

Chapter 1206: Accessory and Temporary Use Regulations

1206.01 ACCESSORY USES AND STRUCTURES

(a) Purpose

This section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses. The intent of this section is to allow a broad range of accessory uses while not creating adverse impacts on surrounding lands.

(b) General Provisions

- (1) An accessory use or structure shall be incidental to the primary use of the site, and shall not alter the character of the principal use.
- (2) Accessory uses and structures shall be constructed on the same lot as the principal use that it serves.
- (3) Any accessory use or structure that does not require a certificate of zoning compliance as part of this chapter shall still be subject to all standards of this chapter.
- (4) No accessory structure shall be constructed on any lot until the construction of the principal structure has commenced. In cases where the main or principal structure is demolished, an existing accessory structure shall be allowed to remain on the lot or property without the principal structure.
- (5) Small accessory structures such as doghouses, benches, garden decorations, barbeque equipment, etc. shall be exempt from the provisions of this section provided they do not have a footprint that exceeds 200 square feet. Such structures shall be set back a minimum of three feet from all lot lines and shall be subject to the maximum height standards of this section.
- (6) Gardens and the raising of crops for the personal use of the residents, tenants, or property owners, may be grown in any yard without a permit.
- (7) An accessory structure that is attached to the principal building shall be considered an integral part of the principal building and shall comply with the site development standards and all other development standards of the applicable zoning district. Any accessory structure shall be considered as an integral part of the principal building if it is connected to the principal building either by common walls or by a breezeway or roof.
- (8) The accessory use regulations of this chapter shall not apply to any public park lands owned by the City, Butler County, Warren County, or the State of Ohio.

(9) Height Limit

- A.** Unless otherwise stated, the maximum height of a detached accessory structure shall be one story or 15 feet.
- B.** The height of an accessory building may be increased to 18 feet provided that the primary exterior materials of the accessory building are similar to the primary exterior materials of the principal building.
- C.** In no case shall an accessory structure be taller than the principal building.

(10) Size Requirements (Revised 1224.02)

- A.** For residential districts, the aggregate square footage of the following accessory buildings and structures shall not exceed more than 35 percent of the total side or rear yard:
 - i. Detached garages and carports;
 - ii. Detached storage/utility sheds, gazebos, and other similar structures;
 - iii. Porches and decks;
 - iv. Ground-mounted solar energy systems;
 - v. Swimming pools;
 - vi. Tennis and other recreational courts; and
 - vii. Other accessory buildings similar in nature to the above mentioned structures, as determined by the Development Code Administrator.
- B.** There is no maximum square footage of accessory buildings or structures in the nonresidential zoning districts or for accessory uses utilized in the operation of a farm including, but not limited to, barns, silos, shed, etc.
- C.** In no case shall any accessory building or structure have a larger footprint than the principal building.

(11) Setback and Location Requirements (Revised 1224.02)

- A.** Unless otherwise provided for in this section, all accessory uses and structures shall be located in the side or rear yard. See Section [1204.09](#) for determination of yards based on the lot type.
- B.** Unless otherwise required in this section, all accessory uses and structures shall be set back a minimum of six feet from all other buildings on the lot and a minimum of three feet from all lot lines.
- C.** Additional setbacks may be required from the principal building, adjacent structures, or streets based on the applicable building or fire code regulations.

(c) Prohibited Accessory Uses

- (1)** Except as provided in code, the use of inflatable garages, portable garages, temporary structures as defined in Section [1206.02](#), temporary carports, portable containers, shipping containers, and semi-tractor trailers used for storage (with or without wheels) shall not be used as permanent accessory structures in any zoning districts.
- (2)** Outdoor wood boilers and furnaces are specifically prohibited in the City of Middletown.
- (3)** No accessory building shall be used for residential purposes.

(d) Explanation of Accessory Use Table

The following is an explanation of [Table 1206-1](#):

- (1)** The symbols for permitted uses (P), permitted uses with standards (PS), and conditional uses (C) are defined in the same manner as Section [1204.07\(b\)\(2\)](#).
- (2) Prohibited Uses**

A blank and/or shaded cell with an "XX" indicates that a use is prohibited in the respective zoning district.
- (3) Yards Permitted**

This column identifies within which yards the use may be permitted. See the use-specific standards for any restrictions related to placement in individual yards.
- (4) Use-Specific Standards**

The numbers contained in the "Use-Specific Standards" column are references to additional standards and requirements that apply to the use type listed. Standards referenced in the "Use-Specific Standards" column apply in all zoning districts unless otherwise expressly stated.
- (5) Use Determination and Unlisted Uses**
 - A.** The Development Code Administrator shall make the determination if a proposed use is permitted, permitted with standards, a conditional use, or a prohibited use under the provisions of this section.
 - B.** Section [1204.07\(b\)\(2\)F](#) identifies the procedure the Development Code Administrator will use in addressing uses that are similar to other uses in [Table 1206-1](#) or uses that are unlisted.
- (6) Accessory Uses in the Planned Developments**
 - A.** The types of accessory uses allowed in a PD district shall be considered as part of the PD review.
 - B.** The following standards shall establish requirements for accessory uses in a PD District unless otherwise specified in the PD approval:

- i. Accessory uses for single-family dwellings in a PD District shall be the same as those allowed in the R-1 District.
- ii. Accessory uses for multi-family dwellings in a PD District shall be the same as those allowed in the R-4 District.
- iii. Accessory uses for commercial uses in a PD District shall be the same as those allowed in the B-3 District.
- iv. Accessory uses for industrial uses in a PD District shall be the same as those allowed in the I-1 District.

TABLE 1206-1: PERMITTED ACCESSORY USES AND STRUCTURES

USE TYPE P = PERMITTED USE PS = PERMITTED USE WITH STANDARDS C = CONDITIONAL USE XX = PROHIBITED	R-1, R-2, R-3, R-4, R-5, OR BC-R	O-1, O-2, B-1, B-2, B-3, UC-C, UC-S, BC-I, BC-H, BC-O, BC-F	I-1 OR I-2	PI	YARDS PERMITTED F = FRONT S = SIDE R = REAR	CERTIFICATE OF ZONING COMPLIANCE REQUIRED	USE-SPECIFIC STANDARDS IN SECTION:
Accessibility Ramps	PS	PS	PS	PS	F, S, or R	No	1206.01(e)(1)
Amateur Radio Towers and Antennae ⁴	PS	PS	PS	PS	S or R	Yes	1206.01(e)(2)
Basketball Hoops	PS	PS	PS	PS	F, S, or R	No	1206.01(e)(3)
Bike and Skateboard Ramps	PS	PS	PS	PS	R	Yes	1206.01(e)(4)
Community Gardens	PS	PS	PS	PS	F, S, or R	Yes	1206.01(e)(5)
Detached Garages and Carports	PS	PS	PS	PS	R	Yes	1206.01(e)(6)
Detached Storage/Utility Sheds, Gazebos, Pool Houses, and other Similar Buildings	P	P	P	P	R	Yes	
Drive-Through Facility	XX	PS/C	PS/ C	XX	See Section 1206.01(e)(7)	Yes	1206.01(e)(7)
Home Occupations	PS	PS	XX	PS	Not Applicable	Yes	1206.01(e)(8)
Nursery Schools or Day Care Centers (Children or Adults)	PS	PS	PS	PS	Not Applicable	Yes	1206.01(e)(9)
Outdoor Dining	XX	PS	PS	PS	F, S, or R	Yes	1206.01(e)(10)
Outdoor Displays and Sales	XX	PS	XX	XX	F, S, or R	Yes	1206.01(e)(11)
Outdoor Storage and Bulk Sales	XX	PS	PS	XX	S or R	Yes	1206.01(e)(12)
Outdoor Vending Machines and Drop-Off Boxes	PS	PS	PS	PS	F, S, or R	No	1206.01(e)(13)
Patios (Unenclosed)	PS	PS	PS	PS	F, S, or R	Yes	1206.01(e)(14)
Porches and Decks	PS	PS	PS	PS	F, S, or R	Yes	1206.01(e)(15)
Playsets, Treehouses, and Trampolines	P	P	P	P	R	No	
Private Water Towers, Tanks, or Reservoirs	XX	C	PS	XX	S or R	Yes	1206.01(e)(16)
Raising of Small Livestock	PS	XX	XX	XX	S or R	No	1206.01(e)(17)
Retail Sales	PS	PS	PS	PS	Not Applicable	No	1206.01(e)(18)
Satellite Dishes	PS	PS	PS	PS	See Section 1206.01(e)(19).		1206.01(e)(19)
Small Wind Energy Conservation Systems - Blade Tip Power System Turbines (BTPS)	XX	C	C	C	S or R	Yes	1206.01(e)(20)
Solar Energy Systems	PS	PS	PS	PS	See Section 1206.01(e)(21)		1206.01(e)(21)
Swimming Pools (Outdoors)	PS	PS	XX	PS	S or R	Yes	1206.01(e)(22)
Tennis and Other Recreational Courts (Outdoor)	PS	PS	PS	PS	R	Yes	1206.01(e)(23)
Type-B Day Care Home (1-6 Children)	PS	PS	XX	PS	Not Applicable	No	1206.01(e)(24)

(e) Standards for Specific Accessory Uses and Structures

The following requirements apply to the specific types of accessory uses and structures listed, in addition to the requirements of Section 1206.01(b).

⁴ The City does not really address these uses now but it is our understanding they have to be allowed. We have included some reasonable regulations related to their placement.

(1) Accessibility Ramps

Ramps that provide access to buildings for the disabled are permitted in all zoning districts and may encroach in all setbacks but shall not encroach on a public sidewalk, right-of-way, or street.

(2) Amateur Radio Towers and Antenna

- A.** No more than one amateur radio tower and/or antenna shall be permitted on each lot.
- B.** Ground-mounted amateur radio towers, antennas, and related guy wire anchors must be located in the rear yard.
- C.** Building-mounted amateur radio towers and antennas must be located to the rear of the centerline of the principal building.
- D.** Such tower shall not exceed 65 feet in height or the maximum height of the applicable zoning district, whichever is greater. The measurement shall be made from the grade directly beneath the tower to the highest point on the antenna or tower, whichever is the tallest point of the structure.
- E.** Proof of a valid and active amateur radio license from the Federal Communications Commission (FCC) must be provided with the certificate of zoning compliance application.
- F.** Antennas and guy wire anchors shall not overhang or otherwise be located within required accessory structure setbacks or on adjacent lots.
- G.** When an amateur radio tower and antenna is no longer being used by an FCC amateur radio license holder for amateur radio service, the tower and antenna must be removed no more than 180 days after cessation of the FCC license or the transfer or property ownership or lease to an individual without an FCC license.
- H.** Amateur radio towers and antennas that do not comply with the provisions of this section shall require a conditional use approval (See Section.). The application for a conditional use approval for amateur radio towers and antennas must demonstrate that compliance with the provisions of this section would prevent the amateur radio operator from exercising the rights granted to him or her by the FCC or the State of Ohio by license or law. If the Planning Commission determines that expertise beyond that of City staff is necessary to determine compliance with this criterion, then the applicant shall reimburse the City for any expenses necessary for hiring a third-party consultant to make this determination.

(3) Basketball Hoops

- A.** Basketball courts shall be subject to the standards of Section [1206.01\(e\)\(23\)](#).
- B.** Movable basketball hoops shall not be located in rights-of-way or be so located as to require play in any right-of-way.

(4) Bike and Skateboard Ramps

Bike ramps and skateboard ramps shall be set back at least 15 feet from all lot lines.

(5) Community Gardens

- A.** Community gardens shall only serve as an accessory use to nonresidential uses.
- B.** Community gardens that are accessory to another principal use shall be subject to the same rules as established for community gardens in Section [1204.08\(b\)\(2\)](#).

(6) Detached Garages and Carports

- A.** Only one detached garage or carport may be permitted on any single lot with a single-family dwelling. Detached garages or carports for all other uses shall be controlled by the size and height limitations of this chapter but shall not be restricted in number of buildings.
- B.** Attached and detached garages shall be served by a paved driveway.

(7) Drive-Through Facilities

The following standards shall apply to businesses that contain a drive-through facility regardless if the drive-through is part of another use (e.g., restaurant or financial institution) or if it is a stand-alone use (e.g., automatic teller machine).

A. General Standards

- i. Drive-through facilities shall be prohibited in the BC-F District.
- ii. Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 250 feet of any residential dwelling unit.
- iii. All drive-through areas, including but not limited to drive-through signs, stacking lanes, trash receptacles, audio equipment, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property and shall not cross, interfere with, or impede any public right-of-way.
- iv. Drive-through windows, drive-through signage (See Section [1220.08\(g\)](#)), or any audio equipment located in the front yard shall only be permitted with approval as a conditional use. Such facilities shall be screened with an opaque, landscaped screen of with a height that will fully screen the window, signage, or audio equipment. Such screening shall not be required for stacking spaces that are located in a front yard.

B. Stacking Space and Lane Requirements

Drive-through facilities shall be required to include vehicle stacking spaces as established in Section 1218.05.

(8) Home Occupations (Revised 1244.07 and 1244.08)

The following standards for home occupations are intended to provide reasonable opportunities for employment within the home, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by this section.

- A.** The home occupation shall be clearly secondary to the full-time use of the property as a residence.
- B.** Any home occupation that provides services where members of the public visit or enter the premises may be permitted if designed to accommodate one client or customer (one client could include multiple people from a family or household) at a time and which meets all other applicable requirements for home occupations.

C. Permitted Home Occupations

The following uses, and other uses determined by the Development Code Administrator to be similar in nature and impact, may be approved as a home occupation when in compliance with this section:

- i. Art and craft work including, but not limited to ceramics, painting, photography, dressmaking, millinery, sewing, weaving, tailoring, and sculpting;
- ii. Office-only uses, including, but not limited to, an office for an architect, financial advisor, attorney, consultant, counselor, insurance agent, planner, tutor, or writer;
- iii. Personal service establishments including, but not limited to, fitness/health facilities, ironing or washing, beauty parlors, barber shops, animal grooming (no overnight boarding), or licensed massage or physical therapy; and
- iv. Mail order or online businesses or direct sale product distribution (e.g., Amway, Avon, Creative Memories, Pampered Chef, etc.) may be allowed where there is no stock-in-trade on the site.

D. Prohibited Home Occupations

The following are business activities that are prohibited as home occupations:

- i. Animal hospitals and boarding facilities;
- ii. Automotive and other vehicle repair and service, except when such repair or service is on a vehicle owned by the property owner or tenant of such property;

- iii. Construction, landscaping, or similar contractor facilities and storage (an office-only use is allowed in compliance with the above section) and other outdoor storage;
- iv. Fitness/health facilities that provide group activities or services;
- v. Medical clinics, laboratories, or doctor's offices;
- vi. Parking on, or dispatching from the site, any vehicle used in conjunction with the home occupation (e.g., landscaping services, taxi services, construction, semi-trucks, etc.) with the exception of a vehicle owned and operated by the home owner or tenant;
- vii. Uses that require explosives or highly combustible or toxic materials or that involve equipment that creates any dust, noise, odors, glare, vibrations or electrical disturbances beyond the property line;
- viii. Welding and machine shop operations;
- ix. Wood cutting businesses; or
- x. Other similar uses as determined by the Development Code Administrator.

E. Use Standards

- i. Permitted home occupations shall not create an adverse effect on the residential character of the zoning district or interfere with the reasonable enjoyment of adjoining properties.
- ii. The residential building shall not be altered in any manner that is intended to change the residential appearance of the dwelling to a building with a commercial appearance. There shall be no separate entrance created solely for the home occupation.
- iii. At least one resident of the dwelling shall operate the home occupation and there may be up to one employee on-site who does not reside at the dwelling.
- iv. The operator of a home occupation in a rental unit shall be able to demonstrate that the property owner has authorized the use of the unit for a home occupation.
- v. The home occupation may be located in either the principal dwelling or in an accessory building but in no case shall occupy a space that exceeds 25 percent of the total floor area of the principal dwelling unit.
- vi. No additional off-street parking or loading facilities shall be provided beyond that traditionally used for residential uses. No additional driveways shall be established for the use of the home occupation.
- vii. There shall be no signs other than the signs allowed on a dwelling in Section [1220.07\(a\)](#).

- viii. There shall be no window display or outdoor storage or display of equipment, materials, or supplies associated with the home occupation.
- ix. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.

(9) Nursery Schools or Day Care Centers (Children or Adults)

Nursery schools or day care centers may only be permitted as accessory uses to an approved public and institutional use.

(10) Outdoor Dining

- A.** Outdoor dining shall only be permitted as an accessory to an indoor restaurant.
- B.** Outdoor dining areas shall be located along a public or private sidewalk adjacent to the principal building or between the principal building and parking area. Outdoor dining areas shall not be located in such a manner as to require customers and employees to cross driveways or parking areas to go between the outdoor dining area and the principal building.
- C.** The seating capacity of the outdoor seating areas shall not exceed the seating capacity of the indoor seating area.
- D.** If no grade separation is provided between vehicular traffic and the outdoor dining area, permanent railings or fencing shall be provided around the dining area. Such permanent railings or fencing are not permitted on a public sidewalk. If the outdoor dining area is adjacent to a street or area that is closed to vehicular traffic, no railing or fencing shall be required.
- E.** If the outdoor dining area is located on a sidewalk, the area shall be designed so there is a minimum of five feet of clearance adjacent to the dining area to allow for pedestrian circulation.
- F.** The outdoor dining area shall be limited to seating only and shall not include facilities for bussing or food or beverage preparation.
- G.** Umbrellas and awnings that shelter diners from the elements shall be secured so as not to create a hazard in windy conditions.
- H.** No outdoor dining areas shall obstruct any entrance or exit to a restaurant.
- I.** The property owner shall be responsible to keep the outdoor dining area free and clear from all garbage, trash and other debris and shall provide appropriate trash receptacles within the outdoor dining area for the deposit of refuse and litter. Such trash receptacles shall be emptied on a regular basis and shall be moved indoors at the end of each business day.
- J.** Enclosing outdoor dining areas either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district and shall require the issuance of a new certificate of zoning compliance.

(11) Outdoor Displays and Sales (New)

Seasonal and permanent facilities for outdoor display and sales (e.g., garden supply sales, news and flower stands, and similar uses) that are accessory to another principal use may be permitted upon compliance with the following:

- A.** Such uses shall not be placed within the street right-of-way, within an interior drive, or in a location which will interfere with the intersection visibility requirements of Section [1208.05](#).
- B.** Outdoor displays and sales shall be related to the principal use of the site and shall clearly be accessory and incidental to the principal use. Outdoor displays and sales shall be prohibited when the principal building is vacant.
- C.** Outdoor display and sales areas may be permitted in the front yard provided that the merchandise is displayed along the sidewalk or walkway adjacent to the building. Outdoor display and sales areas may also be permitted in the side or rear yard without being located adjacent to the building.
- D.** In all cases, any areas designated for outdoor display or sales shall be set back a minimum of 25 feet from any adjacent residential lot.
- E.** The placement of the merchandise shall not interfere with pedestrian movement on any sidewalk or walkway. A minimum of five feet of the sidewalk or walkway shall be clear of merchandise to allow for safe pedestrian movement.
- F.** The outdoor display and sales areas shall be maintained in good order and appearance.
- G.** A specific schedule of operation shall be filed and approved as part of the submitted certificate of zoning compliance application. If the principal operator intends to use the area on a regular basis, the area shall be clearly designated on the plans submitted with the certificate of zoning compliance application and shall include a schedule of use for outdoor display and sales activities.
- H.** The outdoor display and sale of goods and products shall only be allowed for a maximum of three consecutive months. A conditional use approval shall be required for any timeframe longer than three consecutive months.
- I.** The outdoor display and sale of goods and products shall be limited to those goods and products that a customer can pick up and carry into the building for purchase. Larger items may be displayed for sale if in compliance with the outdoor storage requirements of Section [1206.01\(e\)\(12\)](#).

(12) Outdoor Storage and Bulk Sales (New)

- A.** Outdoor storage and bulk sales shall comply with the standards of outdoor displays and sales unless otherwise modified by this section.
- B.** Outdoor storage and bulk sales in a parking lot shall be prohibited unless allowed as a temporary use pursuant to Section [1206.02](#).

- C. The area of the lot devoted to outdoor storage of goods and merchandise shall not exceed 20 percent of the ground floor area of the principal building.
- D. Areas devoted to outdoor storage shall be paved with asphalt or concrete and free of dust.
- E. In all cases, any areas designated for outdoor storage areas shall be set back a minimum of 50 feet from any adjacent residential lot.
- F. **Screening**
 - i. All aspects of outdoor storage and bulks sales of goods and materials shall be enclosed with a Type B buffer as identified in Section [1216.06](#).
 - ii. If the wall or fence needs to exceed eight feet in height to conceal the storage of materials, such wall or fence shall be constructed of materials similar to the principal building so that it appears to be an extension of the principal structure.⁵
 - iii. All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times.
 - iv. Outdoor storage of materials shall not include a junkyard or similar storage.

(13) Outdoor Vending Machines and Drop-Off-Boxes (New)

Outdoor vending machines and drop-off boxes for recycled goods, books, donations, etc., may be permitted when they comply with the following regulations:

- A. No such use or facility shall be placed within the street right-of-way, within an interior drive, or in a location which will interfere with required intersection visibility requirements in Section [1208.05](#).
- B. The facility or equipment shall be maintained in good operating order and appearance.
- C. Outdoor vending machines and drop-off boxes shall only be permitted in residential zoning districts when accessory to a nonresidential use.
- D. Vending machines shall only be placed along the façade of the principal building. See [Figure 1206-A](#).

⁵ We will include a graphic example.



Figure 1206-A: The above is an image of a vending machine that is appropriately located along the façade of the building.

- E.** Drop-off boxes shall only be permitted in the side or rear yard.
- F.** A maximum of one drop-off box and two vending machines are permitted on any single lot. One additional drop-off box and one vending machine shall be permitted on a lot for each two acres of lot area in excess of an initial two-acre lot. This limitation on the number of boxes or machines shall not apply to dumpsters or to vending machines located within the building.
- G.** The container shall be emptied at least once every week. Containers that result in the overflow of donated goods shall be declared a nuisance and shall be removed immediately upon notification by the Development Code Administrator at the expense of the property owner or business owner.
- H.** The City shall have the authority to place more than one drop-off box on a single lot when providing recycling services to the general public.

(14) Patios (Unenclosed)

Patios in the rear yard may have built-in grills or kitchen areas provided such use complies with any applicable building code requirements.

(15) Porches and Decks

Porches or decks that are enclosed (with walls made of screening or other materials), have a roof, are physically attached to the principal structure, or have floors that extend more than three feet above the average grade shall meet the setback requirements for principal buildings in the applicable zoning district.

(16) Private Water Towers, Tanks, or Reservoirs

- A.** The structure shall be set back from all lot lines a minimum of one foot for every foot in height;
- B.** The structure shall be a pedisphere, fluted column, or standpipe design only. Multi-leg designs are prohibited;

- C. Any signage on the tower, tank, or reservoir shall be calculated as part of the allowable building signage pursuant to Section [1220.08\(c\)](#).
- D. The structure shall not be artificially lighted or marked, except as required by law;
- E. The structure shall be galvanized and/or painted with rust preventive white paint in its entirety and shall be maintained in accordance with the requirements of this code.

(17) Raising of Small Livestock

- A. The raising of small livestock, other than rabbits, shall be regulated by Section 618.21 of the Middletown Code of Ordinances.
- B. The raising of up to five rabbits on a lot with a single-family dwelling is allowed subject to the following:
 - i. The rabbits shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times; and
 - ii. No enclosure shall be located closer than 25 feet to any residential structure on an adjacent lot.

(18) Retail Sales

- A. The accessory retail sale of items manufactured on-site is permitted in the I-1 and I-2 Districts provided that the total floor area of retail sales does not exceed 35 percent of the total gross floor area of the principal building.
- B. Accessory retail sales (e.g., coffee kiosk, cafeteria, book store, etc.) are permitted in all other zoning districts when located completely within the principal building of a nonresidential use. The total floor area of retail sales shall not exceed 15 percent of the total gross floor area of the principal building.

(19) Satellite Dishes

- A. Satellite dishes of one meter in diameter or less shall be exempt from the provisions of this section and shall not require a certificate of zoning compliance.
- B. To the maximum extent feasible, the dish should be located in the side or rear yard.
- C. Satellite dishes larger than one meter in diameter may be permitted if approved by the Planning Commission as a conditional use.

(20) Small-Scale Wind Energy Turbines (SWET)

- A. Systems that are five megawatts or larger in capacity are regulated by the Ohio Public Utilities Commission.
- B. SWETS are prohibited in the UC District.

- C.** SWETs may be located on lots with a minimum lot area of 2.5 acres or more. However, if the proposed turbine is attached to a building and the turbine (to the top of the blades) does not exceed the maximum building height requirement of the applicable zoning district, there shall be no minimum lot area requirement.
- D.** The maximum height of a stand-alone SWET shall be 150 feet from natural grade to the top of an extended rotor blade.
- E.** All portions of a SWET support structure must, at a minimum, meet the setback requirements for the applicable zoning district. SWETs must also be set back a minimum distance equal to 110 percent of the height of the SWET, as measured to the top of the rotor blades, from all lot lines.
- F.** Only a single tower and single turbine shall be permitted on a property. Multiple turbines may be permitted if attached to a nonresidential building and if the diameter of the rotor is less than six feet.
- G.** Climbing access to the tower structure shall be limited by
 - i. Placing fixed climbing apparatus no lower than 10 feet from the ground; and
 - ii. Placing a six-foot fence or shielding around the SWET.
- H.** SWETs shall be of a scale intended for on-site power consumption and shall not be designed to produce energy to sell to electric providers. This regulation shall not prohibit a property owner that is installing a SWET from connecting to the local electric system if mandated by the electric provider for the purposes of safety.

(21) Solar Energy Systems (New)

A. Ground-Mounted Solar Energy Systems

- i. Ground-mounted solar energy systems shall only be permitted in the side or rear yard and shall be set back a minimum of five feet from all lot lines.
- ii. No ground-mounted system shall exceed eight feet in height as measured from ground.
- iii. Ground-mounted solar energy systems shall be screened from any adjacent residential lots by a Type B landscape buffer as identified in Section [1216.06](#).
- iv. A certificate of zoning compliance shall be required for ground-mounted solar energy systems.

B. Roof-Mounted Solar Energy Systems

- i. Roof-mounted solar panels that are integrated with the surface layer of the roof structure or are mounted flush with the roof structure may be permitted on any roof surface of a principal building or accessory building.
- ii. Roof-mounted solar panels that are mounted at an angle to the roof structure shall only be permitted on roof surfaces that face the side or rear lot.
- iii. Solar panels may be mounted on flat roofs provided there is a parapet wall or other architectural feature that screens the view of the panels. Such panels may be mounted on an angle provided they do not extend more than five feet above the roof surface.
- iv. A certificate of zoning compliance shall not be required for roof-mounted solar energy systems.

(22) Swimming Pools (Revised 1272.14)

Any swimming pool shall be subject to the standards of this subsection including pools that are designed to be temporary in nature.

- A.** Swimming pools that are enclosed within a building shall not be subject to these standards.
- B.** The outer wall of a swimming pool shall be set back a minimum of six feet from any side or rear lot line. The pool shall also meet all front yard setbacks, except on a corner lot, where the pool shall be set back a minimum distance equal to one-half of the front yard setback requirement in the applicable district, from the secondary street as determined by the Development Code Administrator.
- C.** The outer wall of a swimming pool shall be set back a minimum of six feet from a dwelling on the lot or at least three feet from any structure having no basement, including the principal structure or any accessory structure found on the same lot.
- D.** Any walks or paved areas adjacent to the pools shall be considered as patios for the purpose of this chapter and shall conform to the provisions of this chapter.
- E.** Any pool for the use of occupants of multi-family dwellings containing over three dwelling units or those that are accessory to a nonresidential use shall meet the structural and sanitary requirements of the Ohio Department of Health, as may be applicable.

(23) Tennis and Other Recreational Courts (New)

Outdoor tennis courts and courts for other sports, including basketball and racquetball, that are accessory to a residential or nonresidential use shall comply with the following requirements:

- A. Tennis courts or other full size recreational courts shall only be permitted on lots with a minimum lot area of one acre.
- B. The court shall be set back a minimum of 10 feet from all lot lines.
- C. Fencing located adjacent to the court can have a maximum height of ten feet, regardless of the maximum fence height allowed in Section 1208.06 (Fencing). The fencing may be a chain link fence. Any fencing that exceeds the maximum height allowed in Section 1208.06, shall be limited to the area that encloses the court.
- D. If the fencing surrounding the court exceeds six feet in height, it shall be planted with a continuous row of large shrubs or hedges with a minimum, mature growth height of three feet that will screen and/or soften the appearance of the tall fencing and court. Such landscaping may only be broken by gates or doors that access the court.
- E. Any lighting for the court shall not exceed 18 feet in height and shall be directed downward and only illuminate the court. All outdoor lighting shall comply with Section 1208.04.

(24) Type B Family Day Care Home (1-6 Children)

Type B Family Day Care Homes are permitted when accessory to a single-family dwelling, regardless of the applicable residential zoning district.

1206.02 TEMPORARY USES AND STRUCTURES

(a) Purpose

This section allows for the establishment of certain temporary uses and structures of limited duration, provided that such uses or structures do not negatively affect adjacent properties, and provided that such uses or events are discontinued upon the expiration of a set time period. Temporary uses and structures shall not involve the construction or alteration of any permanent building or structure.

(b) General Standards for Temporary Uses and Structures

(1) Temporary uses or structures shall:

- A. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
- B. Be compatible with the principal uses taking place on the site;
- C. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;
- D. Not include permanent alterations to the site;
- E. Not maintain temporary signs associated with the use or structure after the activity ends;
- F. Not violate the applicable conditions of approval that apply to a site or use on the site;

- G. Not interfere with the normal operations of any permanent use located on the property; and
- H. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement.

(2) These temporary use standards shall not apply to City sponsored events.

(c) Table of Allowed Temporary Uses and Structures

- (1) [Table 1206-2](#) summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited unless the Development Code Administrator determines the proposed temporary use or structure is similar in scale, intensity, and use as a temporary use in the table, in which case, the Development Code Administrator may treat it as a similar use.
- (2) Temporary uses allowed in residential districts shall be allowed for residential uses in PDs. Temporary uses allowed for nonresidential districts shall be allowed for nonresidential uses in PDs.

TABLE 1206-2: TEMPORARY USES AND STRUCTURES				
TEMPORARY USE OR STRUCTURE	DISTRICTS	ALLOWABLE DURATION (PER SITE)	PERMIT REQUIRED	ADDITIONAL REQUIREMENTS
Construction Dumpster	All Districts	Until issuance of a certificate of occupancy or where construction activity ceases for more than two weeks	None	1206.02(d)(1)
Construction Trailer or Office	All Districts		Certificate of Zoning Compliance	1206.02(d)(2)
Garage Sales	All Districts	See Section 1206.02(d)(3)		
Mobile Food Vending	See Chapter 1037 of the City of Middletown Code of Ordinances			
Real Estate Sales/Model Homes	All Districts	Until issuance of the final certificate of occupancy	Certificate of Zoning Compliance	1206.02(d)(4)
Seasonal Agricultural Sales	All Nonresidential Districts	90 days per calendar year	Certificate of Zoning Compliance	1206.02(d)(5)
Sidewalk Sales	All Nonresidential Districts	Three days per calendar month	None	1206.02(d)(6)
Temporary Classrooms	All Districts	Two years	Certificate of Zoning Compliance	1206.02(d)(7)
Temporary Events	All Districts	See Section 1206.02(d)(8)	Certificate of Zoning Compliance	1206.02(d)(8)
Temporary Storage	All Districts	Maximum of 14 days per calendar year for residential storage and 90 days per calendar year for commercial storage	Certificate of Zoning Compliance	1206.02(d)(9)

(d) Specific Regulations for Certain Temporary Uses and Structures

(1) Construction Dumpster

Temporary trash receptacles or dumpsters related to construction shall:

- A.** Only be located on the site where the related construction is taking place;
- B.** Be located to the side or the rear of the site, to the maximum extent practicable;
- C.** Be located as far as possible from lots containing existing development;
- D.** Not be located within a floodplain or otherwise obstruct drainage flow; and
- E.** Not be placed within five feet of a fire hydrant or within a required landscaping area.

(2) Construction Trailer or Office

Construction trailers or offices may be permitted on a construction site provided that the trailer is:

- A.** Located on the same site or in the same development as the related construction;
- B.** Not located within a required open space set-aside or landscaping area; and
- C.** Associated with a development subject to a valid building permit or subdivision approval.

(3) Garage Sales (Revised 1224.21)

- A.** Garage sales, as that term is defined in Section 874.01 of the Middletown Code of Ordinance, are permitted as a temporary use in any zoning district.
- B.** Garage sales shall be held in accordance with standards established in Chapter 874 of the Middletown Code of Ordinances.
- C.** For the purposes of this code, estate sales, auctions, and similar temporary sales shall be subject to the same standards as garage sales.

(4) Real Estate Sales Office/Model Home (New)

One temporary real estate sales office or model home per builder or developer shall be permitted in a section or phase of a new subdivision, provided that the use:

- A.** Is located on a lot where a preliminary plat has been approved by the Planning Commission and no change in title takes place;
- B.** Complies with all of the applicable standards of this code for the final residential use;
- C.** Is operated by a developer or builder active in the same phase or section where the use is located; and
- D.** Is removed or the model home is converted into a permanent residential use upon completion of construction and issuance of the last certificate of occupancy.

(5) Seasonal Agricultural Sales (New)

Outdoor seasonal agricultural sales including the sale of such items as Christmas trees, pumpkins, seasonal produce, and similar agricultural products, may be permitted in accordance with the following standards:

- A.** The property contains an area not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, traffic movements, or parking space availability.
- B.** The sale of goods shall be set back a minimum of 100 feet from any residential dwelling unit.
- C.** The range of goods or products available for sale shall be limited to non-processed products obtained primarily through farming or agricultural activities, including, but not necessarily limited to: pumpkins; grains and seed crops; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; trees and forest products, including Christmas trees, and firewood; and bees and beekeeping products.

(6) Sidewalk Sales (New)

Sidewalk sales are permitted if they are conducted by the business owner and operator. The owner or operator of a business located in a nonresidential district may conduct a sidewalk sale outside that business premises on private property or on an abutting public sidewalk adjacent to that business premises in accordance with the following provisions.

- A.** The merchandise for sale shall be limited to that merchandise normally offered for sale by the business owner who has a certificate of zoning compliance for the business operation.
- B.** The use of public sidewalks for sidewalk sales shall only be permitted in the UC-C sub-district in accordance with Section [1218.07\(b\)\(6\)](#).
- C.** The sidewalk sale shall be conducted in a manner that will leave at least a five-foot wide or half of the width of the sidewalk unobstructed area, whichever is greater, to allow for pedestrian use. The display shall be confined to the portion of the sidewalk in front of the business establishment of which the seller or displayer is the lawful occupant.
- D.** The stands and display structures shall be constructed of stable material and able to withstand local normal wind loads. Merchandise shall be securely and adequately placed so that it will not endanger pedestrians or encroach on the public right-of-way.
- E.** Sales shall be conducted so as not to cause a nuisance, or create a fire hazard or obstruct ingress and egress to the premises.

(7) Temporary Classrooms

- A.** Modular units may be authorized for use as a temporary classroom not to exceed two school calendar years to allow schools to accommodate students and new programs until the schools are able to raise capital funds for permanent structures.
- B.** Such facilities shall be located in the rear yard.

(8) Temporary Events

Temporary events may be permitted on private property within the City if the event complies with the following standards:

- A.** Certain events such as circuses and carnivals shall be subject to the requirements of Chapter 808 (Amusements) of the Middletown Code of Ordinances.
- B.** Temporary lighting shall be located and shielded so as to not shine directly into adjacent properties or buildings.
- C.** All uses and hours of operation shall be confined to the dates and times specified in the certificate of zoning compliance. The Development Code Administrator shall have the authority to reasonably limit the hours of operation based on the specific event and surrounding uses.
- D.** The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within 14 days after the event.
- E.** Parking for the exclusive use of the event shall be provided, and a stabilized driveway to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawfully parking.
- F.** Tents and canopies shall be permitted for special gatherings or events such as weddings, graduations, and celebrations provided such events to not occur over a period of time longer than five days. In addition to the certificate of zoning compliance, a building permit may be required for the establishment of tents and/or canopies.

(9) Temporary Storage (New)

Storage containers that are placed on a property for the purpose of temporarily storing materials are permitted with the following regulations:

A. Portable Storage Containers in Residential Districts

Portable storage container shall be allowed in residential zoning districts in accordance with the following:

- i. Portable storage containers shall be kept in the driveway of the property at the furthest accessible point from the street. The location of the portable storage container on a driveway shall not obstruct visibility nor block the sidewalk. If no driveway is present, approval from the Development Code Administrator for the placement of the portable storage container prior to its delivery is required.
- ii. Only one portable storage container shall be placed at any residential property at one time.
- iii. The Development Code Administrator, upon good cause shown, may approve a one-time extension of the certificate of zoning compliance for an additional 14 days. Portable storage containers shall not be located on any lot for a period exceeding 28 days per calendar year.
- iv. There shall be no utility hookups to the storage container.

B. Temporary Commercial Storage

Commercial tractors, semitrailers, commercial vehicles and portable and temporary storage structures may be used for temporary storage in nonresidential zoning districts in accordance with the following:

- i. They shall not have permanent attachment to any utility, i.e. electricity, water, gas or sanitary sewer lines.
- ii. They shall be parked or located in the rear of the building or as close to the rear as is reasonably possible, preferably in the loading area and on a continuous hard surface equivalent in strength to the existing parking area.
- iii. No part of the vehicle or portable storage structure shall be closer than two feet from the principal building nor encroach on more than ten percent of required off-street parking.
- iv. There shall be no permanent human occupancy in the vehicle or portable storage structure, except for necessary access.