

ARTICLE 38

ACCESSORY USES

SECTION 3801 PERMITTED ACCESSORY USES - AGRICULTURAL, RESIDENTIAL AND OFFICE

The following accessory uses are permitted in each Agricultural, Residential District, and the Residential Office District:

- A. Private garages or carports
- B. A structure for storage incidental to a permitted use.
- C. A guest house (without kitchen facilities) or rooms for guests in an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building, and not as rental units or for permanent occupancy.
- D. A swimming pool, bath house, and other recreational facilities designed for the use of the occupants of a single-family dwelling and their guests, shall comply with the following requirements:
 - a. The pool is intended and to be solely for the enjoyment of the occupants of the principal use of the property in which it is located.
 - b. The pool may not be located closer than twenty (20) feet from the water's edge to any property line on which it is located.
 - c. In-ground swimming pools shall have a barrier installed to prevent uncontrolled access by children from the street or from adjacent properties.
 - i. Fence and/or wall:
 - 1. Fence/wall shall be not less than four (4) feet in height.
 - 2. Fence/wall height shall be measured on the side of the fence/wall that faces away from the pool.
 - 3. The maximum vertical clearance between the bottom of the fence/wall and the ground shall be four (4) inches.
 - 4. Fence/wall shall be maintained in good condition
 - 5. Fences that are composed of horizontal and vertical components shall have a maximum spacing between all vertical components of four (4) inches.
 - 6. Fences that are composed of wire mesh and vertical components shall have a maximum spacing between all vertical and horizontal components of the wire of two and one quarter (2 ¼) inches.
 - ii. Pedestrian Access gates:
 - 1. Shall conform to the design standards identified in (D)(i)(5) or (D)(i)(6) of this section
 - 2. Shall be self closing

3. Shall be self latching
 4. Shall have the opening mechanism mounted at a height of at least forty-five (45) inches.
 5. Shall open outward away from the pool.
- iii. Utility access gates:
 1. Shall conform to the design standards identified in (D)(i)(5) or (D)(i)(6) of this section.
 2. Are not required to have a self-closing device.
 3. Are not required to have a self-latching device.
 4. Shall have a means to secure the gate when not in use.
 - iv. Temporary construction fencing shall be installed after the in-ground pool area is holding any water.
 - v. Final fencing and gate assemblies must be installed within sixty (60) days of the pool holding any water.
 - vi. All fences and gates shall be located so as to prohibit permanent structure, equipment, or other objects from being used to climb the fence or gate.
- d. A power safety pool cover barrier that meets the performance standards of the most recently amended American Society for Testing and Materials (ASTM) F1346-91:
 - i. May be used independent of (D)(c)(5) or (D)(c)(6).
 - ii. The cover must be locked when the pool is not in actual use and/or when the pool is unattended.
 - e. Any pool for the use of occupants of multiple family buildings containing over three (3) apartments shall meet the structural and sanitary requirements of the Ohio Department of Health.
 - f. Above-ground swimming pools in compliance with all the following regulations are not required to have a separate barrier. Above-ground pools not in compliance with the following shall comply with all the requirements of (D)(c) of this section.
 - i. The side walls shall be not less than four (4) feet in height at every point around the exterior perimeter of the pool after installation is completed. The height is measured from grade to the top of the pool wall.
 - ii. The pool shall be equipped with a removable ladder or a ladder that swivels and latches in a position so that all parts of the latter are above four (4) feet in height and capable of being locked. The ladder must be locked if it is located inside the pool or removed if located outside of the pool, when the pool is not in actual use and/or when the pool is unattended.
 - iii. Permanent structures, equipment, other objects, or grade greater than six (6) inches as measured in relation to the height at the pool wall shall be located at least four (4) feet from the pool wall to prevent their usage to climb into the pool.
 - iv. If the floor of a deck is less than four (4) feet from grade and is used to access an above ground pool, then all components of the deck (railings, gates, and stairs) shall conform to (D)(c) of this Section.
 - v. If the floor of a deck is greater than or equal to four (4) feet from grade and is used to access an above ground pool, then the applicable components of the deck

that are coincident with a foothold (railings, gates, ad stairs, shall conform to the following regulations:

1. Height measurements to determine conformance with the regulations will occur at the location where a horizontal plane (grade, top of stairs, top of floor of a deck) allows a user to establish a foothold.
2. The location of the highest foothold will dictate the starting height of the measurement.
3. If a gate is placed at the grade height (bottom) of the stairs, the gate and sides of the stairs must conform to (D)(c) of this section.
4. If a gate is placed at the deck height (top) of the stairs:
 - a. The gate must conform to (D)(c) of this section.
 - b. The railings for a minimum of four (4) feet in width from each side of the gate must conform to (D)(c) of this section.

Hot Tubs, Spas:

- A. The hot tub is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property in which it is located.
 - B. Construction of a fence/wall barrier is not required for hot tubs/spas when not actively in use. However, it must be covered when not in use.
- E. A child’s playhouse, tree house, birdhouse.
- F. Statuary, arbors, trellises, barbeque equipment, flag poles, fences, play equipment, nonmechanical laundry drying equipment, walls, and hedges.
- G. Fallout shelters
- H. Driveways shall comply with the following conditions and restrictions:
1. Driveways shall be limited to one per parcel.
 2. Driveways shall not exceed one thousand (1,000) feet in length.
 3. Dead-end private driveways that exceed five hundred (500) feet in length shall include a turnaround with a recommended minimum radius of forty-five (45) feet or a “T” arrangement with forty (40) feet on each side of the “T”.
- I. Recreational equipment subject to the following conditions:
1. Outdoor storage shall be limited to operable recreational equipment that is owned, licensed, and/or registered to an owner or occupant of the principal structure or use of the lot on which it is parked or stored.

2. Parked or stored camping and recreational equipment as defined in Article 2 shall not be connected to electricity, water, gas, or sanitary sewer facilities; and at no time shall this equipment be used for living or housekeeping purposes.
 3. If the camping and recreational equipment is parked or stored outside a garage, it shall be parked or stored to the rear of the house.
 4. Notwithstanding the provisions of subparagraph 3, camping and recreational equipment may be parked anywhere on the premises for loading or unloading purposes, for a period of not more than forty-eight (48) hours.
- J. Garage sales (including patio, basement, yard, block, barn, or any such similar sale) subject to the following regulations:
1. May be held between 8 am and sundown.
 2. No sale may extend for more than 4 consecutive days.
 3. No more than 4 sales per dwelling unit may be held on any zoning lot in any calendar year.
 4. The following regulations shall be applicable to signs during a garage sale:
 - A. One (1) on-premises sign, no more than 32 sq. ft. is permitted
 - B. Two (2) off-premises directional signs, no more than 4 sq. ft. each are permitted.
 - C. No signs are permitted to be placed in any right-of-way or on any street signs or utility poles.
 - D. All signs are to be removed within 24 hours of the garage sale
 - E. No streamers, special lighting, noise-making devices or any other device which may be a distraction to passing motorists are permitted.
 5. No garage sale shall include the selling or offering of any food or beverage for consumption by members of the public attending. Food or beverage may be provided for consumption at no cost to the consumer, but only if a permit is obtained in advance from the Board of Health.
 6. No fee or other charge shall be imposed upon members of the public attending any such sale.
- K. Estate auctions and/or moving sales shall be permitted not more than one (1) week per calendar year, provided that it is made necessary for settling the estate of the resident of the lot on which it is held, or provided that such a moving sale is made necessary when a resident is moving away from that lot to another dwelling.
- L. Solar Energy Systems, where energy is both produced and used on-site, including Ground mounted Solar Energy Systems, Integrated Solar Energy Systems, and Rooftop Solar Energy Systems, shall comply with the following requirements:

1. With the exception of residential Rooftop Solar Energy Systems, Zoning permits must be obtained for all solar installations.
2. All such systems must be owned, not leased, by the landowner where the system will reside, with the power to be produced and used on site.
3. The total surface area (footprint) of a Ground Mounted Solar Energy System shall not exceed 2,500 square feet, and the maximum height shall not exceed 12 feet.
4. No Ground Mounted Solar Energy System shall be located within 35 feet of another property line or within 35 feet of a public right-of-way or shared-use driveway.
5. No Ground Mounted Solar Energy System shall be located in front of a principal building or structure; it shall be located entirely in the rear yard and shall not occupy more than thirty-five (35) percent of the area of the required rear yard. In the case of corner lots, no Ground Mounted Solar Energy System shall be located between a principal building or structure and a public right-of-way

M. Any other structure or use customarily found in conjunction with and required for full utilization and enjoyment of the principal use; and which meets the definition of accessory use in Subsection 201.01.

SECTION 3802 PERMITTED ACCESSORY USES - BUSINESS AND INDUSTRIAL DISTRICTS

In a Business or Industrial District, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principal use which meets the definition of accessory use in subsection 201.01, and which complies with the applicable standards of the district in which it is located is permitted.

SECTION 3803 ACCESSORY USES NOT PERMITTED - RESIDENTIAL, AGRICULTURAL, BUSINESS, AND OFFICE DISTRICTS

None of the following shall be permitted as an accessory use in a Residential, Agricultural, Business, or Office District:

- A. Overnight parking or outdoor storage of non-farm trucks over one (1) ton owned by the property owner. The truck may not be parked on the property for more than 72 consecutive hours. The truck may not be parked closer than 50 feet to a neighboring property line.
- B. The prohibition for portable storage units or containers shall not apply to the following:

1. Temporary construction sites
 2. When necessary to facilitate clean-up and/or restoration activities resulting from natural disasters, fire, flood for a period of not more than one hundred eighty (180) days provided that a permit is obtained from the Zoning department.
 3. Temporary portable storage for a period not to exceed fourteen (14) consecutive days and not more than twice per year, provided that a permit is obtained from the zoning department, and that the container is not placed in the public street, alley, or right-of-way.
- C. Any Small Solar Facility, defined as “a Solar Energy System and associated facilities with a single interconnection to the electrical grid and designed for, or capable of, operation at an aggregate capacity of less than fifty (50) megawatts,” shall not be permitted in Residential, Agricultural, Business and Office Districts. See Article 24 for General Industrial District permitted uses.

SECTION 3804 STANDARDS

- A. An accessory use shall be located on the same lot as the principal structure.
- B. No more than one accessory building 100 sq. ft. or under will be permitted per lot.
- C. No accessory use shall be established prior to the establishment of the principal permitted use.
- D. No existing accessory use may be extended or expanded unless it is in compliance with all applicable provisions of the Zoning Resolution.
- E. An accessory building may be erected as an integral part of a principal building or it may be connected thereto by a breezeway or other similar structure.
- F. An accessory building may be erected, detached from the principal building. Except as provided in Article 39, Section 3905 B, no detached accessory building shall be erected in any required yard or court, except a rear yard, and shall not occupy more than thirty-five (35) percent of the area of the required rear yard.
- G. For computing the percentage of occupancy of a rear yard, as required in Subsection B hereof, if a detached accessory building is connected to the principal building by a breezeway, the ground area of such a breezeway shall be considered as a part of the accessory building and be included in the computation.
- H. A detached accessory building shall not exceed twenty-five (25) feet in height.

- I. A detached accessory building shall be at least six (6) feet from the side or rear lot lines, except as provided for by Subsection 3602.01.
- J. On a corner lot abutting in the rear or side lot line in a Residential District, any accessory building or part thereof within twenty-five (25) feet of the common lot line shall not be closer to the side street lot line than the least depth of the front yard required on such other lot fronting the side street; and in no case shall any part of such accessory building be closer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory.
- K. Except as provided in Article 39, Section 3905B, any accessory building, if not located in the rear yard, shall be an integral part of, or connected with, the principal building to which it is accessory, and shall be placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as said accessory building.
- L. Under no conditions will a temporary or portable-type construction be permitted in any district. All outer buildings must meet Montgomery County Building standards. All necessary zoning and building permits shall be obtained.
- M. The removal of prime agricultural soil shall be limited to 2 acres in total for the purpose of installing any building, components, or facility not intended for an agricultural purpose.