use thereof, is not so general or recurrent in nature as to make reasonably practicable the formulation of a general regulation for such condition, situation or use. (Ord. 13-05. Passed 3-21-05.)

(f) Lapse of Variances.

- (1) A variance, once granted, shall not be withdrawn or changed unless there is a change of circumstances, or if, after the expiration of one year, no substantial construction is done in accordance with the terms and conditions for which such variance was granted. If the person who received the variance or the subsequent owner of the land have not completed substantial construction within that one year, the variance shall expire and the land reverts to its prior zoning and use restriction under the Dover Codified Ordinances; unless, the person or subsequent owner of the land requests within the initial twelve months or the second twelve month extension, a twelve month extension of the variance from the Board of Zoning Appeals. The extension may be granted without a hearing. One additional twelve- month extension (for a maximum of two twelve month extensions) may be granted. After the expiration of three years from the grant of the variance, and only if the person or subsequent owner appropriately requested the extensions, noted herein, the variance shall lapse and any rights to deviate from the zoning and use restrictions of the Dover Codified Ordinances granted by the variance shall terminate and expire.
- (2) Whenever the Board of Zoning Appeals grants a variance, it is granted subject to the time restrictions stated in this subsection and a copy of this subsection shall be deemed part of any variance so granted. A copy of this subsection shall be provided to the applicant at the time the variance is granted. (Ord. 67-09. Passed 1-4-10.)