

**AN ORDINANCE AMENDING AND/OR SUPPLEMENTING PART TWELVE "PLANNING AND ZONING", TITLE SIX "ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRLAWN, OHIO TO PROVIDE FOR REGULATION OF ENTERTAINMENT DEVICE ARCADES**

**WHEREAS**, the City of Fairlawn may legitimately regulate and license the location and operation of Entertainment Device Arcades, and may require that such businesses be located in particular areas and be separated from other land uses that may suffer negative secondary effects from the operation of one or more Entertainment Device Arcades; and

**WHEREAS**, Council of the City has in the past and the State of Ohio has currently imposed a moratorium on the establishment of Entertainment Device Arcades within the City/State to permit the Administration to study the impact of Entertainment Device Arcades within the City/State and to make recommendations to establish new regulations to address this type of business and activity; and

**WHEREAS**, the City Administration has completed its study and now recommends that this Council adopt this ordinance amending Part Twelve "Planning and Zoning", Title Six "Zoning Code" of the Codified Ordinances of the City of Fairlawn to provide for zoning regulations for Entertainment Device Arcades within the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FAIRLAWN, STATE OF OHIO THAT:**

**Section 1:** Subsection 1234.05(b) of Section 1234.05 "Interpretation; Definitions" of the Zoning Code is hereby amended by adding definitions for "Entertainment Device Arcade" and "Entertainment Device" as shown on Exhibit A attached hereto and made a part thereof. All other subsections of Section 1234.05 remain unchanged.

**Section 2:** Schedule 1274.02 "Business Districts" within Section 1274.02 "Use Regulations" of the Zoning Code is hereby amended by adding a category under "Entertainment/Recreation" titled "Entertainment Device Arcades" as shown on Exhibit B attached hereto and made a part thereof. All other subsections of Schedule 1274.02 and Section 1274.02 remain unchanged.

**Section 3:** Schedule 1287.05 "Regulations for Conditional Uses in Business Districts" within Section 1287.05 "Conditional Uses in Business Districts" of the Zoning Code is hereby amended by adding a category "Entertainment Device Arcades" as shown on Exhibit C attached hereto and made a part thereof. All other subsections of Schedule 1287.05 and Section 1287.05 remain unchanged.

**Section 4:** Section 1287.06 "Supplemental Regulations for Certain Uses" of the Zoning Code is hereby amended by adding a subsection (dd) "Entertainment Device Arcades" as shown on Exhibit D attached hereto and made a part thereof. All other subsections of Section 1287.06 remain unchanged.

**Section 5:** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**Section 6:** This ordinance shall be in full force and effect from and after its adoption and approval by the Mayor or at the earliest period allowed by law.

Enacted: \_\_\_\_\_, 2013

\_\_\_\_\_  
Tonja K. Caldwell, Clerk of Council

\_\_\_\_\_  
Russell T. Sharnsky, President of Council

Approved: \_\_\_\_\_, 2013

Approved as to Form:

\_\_\_\_\_  
William J. Roth, Jr., Mayor

\_\_\_\_\_  
Edward J. Riegler, Director of Law

**CERTIFICATION OF PASSAGE**

I, Tonja K. Caldwell, Clerk of Council of the City of Fairlawn, Summit County, Ohio, do hereby certify that the foregoing Ordinance 2012-110 was duly and regularly passed at a Regular Meeting on \_\_\_\_\_, 2013.

**CERTIFICATION OF POSTING**

This is to certify that on \_\_\_\_\_, 2013 the within Ordinance was published by posting a true copy of the same in five public places within the City as prescribed in Section 222.03(a), Codified Ordinances of Fairlawn.

\_\_\_\_\_  
Tonja K. Caldwell, Clerk of Council

\_\_\_\_\_  
Tonja K. Caldwell, Clerk of Council

**EXHIBIT A**  
Ordinance 2012-110

**CHAPTER 1234**  
**General Provisions and Definitions**

**1234.05 INTERPRETATION; DEFINITIONS.**

(b) Words used in this Code are used in their ordinary English usage. The following definitions shall be used in the interpretation and construction of this Zoning Code.

**Entertainment Device Arcade:** Any business, establishment, room or place where two (2) or more entertainment devices are kept for use by the public or by persons other than the owner of the devices, where persons give anything of value to access the use of the entertainment devices or the premises, and the person may be given anything of value by the operator, whether the giving occurs on or off the premise or at the same time or a later time.

**Entertainment Device:** Any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. "Entertainment device" does not include any vending machine, juke box, audio book, video player or any device that gives anything of value where the only value given, directly or indirectly, is a video or audio transmission or the playing of a game.

**EXHIBIT B**  
Ordinance 2012-110

**CHAPTER 1274**  
**Provisions Applicable to all "B" Districts**

**1274.02 USE REGULATIONS.**

<b>Schedule 1274.02 - Business Districts</b>				
	<b>B-4 Office Park/ Research District</b>	<b>B-1 Limited Business District</b>	<b>B-2 Retail Business District</b>	<b>B-3 Business District</b>
<b>Office and Professional Services</b>				
1 Office, Administrative/ Business/Professional	P	P	P	P
2 Offices, Medical/Dental	P	P	P	P
3 Urgent Care		C	C	C
4 Banks	A <sup>(b)</sup>	C	P	P
5 Hospitals		C		
6 Laboratories - research and testing	P	P		
7 Schools, Specialty/Personal Instruction	C	C	C	C
<b>Retail and Services</b>				
1 Retail establishments			P	P
2 Service establishments – Personal	A(a)	A	P	P
3 Restaurants - sit down	A(b)		C	P
4 Restaurants - counter service	A(b)	A	C	P
5 Night Club			C	C
6 Funeral homes, mortuaries			C	P
7 Health Club	A	C	P	P
8 Drive-thru services		C	C	C
9 Outdoor display (such as landscaping materials and cemetery monuments)			A	A
10 Outdoor Storage			C	C

11	Kennels				C
12	Day Care Facility, adult and/or children	C		P	P
<b>Lodging</b>					
1	Hotels and motels			C	C
<b>Automotive/Transportation</b>					
1	Automobile sales and service				P
2	Vehicle Repair Garage			C	C
3	Automobile Service Station			C	C
4	Car wash			C	C
5	Park and Ride Facility			C	C
6	Gasoline Station			C	C
<b>Entertainment/Recreation</b>					
1	Commercial recreation, Indoors			C	C
2	Commercial Recreation, Outdoors			C	C
3	Membership Clubs			C	C
4	<b>Entertainment Device Arcades</b>			C	
<b>Community Facilities/Other</b>					
1	Cultural Institutions	C	C	C	C
2	Utility substation/distribution facility, indoor & outdoor	C	C	C	C
<b>Accessory Uses</b>					
1	Storage	A	A	A	A
2	Signs	A	A	A	A
3	Off-street parking	A	A	A	A
4	Loading	A	A	A	A
5	Parking garages	A		C	
6	Cafeterias and lunch rooms	A			
7	Backup generators	A	A	A	A
8	Outdoor display	A	A	A	A

9	Supporting services <sup>(a)</sup>	A			
10	Portable Storage Container			C	C
(a) As further regulated by Subsection 1283.02 <sup>(b)(5)</sup>					
(b) As further regulated by Subsection 1283.02 <sup>(b)(6)</sup>					
P = Use permitted by right; C = Conditional use; A = Accessory use; Blank cell = Use not permitted in district					

**EXHIBIT C**  
Ordinance 2012-110

**CHAPTER 1287**  
**Conditional Use Regulations**

**1287.05 CONDITIONAL USES IN BUSINESS DISTRICTS.**

<b>Schedule 1287.05</b>				
<b>Regulations For Conditional Uses In Business Districts</b>				
Conditional Use	Conditional Use in District	Minimum Lot Regulations <sup>(1)</sup>		Also See Section:
		Area	Width	
1. Automobile service station	B-2, B-3	1 acre	125 ft.	1287.06 <sup>(k)</sup>
2. Banks	B-1	30,000 sq. ft.	125 ft.	1287.06 <sup>(z)</sup>
3. Car wash	B-2, B-3	1 acre	125 ft.	1287.06 <sup>(b)</sup>
4. Commercial recreation facility, Indoors	B-2, B-3	1 acre	150 ft.	1287.06 <sup>(d)</sup>
5. Commercial recreation facility, Outdoors	B-2, B-3	2 acres	200 ft.	1287.06 <sup>(e)</sup>
6. Membership Clubs	B-2, B-3	1 acre	150 ft.	1287.06 <sup>(a)</sup>
7. Day care facility, child and/or adult	B-4	(2)	(2)	1287.06 <sup>(h)</sup>
8. Drive-thru services	B-1, B-2, B-3	1 acre (3)	125 ft.	1287.06 <sup>(l)</sup>
9. Funeral homes, mortuaries	B-2	(2)	(2)	1287.06 <sup>(j)</sup>
10. Gasoline station	B-2, B-3	1 acre	125 ft.	1287.06 <sup>(k)</sup>
11. Hospital	B-1	2 acres	200 ft.	1287.06 <sup>(n)</sup>
12. Hotels and motels	B-2, B-3	2 acres	125 ft.	1287.06 <sup>(o)</sup>
13. Kennels	B-3	2 acres	200 ft.	1287.06 <sup>(p)</sup>
14. Night clubs	B-2, B-3	1 acre	125 ft.	1287.06 <sup>(q)</sup>
15. Outdoor storage	B-2, B-3	(2)	(2)	1287.06 <sup>(r)</sup>
16. Park and ride facility	B-2, B-3	1 acre	125 ft.	1287.06 <sup>(x)</sup>
17. Parking garages	B-2	2 acres	200 ft.	1287.06 <sup>(s)</sup>

18. Health Club	B-1	1 acre	125 ft.	1287.06 <sup>(m)</sup>
19. Cultural Institutions	B-1, B-2, B-3, B-4,	1 acre	125 ft.	1287.06 <sup>(g)</sup>
20. Restaurants-sit down	B-2	(2)	(2)	1287.06 <sup>(t)</sup>
21. Restaurants-counter service	B-2	(2)	(2)	1287.06 <sup>(t)</sup>
22. School, specialty/personal instruction	B-4, B-1, B-2, B-3	30,000 sq. ft. (4)	125 ft.	1287.06 <sup>(m)</sup>
23. Urgent care center	B-1, B-2, B-3	1 acre	125 ft.	1287.06 <sup>(w)</sup>
24. Utility substation/distribution facility, indoor/outdoor	B-4, B-1, B-2, B-3	(2)	(2)	1287.06 <sup>(y)</sup>
25. Vehicle repair garage	B-2, B-3	2 acres	200 ft.	1287.06 <sup>(k)</sup>
26. Portable Storage Container	B-2, B-3	(2)	(2)	1287.06 <sup>(cc)</sup>
<b>27. Entertainment Device Arcades</b>	<b>B-2</b>	<b>(2)</b>	<b>(2)</b>	<b>1287.06<sup>(dd)</sup></b>

Notes to Schedule 1287.05:

- (1) Uses shall comply with the standards in this table or the corresponding district standard whichever is greater.
- (2) Shall comply with the regulations for the district in which the conditional use is located.
- (3) The minimum of one (1) acre also includes the facility that provides the drive-thru service.
- (4) The minimum areas do not apply if the facility is proposed on a site with multiple businesses.

List of Districts:

- B-1 Limited Business District
- B-2 Retail Business District
- B-3 Business District
- B-4 Office Park/Research District

**EXHIBIT D**  
Ordinance 2012-110

**CHAPTER 1287**  
**Conditional Use Regulations**

**1287.06 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.**

**(dd) Entertainment Device Arcades**

- (1) No entertainment device arcade may be established within 1,000 feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio.
- (2) No entertainment device arcade may be established unless the owner and/or operator has been granted a license by the City of Fairlawn for the business in accordance with Chapter 818 – Entertainment Device Arcades of the Fairlawn Codified Ordinances, and fully complies with the terms and conditions of such license and the other requirements of Chapter 818 of the City of Fairlawn Codified Ordinances.