

Village of Batavia
Clermont County, Ohio

Zoning Ordinance

Chapter 153 of the Code of Ordinances

Revised Zoning Code

Enacted by the
Batavia, Ohio Village Council
March 2, 2015

Published October 18, 2016

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The Village of Batavia

CLERMONT COUNTY, OHIO

Directory of Officials

March 2, 2015

Mayor

John Q. Thebout

Council Members

March 2, 2015

Earl R. Carter Thomas H. Ellis, Jr. Robert P. Handra

Elizabeth Mason Stephen Staton Kathleen J. Turner

October 18, 2016

Thomas H. Ellis, Jr. Jason Garrison Jason Gipson

Robert P. Handra William Raper II Kathleen J. Turner

Planning Commission

Robert P. Handra John Q. Thebout

Brian Vickers Gerald Harley

Administrator

Dennis Nichols

Fiscal Officer

John D. Waite

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Organizational Format (Numbering System)

The article, section and subsection numbers use an expandable numbering system. Major divisions within the Zoning Code are called “articles.” Major divisions within articles are called “sections.” Divisions of sections are called “subsections.”

To improve readability and ease of referencing in this zoning code, Batavia’s Code of Ordinances chapter number “153”—the Zoning Code—is omitted in the numbering of each article, section, and subsection. For example, a section listed in this document (the Zoning Code) in abbreviated form as Section 2.01 is actually Section 153.2.01 of Batavia’s Code of Ordinances.

The organizational format (numbering system) is shown below:

Article 2 (Of Chapter 153—The Zoning Code)

Article Title (of Article 153.2)

2.01	Section “1” of Article 2 of Chapter “153”	(Heading 1)
	(Note: section numbers appear to the right of the decimal point)	
	A. Subsection “A” of Section “1”	(Heading 2)
	1. Paragraph “1” of subsection “A”	(Heading 3)
	a. Subparagraph “a” of paragraph “1”	(Heading 4)
	(1) Listed item “1” of Subparagraph “a”	(Heading 5)
	(a) <i>Listed item “(a)” of list “(1)”</i>	(Heading 6)
	(i) <i>Listed item “(i)” of list “(a)”</i>	(Heading 7)

The last item “(i)”above would be referenced as:

Section 2.01-A-1-a(1)(a)(i), Village of Batavia Zoning Ordinance, or

Section 153.2.01-A-1-a(1)(a)(i), Village of Batavia Code of Ordinances

Articles are initially even-numbered, reserving the odd numbers for future legislation. Sections within articles are consecutively numbered. Newly created sections subsequent to the original codification may be indicated by three digits right of the decimal in the event the law properly belongs between two consecutively numbered sections. For example, newly created Sections 2.011, 2.012 and 2.013 would follow Section 2.01 and precede Section 2.02 to be placed in their logical position.

Batavia Code of Ordinances, Chapter 153 – Zoning

Part I
Introductory Provisions

Articles:

- 2 Purpose, Title, Applicability, and Effect
- 4 Establishment of Zoning Districts and Map
- 6 Interpretation

Article 2

Purpose, Title, Applicability, and Effect

Sections:

- 2.01 Title
- 2.02 Authority and Purpose
- 2.03 Applicability
- 2.04 Exemptions
- 2.05 Effect
- 2.06 Repeal of Pre-existing Zoning Ordinance and Establishment of Zoning Districts
- 2.07 Separability
- 2.08 Conflict with other codes
- 2.09 Relationship to Comprehensive Planning
- 2.10 Certificates of Compliance
- 2.11 Re-Prints

Statutory Reference:

- *Administrative board; powers and duties, see Ohio R.C. 713.11*
- *Basis of districting or zoning; classification of buildings or structures, see Ohio R.C. 713.10*
- *Division of municipal corporations into zones, see Ohio R.C. 713.06*
- *Notice and hearing on municipal zoning regulations, see Ohio R.C. 713.12*
- *Restrictions on location, bulk and height of buildings, see Ohio R.C. 713.07 et seq.*
- *Restrictions on percentage of lot occupancy and set-back building lines, see Ohio R.C. 713.09*
- *Violation of zoning ordinance may be enjoined, see Ohio R.C. 713.13*

2.01 Title.

This code and all its provisions, codified as Chapter 153, shall be known and may be cited as “The Zoning Code of the Village of Batavia, Ohio,” or by its shorter titles, “The Batavia Zoning Code,” “Zoning Code,” or “Zoning Ordinance.”

2.02 Authority and Purpose.

This Zoning Code is enacted pursuant to the powers and authority granted under the provisions of the Revised Code, State of Ohio, Section 713. This code shall have the purposes prescribed in Ohio Revised Code Chapter 713 and is enacted for the following purposes, all in accordance with a comprehensive plan for the desirable future development of the Village:

- A. To promote the public health, safety, convenience, comfort, prosperity and general welfare;
- B. To conserve and protect property and property values;
- C. To enable implementation of adopted objectives, policies and plans related to land use;
- D. To secure the most appropriate use of land.
- E. To encourage compatibility between different proposed land uses in the Village and to protect the character of existing residential, office, commercial and industrial development areas of the Village from the encroachment of incompatible uses;
- F. To facilitate revitalization and redevelopment of blighted areas by zoning for more appropriate uses;
- G. To facilitate adequate but economical provision of public improvements
- H. To guide the density of population;
- I. To manage and support efficient travel modes; and
- J. To provide a method of administration and to prescribe penalties for violations of provisions of this code;

2.03 Applicability.

The provisions of this zoning code shall apply to all land, land development, uses of land and uses of all structures within the incorporated areas of the Village of Batavia as indicated on the Official Zoning District Map on file with the Village Administrator.

2.04 Exemptions.

The enforcement of provisions of this zoning code shall not prohibit use of land or structures specifically exempted by law including but not limited to the following:

- A. Public utility and railroads shall not be prohibited in respect to the location, erecting, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement of any buildings or structures for the operation of its business.
- B. Outdoor advertising shall be classified as a business use and shall not be prohibited in districts zoned for industry, business, trade or lands used for agricultural purposes.
- C. Governmental functions of any local, State or Federal activity carried on for the purpose of administrative, protective, executive, service, legislative or judicial function shall not be prohibited.

2.05 Effect.

- A. New construction and new uses. After the date of the enactment of this chapter no lot, building or structure shall be used, and no building or structure or part thereof shall be constructed, erected, raised, moved, reconstructed, extended, enlarged or altered except in conformity with this chapter.
- B. Existing buildings or uses. Any lot, building or structure being used in a manner

or for a purpose which does not conform with this chapter such manner of use or purpose may be continued. Renewal or change of title of possession, or right of possession, or lease of any such lot, building or structure shall not prevent the continuation of the nonconforming use.

- C. Changes. A nonconforming use may be changed to a more restricted use or to a conforming use. Whenever a nonconforming use has been changed to a more restricted use, such use shall not thereafter be changed to a less restricted use, unless such use shall conform to the zoning for the area.
- D. Restoration. Buildings or structures which may be declared unsafe for human habitation by the proper authorities may be strengthened or restored to a safe condition.
- E. Pending applications. Building permits for which applications have been filed in the office of the Building Inspector prior to the date of the enactment of this chapter, shall be issued. No change in the plans, construction, size or designated use of any building, structure or part thereof, shall be required. However, such building permits shall be considered void if, within 30 days after the enactment of this chapter, construction has not started. Such construction shall be diligently continued to completion and a certificate of occupancy has been issued for the use for which the building or structure was originally designated.

2.06 Repeal of Preexisting Zoning Ordinance and Establishment of Zoning Districts.

- A. The Zoning Ordinance adopted by the Village of Batavia on June 4, 1963, and as amended, which is codified as this Chapter 153, together with the Zoning District Map which is a part of such Ordinance is hereby superseded and amended to read as set forth in this Ordinance. However, this Ordinance, including the Zoning District Map, shall be deemed a continuation of the previous Ordinance and not a new enactment, insofar as the substance of revisions of the previous Ordinance are included in this Ordinance whether in the same or different language. This Ordinance shall be so interpreted upon all questions of construction relating to tenure of officers and boards established by the previous Ordinance, to questions of conforming and nonconforming uses, buildings and structures, and to questions as to the dates upon which such uses, buildings or structures become conforming or nonconforming.
- B. To the extent that this Ordinance reestablishes zoning districts of the same land use category and with the same district designation and names, these districts and their boundaries as indicated on the Zoning District Maps under the preexisting Zoning Ordinance shall be deemed as continuing until such time as they may be amended pursuant to the provisions of this Ordinance. Zoning districts which are not reestablished by this Ordinance, as indicated are hereby repealed and shall be indicated as repealed on the Zoning District Map as of the effective date of this Ordinance.
- C. To the extent that this Ordinance establishes zoning districts of the same land use category, but different names from those under the preexisting Ordinance, these new district names shall replace the old zoning district names on the Zoning District Maps, but shall retain their existing boundaries.
- D. Zoning districts established by this Ordinance in addition to the zoning districts

established under the preexisting Zoning Ordinance shall become effective upon the adoption of such Zoning District Map amendments by the Village Council as are necessary to give effect to the new districts.

- E. This Resolution shall be in full force and effect from and after the earliest period allowed by law.

2.07 Separability.

Nothing in this code shall be construed to conflict with the laws of the State of Ohio or to limit additional requirements, if any, imposed by law. This code and the various parts, articles, sections, paragraphs, sentences, clauses or phrases are severable. If any part, article, section, paragraph, sentence, clause or phrase of this code shall be declared unconstitutional by the decree of any court of competent jurisdiction, such constitutionality shall not affect any of the remaining parts, articles, sections, paragraphs, sentences, clauses or phrases of this code.

2.08 Conflict with Other Codes.

The regulations of this code shall be in addition to any other regulations in effect in the Village. All building, subdividing, and uses within any district shall satisfy all building, planning, platting, zoning, and any other related regulations. In the event of an inconsistency between any of the provisions of this zoning code and any other regulation, the more stringent provision shall prevail and be binding.

2.09 Relationship to Comprehensive Planning.

It is the intention of the Village Council that this zoning ordinance shall implement the planning policies adopted by the Village council for the Village of Batavia, as reflected in a comprehensive plan, land-use plan, and all other planning documents formally adopted by the Village Council. While the council reaffirms its commitment that this Code and any amendment to it are in conformity with adopted planning policies, the Council hereby expresses its intent that neither this Code nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

2.10 Certificates of Compliance.

- A. Certificate of Zoning Compliance Required. All land used, lots split, subdivision, and building constructed, erected, changed, converted or enlarged, wholly or partly, require a Certificate of Zoning Compliance (also cited as Zoning Certificate and Zoning Permit).
- B. Occupancy Permit Required. No land or building or part thereof hereafter erected or changed in its use or structure shall be used until a Certificate of Occupancy has been issued indicating that such land, building, or part thereof, and the proposed use thereof are found to be in conformity with the provisions of this Ordinance.

2.11 Reprints.

During subsequent reprinting of this Zoning Ordinance, the addition or alteration of footnotes, cross references, indexes, graphics, and grammar shall not require an amendment provided that the addition or alteration does not alter the intent and is not in conflict with any Section of this Zoning Ordinance.

Article 4

Establishment of Zoning Districts and Map

Sections:

- 4.01 Establishment of zoning districts
- 4.02 Zoning district map

Statutory Reference:

- *Basis of districts, see R.C. 713.10*

4.01 Establishment of Zoning Districts.

The Village is hereby divided into the following zoning districts:

Symbol	District
ER	Estate Residence
R-1	Suburban Residence
R-2	Village Residence
B-1	Village Business
B-2	General Business
PF	Public Facilities
IO	Industry/Office
PUD	Planned Unit Development

4.02 Zoning District Map.

- A. The boundaries of the zoning districts are established as shown on the map entitled, "Village of Batavia Official Zoning District Map" which accompanies and is made a part of this code.
- B. The Official Zoning District Map shall be maintained and kept on file by the Village Administrator.
- C. The Village Council may, at its discretion or upon formal application, amend the zoning map, in accordance with the amendment procedures of this code.

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Article 6 Interpretation

Sections:

- 6.01 Interpretation of zoning district boundaries
- 6.02 Interpretation of zoning text
- 6.03 Uses not listed
- 6.04 Zoning classification of newly annexed land
- 6.05 Conformance with regulations

Statutory Reference:

- *Zoning following annexation; authority to adopt the existing township zoning regulations, see R.C. 519.18*
- *Conformance with regulations, se R.C. 713.13*

6.01 Interpretation of Zoning District Boundaries.

- A. Unless otherwise indicated on the zoning map, zoning district boundaries follow lot lines, the centerlines of streets or alleys, or the specified distance from such features, railroad right-of-way lines, or property lines, as indicated on the zoning map.
- B. Where uncertainty exists about the boundaries of the zoning districts, or when the street or property existing on the ground varies from that shown on the zoning map, the Village Administrator or appointed designee is authorized to determine the location of such boundaries.
- C. Whenever any street, alley or other public way is vacated by official action of City Council, the zoning district adjoining each side of such street, alley or other public way will be automatically extended to the center of such vacation, and all area included in the vacation will be subject to all applicable regulations of the extended districts.
- D. For unsubdivided land and where a district boundary divides a lot, the location of such boundary shall be determined by the use of the scale on the Zoning Map unless the boundaries are indicated by dimensions.
- E. Where zoning district boundaries are not fixed by dimensions and where they approximately follow lot lines, and where they do not scale more than 10 feet distant there from, such lot lines shall be construed to be such boundaries unless otherwise indicated in this Ordinance.
- F. When the boundary line of two zoning districts divides a lot held in single ownership, the yard requirements shall apply and extend from the zoning district line.

6.02 Interpretation of Zoning Text.

The provisions of this code shall be construed to achieve the purposes for which they are adopted. In interpreting and applying the provisions of this code, these provisions shall be held to be the minimum requirements for the promotion of public

health, safety, morals, convenience, comfort, prosperity and general welfare. It is not intended by this Resolution to interfere with or abrogate or annul any easements, covenants, building restrictions or other agreements between parties. However, where this code imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other laws, rules, regulations or permits, or by easements, covenants, building restrictions or agreements, the provisions of this code shall govern. For the purposes of this code, the following additional rules of interpretation shall apply:

- A. In the event of a conflict between the text of these provisions and any caption, figure, illustration, table, or map, the text of these provisions shall control.
- B. The words “shall”, “must”, and “will”, as used in these provisions, are mandatory and indicate an obligation to comply with the particular provisions to which they apply.
- C. The word “may” as used in these provisions is permissive.
- D. Words used or defined in one tense or form shall include other tenses and derivative forms.
- E. Words used in the singular shall include the plural and words used in the plural shall include the singular unless the context of the particular usage clearly indicates otherwise.
- F. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- G. Headings and captions used throughout this resolution are for convenience and reference only and shall in no way be held to explain, modify, amplify, or aid in the interpretation or meaning of any provision in this resolution. Statements of intent or purpose statements used throughout this resolution are for general information only and shall in no way be held to be requirements or standards.

6.05 Uses Not Listed.

- A. A use that is not listed, either by right or by conditional approval, in a zoning district shall not be permitted in that district and shall only be permitted in a district where it is specifically listed as either a use by right or by conditional approval.
- B. If a proposed use of land or building is not specified by this code in any district, the Village Administrator or appointed designee shall determine if the use is similar to a permitted or conditional land use authorized in the district in which the land or building is located. If the use is found to be similar, it may be established in accordance with the requirements and procedures established in the code for the similar use. The Village Administrator or appointed designee shall notify the Planning Commission of this action, who shall then determine if the code should be amended to specifically include the use. *[note: allows reduction of list size and avoids long amendment process]*
- C. Alternatively, the Village Administrator or appointed designee may refer the determination to the Planning Commission in the first instance.
- D. The determination by the Village Administrator or appointed designee, or the

Planning Commission, may be appealed to the Village Council.

6.06 Zoning Classification of Newly Annexed Land.

- A. All land annexed to the village subsequent to the adoption of this chapter shall remain subject to the previous county, township, or municipal zoning district until such time as the official zoning map is amended according to the provisions of this ordinance.
- B. All land annexed to the village which, prior to annexation, is not subject to county, township, or municipal zoning, shall remain unzoned until the official zoning map is amended according to the provisions of this ordinance.

6.07 Conformance with Regulations.

Except as hereinafter specified:

- A. No land shall be used except for a use permitted in the zoning district in which it is located, or for a use conditionally permitted and subject to the issuance of a Conditional Use Permit.
- B. No building shall be erected, converted, enlarged, reconstructed, nor shall any building be moved onto a zoning lot or within the same zoning lot, unless it is a use permitted in the Zoning District in which such building is located, except as provided for elsewhere in this Code.
- C. No parcel of land or lot shall hereafter be created which does not conform to, and meet the requirements of these regulations.
- D. Every building hereafter erected or structurally altered shall be located on a lot as herein defined. No more than one principal building per lot shall be permitted.

6.08 Minor Modifications.

The Village Planning Commission may approve minor modifications to requirements in this code in accordance with the criteria provided in Article 82.

6.09 Definition of Terms.

- A. Terms and words used in this zoning ordinance shall have the meanings set forth in Article 99—Definitions, unless the context clearly indicates otherwise.
- B. Where there is doubt as to meanings of words, they may be officially construed by the zoning administrator or village administrator, subject to review by the village planning commission.
- C. For convenience, some definitions listed in Article 99 are repeated in division D of this section to enable accurate interpretation of words and terms introduced in:

Table 10: Permissible Uses by Zone District; and

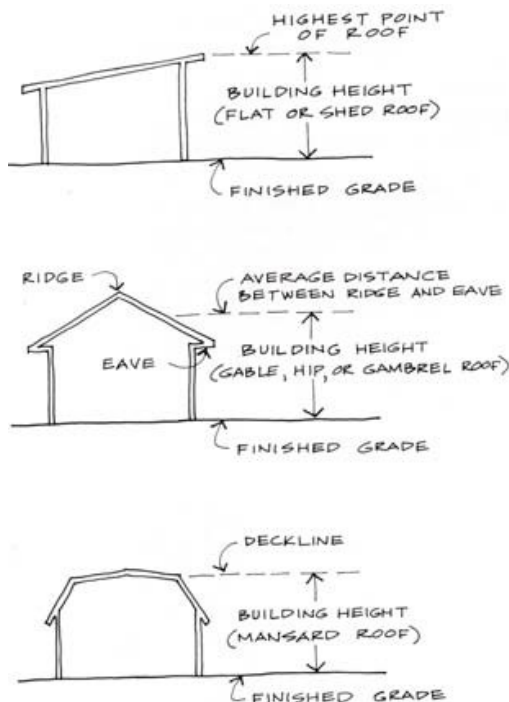
Table 12: Bulk, Density, and Intensity Standards (Building and Lot Requirements) by Zone District.

- D. Definitions.

- 1. **Administrator, Village (Zoning Administrator).** Primary responsibility

for administering the duties of the Village of Batavia Planning Commission and Board of Zoning Appeals as required by this Zoning Ordinance may be assigned by the Village Administrator to a Zoning Administrator or other authorized representatives. The staff person or persons to whom such administrative functions are assigned shall be referred to in this resolution as the "Village Administrator."

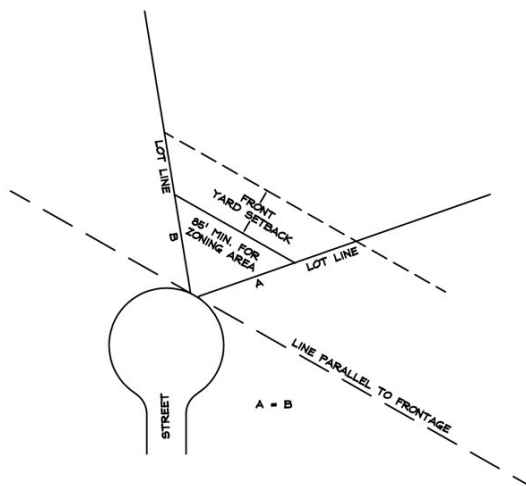
2. **Building.** Any permanent or temporary structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or property.
3. **Building, Height of.** The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height level between eaves and ridge for gable, hip, or gambrel roofs, excluding elevator shafts and chimneys. On corner lots, the front existing grade shall be measured relative to the lowest elevation at the building line of the front yards of the property.



Source: "The Latest Illustrated Book of Development Definitions"

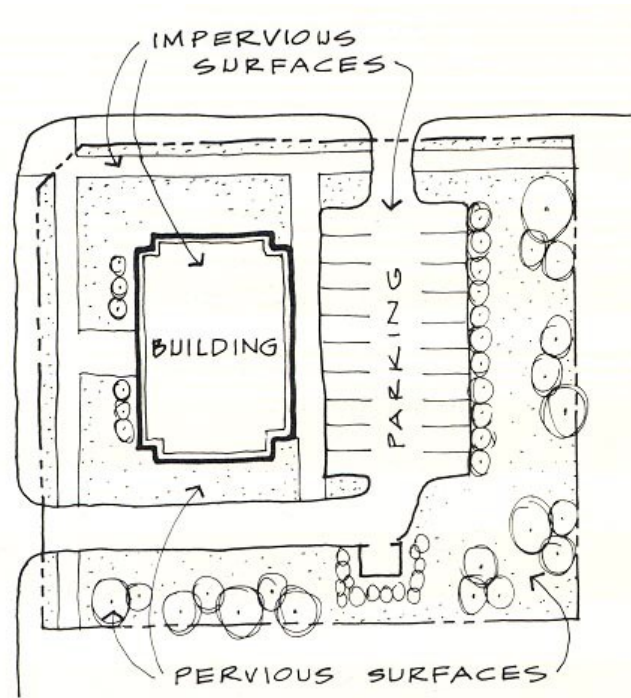
4. **Building Line.** The line parallel to the street line indicating the minimum horizontal distance required between the street right-of-way line and the building or any projection thereof other than a step or uncovered porch.
5. **Building, Principal (Main).** A building which contains the primary use of the lot, as contrasted to Accessory Building or Accessory Structure or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

6. **Bulk.** The three dimensional space occupied by a structure or building, defined by its height, width, and depth.
7. **Density.** The amount of development permitted per acre (a measure of intensity) expressed as the number of dwelling units per acre of land for residential development.
8. **Density, Gross.** The quotient of the total number of dwelling units divided by the gross area of a site (including public rights-of-way), expressed in gross dwelling units per acre. (total number of dwelling units ÷ total gross acreage = gross density)
9. **Density, Net.** The quotient of the total number of dwelling units divided by the area of the site consisting of the gross area minus the area for rights-of-way and easements for public streets expressed in net dwelling units per acre. For calculation of preliminary or conceptual plans where actual location and area of right-of-way is not yet determined, the net density shall be based on 82% of the gross area. (total number of dwelling units ÷ total gross acreage less R.O.W. and easements for public streets = net density)
10. **Frontage.** The side or sides of a lot that abut the street right of way. Frontage is measured as the distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. If the lot Frontage comes to a point, the front setback shall be equally measured on both sides of the lot line as in the example below



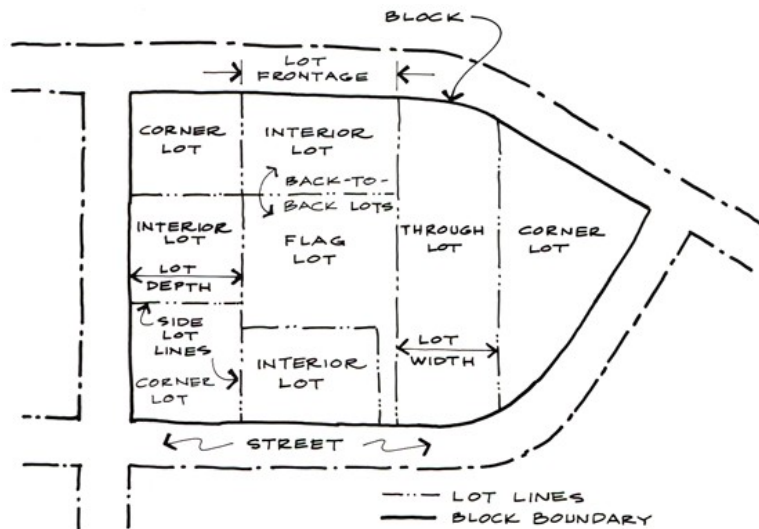
Source: "The Latest Illustrated Book of Development Definitions"

11. **Impervious Surface.** Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, sidewalks, paved recreational facilities, and other paved or compacted areas such as a gravel driveway.



Source: "The Latest Illustrated Book of Development Definitions"

12. **Impervious Surface Ratio.** A measure of the intensity of land use determined by dividing the total area of all impervious surfaces on the site by the net area (excluding right-of-way) of the site or lot. For the purposes of calculating the impervious surface ratio for determining the intensity of a use, pervious pavement or pavers, gravel, and other similarly paved areas shall be counted as 100% impervious
13. **Intensity.** A measure of the extent to which a parcel or tract of land is developed. Intensity can be described or measured in terms of impacts such as impervious surface, traffic loading, sewage disposal needs, square feet of floor area per acre, units per acre, etc.
14. **Lot.** A piece or parcel of land resulting from the subdivision of a larger parcel of land and occupied or intended to be occupied by a principal use, building or group of buildings, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required under the provisions of this Resolution, and having frontage on a public street.

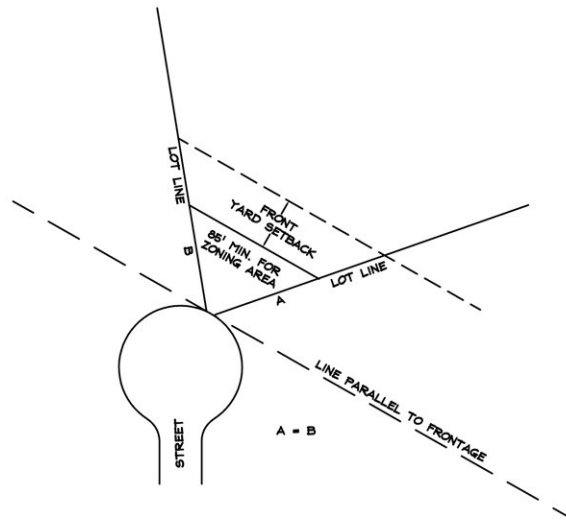


Source: "The Latest Illustrated Book of Development Definitions"

15. **Lot Area.** The computed horizontal area (land and water surface) contained within the lot lines, including land over which easements have been granted, but not including any land within the limits of a street or right-of-way upon which such lot abuts, even if fee title to such street is held by the owner of the lot. No public right-of-way or access easement for a public street or handle of a panhandle lot shall be included in the calculation of the lot area, nor shall the public right-of-way cross the lot area.
16. **Lot Area, Buildable.** The portion of a lot remaining after required yards have been provided.
17. **Lot Width.** The distance between the side lot lines measured along the required front yard setback (the building line).
18. **Minor Modification.** A change in a requirement for one property that in the judgment of the Planning Commission is warranted based on criteria in Section 82.02 and the finding that no objection to the modification for the subject property nor the cumulative effect of modifications for other properties having similar circumstances would likely be raised by any party of interest.
19. **Nonconforming Lot.** Any lot of record that does not comply with the lot dimensional requirements for any permitted use in the zone in which it is located but which existed lawfully before its designation as nonconforming by the adoption or amendment of this Ordinance.
20. **Nonconforming Structure.** Any structure that was lawful when established that does not now conform with bulk regulations established in the zoning ordinance, such as setback, height, lot coverage, or open space requirements of the zone in which it is located. A nonconforming structure may be conforming in respect to use.
21. **Nonconforming Use.** Any use lawfully being made of any land, building, or structure on the initial effective date of this Zoning Ordinance or any

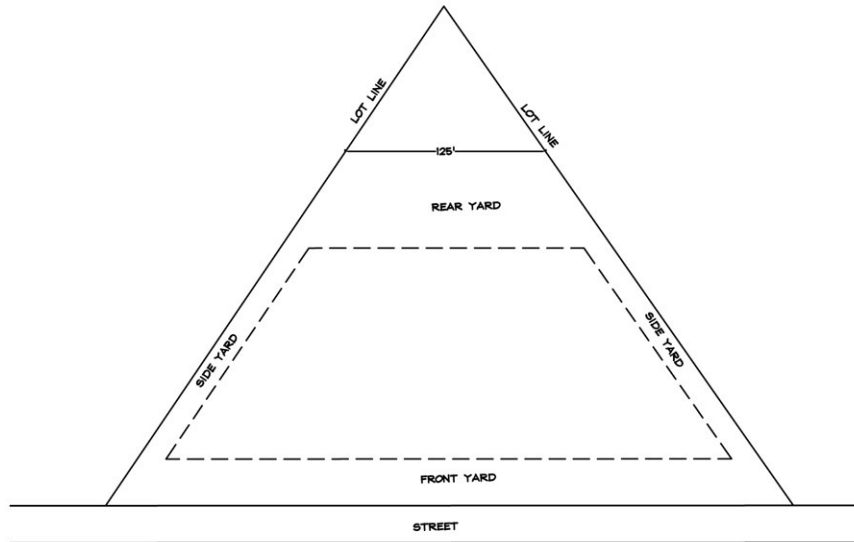
amendment thereto that is not permitted as-of-right and not permissible as a Conditional Use or as a Planned Unit Development under this Ordinance or any amendment thereto in the District in which it is situated. Any such building, structure, or premises conforming in respect to use but not in respect to height, area, yards, or courts, or distance requirements from more restricted districts or uses, shall not be considered a nonconforming use.

22. **Planned Unit Development (PUD).** A type of development that enables residential, commercial, industrial or any other uses to be developed alone or in combination under one unified plan of development under more flexible standards pursuant to the standards and procedures set forth in Article 28.
23. **Setback.** The required distance between a building or structure and any lot line or Right-of-Way and as follows:
 - a. For front yard setbacks on yards where the side lot lines are not parallel, the front yard setback shall be measured from the point on the lot where the lot meets the minimum lot width requirements as measured on a line parallel to the Frontage in the district in which it is located as identified by the example below:



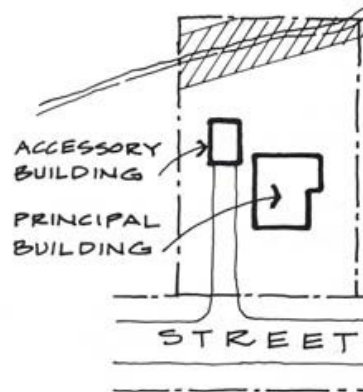
Source: "The Latest Illustrated Book of Development Definitions"

- b. For rear yard setbacks where the side lot lines are not parallel and the lot narrows to the rear of the lot, the rear yard setback shall be considered to be a line parallel to the front yard setback measured from the minimum lot width requirements for the district in which it is located as identified by the example below:



Source: "The Latest Illustrated Book of Development Definitions"

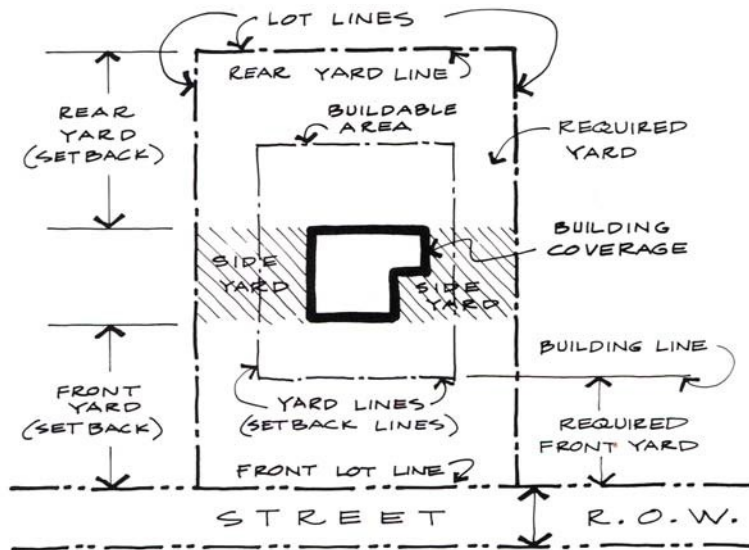
24. **Site Area, Gross.** The computed area contained within the lot lines which includes rights-of-way, either as an easement or dedicated.
25. **Site Area, Net.** The computed area contained within the lot lines, less any land within rights-of-way and easements for public streets.
26. **Story.** That portion of a building, other than a basement or cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
27. **Structure.** Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.
28. **Structure, Accessory.** A structure or building, the use of which is incidental to, and customary associated with a permitted principal use of a lot or structure, located on the same lot as such principal use or structure. A separate dwelling is not an accessory use or structure. The diagram below is illustrative only and does not indicate the permitted location of a building on a lot.



Source: "The Latest Illustrated Book of Development Definitions"

29. **Structure, Principal.** A structure or building in which the principal or primary use of the lot is conducted.
30. **Use.** The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.
31. **Use, Accessory.** An accessory use or structure: (1) is subordinate to and serves a principal building or a principal use; (2) is subordinate in area, extent and purpose to the principal structure or principal use served; (3) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and (4) is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this Resolution. An accessory structure attached to a principal building in a substantial manner by a shared interior wall between the structures or extension of the principal building roof shall be considered part of the principal building.
32. **Use, Conditionally Permitted.** A use that is permitted in a District only if a Conditional Use Certificate is expressly authorized by the Planning Commission in accordance with the provisions in this Zoning Ordinance.
33. **Use, Permissible.** Any use identified with a "C" or "PUD" in Table 10 of Article 10.
34. **Use, Permitted.** That use of a zoning lot which is among the uses allowed as a matter of right under the zoning classification and for which a zoning certificate shall be issued by the Village Administrator provided that the applicant meets the applicable requirements of the Code. A permitted use is allowed under a particular zoning district classification without the need for a special permit, Planning Commission review, public notice, or a public hearing. Permitted uses are identified with a "P" in Table 10 of Article 10.
35. **Use, Principal.** The primary purpose or function that a lot serves or is proposed to serve.

36. **Use, Prohibited.** Any use not identified in in Article 10 or with an “x” in Table 10.
37. **Use, Temporary.** A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and that does not involve the construction or alteration of any permanent structure.
38. **Variance.** A means by which relief may be granted from unforeseen particular applications of the Zoning Ordinance that create practical difficulties or particular hardships where such relief will not be contrary to the public health, safety, or welfare and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.
39. **Variance, Dimensional.** Permission from the Board of Zoning Appeals to depart from any of the literal requirements of this Zoning Ordinance except use regulations, including but not limited to a departure from an area, setback, frontage, height, bulk, density or design requirement.
40. **Variance, Use.** Permission from the Board of Zoning Appeals to depart from any of the use regulations of this Zoning Ordinance.
41. **Yard.** An open space at grade between a building or structure and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein.



Source: "The Latest Illustrated Book of Development Definitions".

For purposes of measuring yards in irregularly shaped lots, the measurement starts at the point at which the lot meets the minimum width requirement for that district.

42. **Yard, Front.** An open space unoccupied from the ground upwards by any structures other than cornices, steps and eaves and extending the full width of the lot, between the front of the main building and the front lot line. The front lot line of a front yard may be:
- a. the right-of-way line, excluding limited access highways and railroad right-of-way;
 - b. the easement line where vehicular access to the lot is provided by a private street or a private drive;
 - c. the terminus of the easement where vehicular access to a panhandle lot is provided by a driveway extending from the terminus of an easement located outside the panhandle area; or
 - d. the terminus of the panhandle where vehicular access to a panhandle lot is provided by a driveway extending from the terminus of the panhandle area or the terminus of an easement located inside the panhandle area.

On a corner lot yards extending along the street lines shall meet the front yard setback for the district in which it is situated.

Where there is no main building on the lot the front yard shall be the minimum depth specified adjacent to an abutting street.

43. **Yard, Rear.** An open space extending the full width of the lot, between the rear lot line and the rear of the main building, and unoccupied from the ground upwards by any structures or any projection thereof other than cornices, steps and eaves. Where there is no main building on the lot, the rear yard shall be the minimum depth specified measured inward from the rear lot line.
44. **Yard, Side.** An open space extending along the side lot lines between the front yard and the rear yards from the side lot lines to the sides of the main building and unoccupied from the ground upwards by any structures or any projection thereof other than cornices, steps and eaves. Where there is no main building on the lot, the side yards shall be the minimum depth specified measured inward from the side lot lines.
45. **Zoning Amendment.** A change of the zoning map or zoning text authorized by the Village, either in the allowable uses within a District, in the boundaries of a District or in a change to the Resolution text.
46. **Zoning Board of Appeals.** An officially constituted body, as appointed by the Village Mayor, whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of this Zoning Ordinance.
47. **Zoning Certificate.** A document issued by the Village Administrator certifying that a structure, use or parcel of land is, or will be in compliance with the requirements of this Zoning Ordinance, and in compliance with all other conditions of approval.
48. **Zoning Compliance Permit.** A permit issued to allow for a change in the use or occupancy of an existing building.

49. **Zoning District.** A portion of the incorporated territory of the Village of Batavia established pursuant to Article 4 within which certain regulations and requirements apply pursuant to the provisions of this Resolution.
50. **Zoning Map.** The official zoning district map or maps on record and maintained by the Village of Batavia together with all map amendments subsequently adopted and incorporated into this Ordinance as a part thereof, designating the Zoning Districts.

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[Article 8 Reserved]

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Batavia Code of Ordinances, Chapter 153 – Zoning

Part II
Zoning Districts

Articles:

10	Permissible Uses (and Table of Permissible Uses by Zone District)
12	Bulk Standards (and Table of Bulk Standards by Zone District)
14	ER Estate Residence District
16	R-1 Village Residence District
18	R-2 Suburban Residence District
20	B-1 Village Business District
22	B-2 General Business District
24	PF Public Facilities District
26	IO Industry/Office District
28	PUD Planned Unit Development District

Article 10

Permissible Uses

Sections:

10.01	Designations in the Table
10.02	Permitted Use
10.03	Conditional Use
10.04	Planned Unit Development
10.05	Accessory Use
10.06	Prohibited Use

Tables:

Table 10	Permissible Uses by District
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Statutory Reference:

- *Basis of districting or zoning; classification of buildings or structures, see Ohio R.C. 713.10*
- *Division of municipal corporations into zones, see Ohio R.C. 713.06*

10.01 Designations in the Table.

The uses permissible with required Zoning Certificates are listed in “Table 10: Permissible Uses by District”. When used in connection with a particular use in Table 10, the designations “P”, “C”, “A”, “PUD”, and “x” shall have the meanings set forth in this Article 10 and as defined in Section 6.09 and Article 99.

10.02 Permitted Use.

The letter “P” means the use is permitted as-of-right in the indicated zoning district with a Permitted Use Zoning Certificate issued by the Village Administrator or appointed designee certifying that the plats and plans for the proposed use comply with all applicable provisions of this Zoning Ordinance.

10.03 Conditional Use.

The letter “C” means that the use is permissible in the indicated zoning district with a Conditional Use Zoning Certificate issued by the Village Administrator or appointed designee certifying:

- A. approval of the proposed conditional use by the Board of Zoning Appeals pursuant to the standards and procedures set forth in this code, and
- B. that the plats and plans for the proposed use comply with all other applicable provisions of this code, including all conditions of approval.

10.04 Planned Unit Development.

The designation “PUD” means that the use is permissible in an underlying zoning district, with a PUD Zoning Certificate issued by the Village Administrator or appointed designee certifying:

- C. approval of the proposed PUD by the Village Council pursuant to the standards and procedures set forth in this code, and
- D. that the plats and plans for the proposed use comply with all other applicable provisions of this code, including all conditions of approval.

10.05 Accessory Use.

The letter “A” means that the use is permissible in the indicated zoning district with an Accessory Use Zoning Certificate issued by the Village Administrator or appointed designee certifying compliance with the standards and procedures set forth in this code.

10.06 Prohibited Use.

The letter “x” means that the use is prohibited in the indicated zoning district.

Table 10: Permissible Uses by Zone District

	Estate Residence	Suburban Residence	Village Residence	Village Business	General Business	Public Facilities	Industry/Office	Planned Unit Development
Zone District Name:								
Zone District Symbol:	ER	R-1	R-2	B-1	B-2	PF	IO	PUD
Principle Uses								
A. Residential Uses								
1. Single family detached dwelling	P	P	P	x	x	x	x	PUD
2. Single family detached dwelling with bed and breakfast facility	C	C	C	x	x	x	x	PUD
3. Single family detached dwelling with accessory apartment	C	C	C	x	x	x	x	PUD
4. Single family detached dwelling with Day Care, Child - Type A (pursuant to Ohio R.C. Chapter 51)	C	C	C	x	x	x	x	PUD
5. Single family detached dwelling with Day Care, Child Type B (pursuant to Ohio R.C. Chapter 51)	P	P	P	x	x	x	x	PUD
6. Manufactured/mobile home	x	x	x	x	x	x	x	PUD
7. Two-family dwellings	x	C	C	x	x	x	x	PUD
8. Multi-family dwellings (on ground floor)	x	x	C	x	x	x	x	PUD
9. Multi-family dwellings (above ground floor)	x	x	C	P	x	x	x	PUD
10. Residential dwellings located on the second or third story of commercial building	x	x	x	P	x	x	x	PUD
11. Residential facility excluding group homes and adult homes (pursuant to Ohio R.C. Chapter 51)	P	P	P	x	x	x	x	PUD
12. Residential facility group home and adult group home	C	C	C	x	x	x	x	PUD
13. Residential facility nursing home	x	C	C	x	P	C	x	PUD
14. Residential facility retirement facility	x	C	C	x	P	C	x	PUD
15. Residential facility homeless shelter	x	C	x	x	x	x	x	
B. Office and Institutional Uses								
16. Animal hospital/kennel	x	x	x	x	C	C	C	PUD
17. Clubs	C	C	C	C	C	C	C	PUD
18. Educational institution	C	C	C	C	C	P	x	PUD
19. Essential services and utilities	C	C	C	C	C	P	P	PUD
20. Financial institution	x	x	x	P	P	x	x	PUD
21. Funeral home	x	x	x	x	P	x	x	PUD

	Estate Residence	Suburban Residence	Village Residence	Village Business	General Business	Public Facilities	Industry/Office	Planned Unit Development
District Name:								
District Symbol:	ER	R-1	R-2	B-1	B-2	PF	IO	PUD
22. Government building	C	C	C	P	P	P	P	PUD
23. Hospitals and clinics	x	x	x	C	P	P	x	PUD
24. Medical and dental clinic	x	x	x	P	P	P	x	PUD
25. Non-commercial recreation	C	C	C	C	C	P	x	PUD
26. Professional or service oriented offices	x	x	C	P	P	P	P	PUD
27. Public and institutional uses	C	C	C	P	P	P	P	PUD
28. Religious place of worship	C	C	C	P	P	P	C	PUD
29. Studio for art, music or photography	x	x	C	P	P	P	x	PUD
c. Retail Business Uses								
30. Automobile filling station	x	x	x	C	P	x	x	PUD
31. Automobile repair garage excluding body shops	x	x	x	x	P	x	x	PUD
32. Automobile sales and service of new cars, boats, and recreational vehicles	x	x	x	x	P	x	x	PUD
33. Building materials and lumber yard	x	x	x	x	P	x	x	PUD
34. Car wash	x	x	x	x	P	x	x	PUD
35. Commercial entertainment excluding sexually oriented businesses	x	x	x	P	P	x	x	PUD
36. Commercial recreation	x	x	x	P	P	x	x	PUD
37. Day care center	x	x	x	P	P	C	x	PUD
38. Delivery services business	x	x	x	C	P	x	x	PUD
39. Greenhouse, plant nursery, feed store	x	x	x	x	P	x	x	PUD
40. Hotel/motel	x	x	x	x	P	x	x	PUD
41. Outdoor food market	x	x	x	C	C	x	x	PUD
42. Outdoor storage of recreational vehicles	x	x	x	x	C	x	x	PUD
43. Public parking lot	x	x	x	C	P	C	C	PUD
44. Retail business less than 5,000 sq ft in ground floor area	x	x	x	P	P	x	x	PUD
45. Retail business 5,000 square feet or larger in ground floor area and shopping centers	x	x	x	C	P	x	x	PUD
46. Restaurant (excluding drive-through facilities)	x	x	x	P	P	x	x	PUD
47. Restaurant with drive-through facilities	x	x	x	x	P	x	x	PUD
48. Restaurant (fast food)	x	x	x	C	P	x	x	PUD
49. Self-storage warehouse	x	x	x	x	C	x	x	PUD
50. Sexually oriented businesses	x	x	x	x	x	x	C	
51. Tavern, bar or lounge	x	x	x	P	P	x	x	PUD
52. Unconventional business	x	x	x	x	C	x	x	

	Estate Residence	Suburban Residence	Village Residence	Village Business	General Business	Public Facilities	Industry/Office	Planned Unit Development
District Name:								
District Symbol:	ER	R-1	R-2	B-1	B-2	PF	IO	PUD
D. Industrial Uses								
53. Automobile salvage and junk yards	X	X	X	X	X	X	X	PUD
54. Light manufacturing (with enclosed operations)	X	X	X	X	X	X	P	PUD
55. Manufacturing (with outside operations)	X	X	X	X	X	X	C	PUD
56. Outside storage	X	X	X	X	X	X	C	PUD
57. Public utility garages and service yards	X	X	X	X	X	X	C	PUD
58. Recycling station	X	X	X	X	X	C	C	PUD
59. Research and development laboratories	X	X	X	X	X	X	P	PUD
60. Telecommunication tower	C	C	C	C	C	C	P	PUD
61. Wholesale distribution and storage warehouse	X	X	X	X	C	X	P	PUD
E. Exempt Uses								
62. Rural agriculture (on lots greater than five acres)	-	-	-	-	-	-	-	PUD
F. Other Principle Uses								
63. Suburban agriculture (on lots not greater than five acres)	P	P	P	P	P	P	P	PUD
64. Cemetery, mausoleum, or crematory	C	C	C	C	C	C	C	PUD
65. Storm/fallout shelters (underground)	P	P	P	P	P	P	P	PUD
66. Mixed uses	X	X	X	C	C	C	C	PUD
67. Permitted uses with reduced development standards pursuant to Article 82	C	C	C	C	C	C	C	PUD
68. Other uses similar to uses permitted in the district and consistent with the purpose of the district, as determined by the planning commission	C	C	C	C	C	C	C	PUD

	Estate Residence	Suburban Residence	Village Residence	Village Business	General Business	Public Facilities	Industry/Office	Planned Unit Development
District Name:								
District Symbol:	ER	R-1	R-2	B-1	B-2	PF	IO	PUD
Accessory Uses								
G. Accessory Uses								
69. Signs pursuant to Article 46	A	A	A	A	A	A	A	PUD
70. Fences and walls pursuant to Section 40.06	A	A	A	A	A	A	A	PUD
71. Decorative features in front and side yards pursuant to Section 40.07	A	A	A	A	A	A	A	PUD
72. Satellite dish pursuant to Section 40.08	A	A	A	A	A	A	A	PUD
73. Play devices in rear yards pursuant to Section 40.09	A	A	A	A	A	A	A	PUD
74. Private swimming pools, tennis courts, basketball courts pursuant to Section 40.10	A	A	A	A	A	A	A	PUD
75. Home occupation pursuant to Section 40.11	A	A	A	A	A	A	A	PUD
76. Large vehicle and unenclosed outdoor storage pursuant to Section 40.12				A	A	A	A	PUD
77. Detached garage, storage structures and other detached structures as accessory to residential uses only pursuant to Section 40.13	A	A	A	x	x	x	x	PUD
78. Outdoor stoves and furnaces pursuant to Section 40.14	A	A	A	A	A	A	A	PUD
79. Small wind energy conservation systems pursuant to Section 40.15	A	A	A	A	A	A	A	PUD
80. Solar panels pursuant to Section 40.16	A	A	A	A	A	A	A	PUD
81. Outdoor storage and bulk display in business and industry districts pursuant to Section 40.17	x	x	x	A	A	A	A	PUD
82. Dumpsters and trash handling areas for non single-family districts pursuant to Section 40.18	x	x	x	A	A	A	A	PUD
83. Outdoor Lighting pursuant to Section 40.19	A	A	A	A	A	A	A	PUD
84. Day care centers as accessory to non-residential use pursuant to Section 40.20	x	x	x	A	A	A	A	PUD
85. Drive-in or drive-through service windows pursuant to Section 40.21	x	x	x	x	A	A	A	PUD
86. Roadside stands pursuant to Section 40.22	A	A	A	A	A	A	A	PUD

87. Pre-school and elementary schools as accessory to existing churches pursuant to Section 40.23	A	A	A	A	A	A	A	PUD
88. Outdoor dining areas pursuant to Section 40.24	x	x	x	A	A	A	A	PUD
89. Kennels and veterinary hospitals or clinics pursuant to Section 40.25	x	x	x	A	A	A	A	PUD
90. Other accessory uses pursuant to Section 40.01	A	A	A	A	A	A	A	PUD

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Article 12 Bulk Standards

Sections:

12.01 Bulk, Density, and Intensity Standards

Tables:

Table 12 Bulk, Density, and Intensity Standards by Zone District

Statutory References:

- *Basis of districting or zoning; classification of buildings or structures, see Ohio R.C. 713.10*
- *Division of municipal corporations into zones, see Ohio R.C. 713.06*
- *Restrictions on location, bulk and height of buildings, see Ohio R.C. 713.07 et seq.*
- *Restrictions on percentage of lot occupancy and set-back building lines, see Ohio R.C. 713.09*

12.01 Bulk, Density, and Intensity Standards (Building and Lot Requirements)

All principal uses and structures permitted in the districts listed in “Table 12: Bulk Standards by Zone District” shall comply with the bulk requirements set forth in this table for each district. Terms introduced in Table 12 and used in this zoning ordinance shall have the meanings set forth in Section 6.09 and Article 99.

Table 12: Bulk, Density, and Intensity Standards by Zone District
(Building and Lot Requirements)

Zone Districts		Bulk Measures ¹	Permitted Use Standards	Conditional Use Standards
ER	Estate Residence (low density rural and estate character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR ² Density (net)	1 acre 150 feet 35 feet 25 feet 50 feet 3 stories 20% 1 unit/acre (u/a)	6,000 square feet 50 feet 20 feet 5 feet (20 ft. total) 25 feet 50% 4 u/a clustered

Zone Districts	Bulk Measures ¹	Permitted Use Standards	Conditional Use Standards
R-1	Suburban Residence (medium density, suburban subdivision character)	<u>Minimum:</u> Lot Size (SF) ³ (other) ⁴ Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR ² Density (net)	20,000 square ft. 1 acre 100 feet 50 feet 10 feet (40' total) 40 feet 3 stories 50% 2 units/acre 8,500 square feet 15,000 square feet 66 feet 40 feet 10 feet (20' total) 5 units/acre
R-2	Village Residence (high density, traditional neighborhood village character)	<u>Minimum:</u> Lot Size (SF) ² (other) ³ Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR ⁴ Density (net)	8,500 square ft. 66 feet 20 feet 10 feet (total) 40 feet 3 stories 75% 5 units/acre 10,000 square feet 8 units/acre
B-1	Village Business (pedestrian oriented ground floor commercial, "Main Street" character)	<u>Minimum:</u> Lot Size Lot Width Rear Yard <u>Maximum:</u> Side Yard Front Yard Height ISR ⁴ Density (net)	8,500 square ft. None 40 feet 0 (5ft, one side) 0 feet 3 stories 100% NA 0 feet 15 feet Per R-1
B-2	General Business (vehicular oriented commercial, arterial road corridor character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR ⁴	20,000 square ft. 100 feet 40 feet 10 feet 20 feet 3 stories 60% 10,000 square feet 66 feet 0 feet 80%

Zone Districts		Bulk Measures ¹	Permitted Use Standards	Conditional Use Standards
PF	Public Facilities (public, quasi-public, civic, education and other institutional uses; generally with coordinated campus character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR ⁴	2 acres 100 feet 50 feet 50 ft. if adjoins SF 40 feet 3 stories 60%	10,000 square feet 10 stories 80%
IO	Industry/Office (Offices, businesses or industries engaged in operations; generally low intensity and enclosed with coordinated campus character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR ⁴	2 acres 100 feet 50 feet 50 ft. if adjoins SF 40 feet 3 stories 60%	10,000 square feet 3 stories 80%
PUD	PUD (overlay district) (coordinated landscaping and access with creative site planning for unique constraints and character)	<u>Minimum:</u> Lot Size Lot Width Front Yard Side Yard Rear Yard <u>Maximum:</u> Height ISR ⁴ Density		PUD Standards: Per approved plan

Notes:

1. Bulk measures are defined in Section 6.09
2. The designation "SF" means Single Family residential use.
3. The designation "Other" means permitted uses other than Single Family residential use.
4. The designation "ISR" means Impervious Surface Ratio.

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Article 14

ER Estate Residence District

Sections:

- 14.01 Purpose
- 14.02 Principally Permitted Uses
- 14.03 Accessory Permitted Uses
- 14.04 Conditionally Permitted Uses
- 14.05 Development Standards

14.01 Purpose.

The purpose of the ER Estate Residence District is:

- A. To protect and support the development of low density single-family housing in conjunction with appropriate accessory uses and public and institutional uses;
- B. To protect residential neighborhoods from the intrusion of incompatible non-residential uses;
- C. To allow, with conditions, other public and institutional uses that do not adversely affect the residential quality of their neighborhood; and
- D. To enable and promote conservation development or clustering of single-family dwelling units so as to allow for single-family detached residential development without increasing the permitted appropriate conventional lot-by-lot subdivision density while enhancing useful open space and preserving significant trees and other natural features through proper utilization of density transfer techniques.

14.02 Principally Permitted Uses.

- A. Principally permitted uses in ER Estate Residence District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for permitted uses are contained in Section 14.06.

14.03 Accessory Permitted Uses.

- A. Accessory permitted uses and structures in the ER Estate Residence District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for uses accessory to a principal use are contained in Section 14.06 and Article 40.

14.04 Temporary Permitted Uses.

The criteria, standards, and procedures for temporary permitted uses are contained in Article 42.

14.05 Conditionally Permitted Uses.

- A. Conditional permitted uses in the ER Estate Residence District are listed in Table 10 (in Article 10).

- B. Additional information on the criteria, standards, and procedures for conditional uses are contained in Article 88

14.06 Development Standards.

All uses and structures permitted in the ER Estate Residence District shall comply with the following development standards:

- A. Bulk Standards (lot area, lot width, lot coverage, building height, yards and building setback requirements); pursuant to requirements set forth in “Table 12: Bulk Standards” (in Article 12).
- B. Parking and Loading Standards; pursuant to requirements set forth in Article 44.
- D. Signs; pursuant to requirements set forth in Article 46.
- C. Buffer Yards, Screening and Landscape Material Standards; pursuant to requirements set forth in Article 48.
- D. Impact Controls and General Standards; pursuant to requirements set forth in Article 52.
- E. Supplemental Regulations—Use Standards; pursuant to requirements set forth in Article 54.
- F. Supplemental Regulations- Site Standards; pursuant to requirements set forth in Article 56.

Article 16

R-1 Suburban Residence District

Sections:

- 16.01 Purpose
- 16.02 Principally Permitted Uses
- 16.03 Accessory Permitted Uses
- 16.04 Conditionally Permitted Uses
- 16.05 Development Standards

16.01 Purpose.

The purpose of the R-1 Residence District is:

- A. To protect and support the development of medium density single-family housing in conjunction with appropriate accessory uses and public and institutional uses;
- B. To protect residential neighborhoods from the intrusion of incompatible non-residential uses; and
- C. To allow, with appropriate conditions, other public and institutional uses that do not adversely affect the residential quality of their neighborhood.

16.02 Principally Permitted Uses.

- A. Principally permitted uses in R-1 Residence District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for permitted uses are contained in Section 16.06.

16.03 Accessory Permitted Uses.

- A. Accessory permitted uses and structures in the R-1 Residence District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for uses accessory to a principal use are contained in Section 16.06 and Article 40.

16.04 Conditionally Permitted Uses.

- A. Conditional permitted uses in the R-1 Residence District are listed in Table 10 (in Article 10).
- B. Conditional permitted uses in the R-1 Residence District shall comply with the criteria, standards, and procedures for conditional uses provided in Article 88.

16.05 Development Standards.

All uses and structures permitted in the R-1 Residence District shall comply with the following Development Standards:

- A. Bulk Standards (lot area, lot width, lot coverage, building height, yards and building setback requirements); pursuant to requirements set forth in “Table 12: Bulk Standards” (in Article 12).

- B. Parking and Loading Standards; pursuant to requirements set forth in Article 44.
- C. Signs; pursuant to requirements set forth in Article 46.
- D. Buffer Yards, Screening and Landscape Material Standards; pursuant to requirements set forth in Article 48.
- E. Impact Controls and General Standards; pursuant to requirements set forth in Article 52.
- F. Supplemental Regulations—Use Standards; pursuant to requirements set forth in Article 54.
- G. Supplemental Regulations- Site Standards; pursuant to requirements set forth in Article 56.

Article 18

R-2 Village Residence District

Sections:

- 18.01 Purpose
- 18.02 Principally Permitted Uses
- 18.03 Accessory Permitted Uses
- 18.04 Conditionally Permitted Uses
- 18.05 Development Standards

18.01 Purpose.

The purpose of the R-2 Village Residence District is:

- A. To accommodate higher density single family detached and multi-family dwellings of such limited size and bulk that they will not alter the traditional neighborhood village character of the Village Residence District.
- B. To protect the traditional neighborhood village character from the intrusion of incompatible non-residential uses.

18.02 Principally Permitted Uses.

- A. Principally permitted uses in R-2 Village Residence District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for permitted uses are contained in Section 18.06.

18.03 Accessory Permitted Uses.

- A. Accessory permitted uses and structures in the R-2 Village Residence District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for uses accessory to a principal use are contained in Section 18.06 and Article 40.

18.04 Conditionally Permitted Uses.

- A. Conditional permitted uses in the R-2 Village Residence District are listed in Table 10 (in Article 10).
- B. Additional information on the criteria, standards, and procedures for conditional uses are contained in Article 88.

18.05 Development Standards.

All uses and structures permitted in the R-2 Village Residence District shall comply with the following Development Standards:

- A. Bulk Standards (lot area, lot width, lot coverage, building height, yards and building setback requirements); pursuant to requirements set forth in “Table 12: Bulk Standards” (in Article 12).
- B. Parking and Loading Standards; pursuant to requirements set forth in Article 44.

- C. Signs; pursuant to requirements set forth in Article 46.
- D. Buffer Yards, Screening and Landscape Material Standards; pursuant to requirements set forth in Article 48.
- E. Impact Controls and General Standards; pursuant to requirements set forth in Article 52.
- F. Supplemental Regulations—Use Standards; pursuant to requirements set forth in Article 54.
- G. Supplemental Regulations- Site Standards; pursuant to requirements set forth in Article 56.

Article 20

B-1 Village Business District

Sections:

- 20.01 Purpose
- 20.02 Principally Permitted Uses
- 20.03 Accessory Permitted Uses
- 20.04 Conditionally Permitted Uses
- 20.05 Development Standards

20.01 Purpose.

The purpose of the B-1 Village Business District is:

- A. To provide places for businesses that are enclosed in buildings and that are small in size and not detrimental to the residential neighborhood;
- B. To provide convenience goods and services to local residents; and
- C. To protect and enhance the traditional “Main Street” character of the Village Business District.

20.02 Principally Permitted Uses.

- A. Principally permitted uses in B-1 Village Business District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for permitted uses are contained in Section 20.06.

20.03 Accessory Permitted Uses.

- A. Accessory permitted uses and structures in the B-1 Village Business District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for uses accessory to a principal use are contained in Section 20.06 and Article 40.

20.04 Conditionally Permitted Uses.

- A. Conditional permitted uses in the B-1 Village Business District are listed in Table 10 (in Article 10).
- B. Additional information on the criteria, standards, and procedures for conditional uses are contained in Article 88.

20.05 Development Standards.

All uses and structures permitted in the B-1 Village Business District shall comply with the following Development Standards:

- A. Bulk Standards (lot area, lot width, lot coverage, building height, yards and building setback requirements); pursuant to requirements set forth in “Table 12: Bulk Standards” (in Article 12).
- B. Parking and Loading Standards; pursuant to requirements set forth in Article 44.
- C. Signs; pursuant to requirements set forth in Article 46.

- D. Buffer Yards, Screening and Landscape Material Standards; pursuant to requirements set forth in Article 48.
- E. Impact Controls and General Standards; pursuant to requirements set forth in Article 52.
- F. Supplemental Regulations—Use Standards; pursuant to requirements set forth in Article 54.
- G. Supplemental Regulations- Site Standards; pursuant to requirements set forth in Article 56.

Article 22

B-2 General Business District

Sections:

- 22.01 Purpose
- 22.02 Principally Permitted Uses
- 22.03 Accessory Permitted Uses
- 22.04 Conditionally Permitted Uses
- 22.05 Development Standards

22.01 Purpose.

The purpose of the B-2 General Business District is:

- A. To provide places for vehicular oriented businesses that benefit from passing traffic and provide goods and services to local and regional markets as well as automobiles;
- B. To promote safe accessibility to larger-scale commercial and professional, institutional, and governmental office uses along arterial road corridors and at major intersection;
- C. To enhance employment opportunities;
- D. To enhance property values and accommodate development contributing to the economic base of the Village;
- E. To encourage efficient use of land and high quality of design in office and business developments;
- F. To preserve land for commercial use and prevent potential conflicts by limiting encroachment of unplanned residential and other non-commercial development within active commercial areas; and
- G. To help implement land use plans, thoroughfare plans and corridor studies adopted by the Village.

22.02 Principally Permitted Uses.

- A. Principally permitted uses in B-2 General Business District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for permitted uses are contained in Section 22.06.

22.03 Accessory Permitted Uses.

- A. Accessory permitted uses and structures in the B-2 General Business District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for uses accessory to a principal use are contained in Section 22.06 and Article 40.

22.04 Conditionally Permitted Uses.

- A. Conditional permitted uses in the B-2 General Business District are listed in

Table 10 (in Article 10).

- B. Additional information on the criteria, standards, and procedures for conditional uses are contained in Article 88.

22.05 Development Standards.

All uses and structures permitted in the B-2 General Business District shall comply with the following Development Standards:

- A. Bulk Standards (lot area, lot width, lot coverage, building height, yards and building setback requirements); pursuant to requirements set forth in “Table 12: Bulk Standards” (in Article 12).
- B. Parking and Loading Standards; pursuant to requirements set forth in Article 44.
- C. Signs; pursuant to requirements set forth in Article 46.
- D. Buffer Yards, Screening and Landscape Material Standards; pursuant to requirements set forth in Article 48.
- E. Impact Controls and General Standards; pursuant to requirements set forth in Article 52.
- F. Supplemental Regulations—Use Standards; pursuant to requirements set forth in Article 54.
- G. Supplemental Regulations- Site Standards; pursuant to requirements set forth in Article 56.

Article 24

PF Public Facilities District

Sections:

- 24.01 Purpose
- 24.02 Principally Permitted Uses
- 24.03 Accessory Permitted Uses
- 24.04 Conditionally Permitted Uses
- 24.05 Development Standards
- 24.06 Procedures Specific to the PF District (site plan review)

24.01 Purpose.

The purpose of the PF Public Facilities District is:

- A. To provide places for government facilities and services that support Batavia's designation as the County Seat;
- B. To provide for public and quasi-public facilities and institutions including but not limited to governmental, civic, educational, religious, welfare, recreational, and transportation facilities in proper locations and extent so as to promote the general safety, convenience, comfort and welfare;
- C. To preserve land for public and quasi-public facilities and institutions and protect such uses from the encroachment of other uses;
- D. To protect adjoining residential areas from adverse land use impacts associated with public facilities and institutions; and
- E. To help implement land use plans, thoroughfare plans and corridor studies adopted by the Village.

24.02 Principally Permitted Uses.

- A. Principally permitted uses in PF Public Facilities District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for permitted uses are contained in Section 24.06.

24.03 Accessory Permitted Uses.

- A. Accessory permitted uses and structures in the PF Public Facilities District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for uses accessory to a principal use are contained in Section 24.06 and Article 40.

24.04 Conditionally Permitted Uses.

- A. Conditional permitted uses in the PF Public Facilities District are listed in Table 10 (in Article 10).
- B. Additional information on the criteria, standards, and procedures for conditional uses are contained in Article 88.

24.05 Development Standards.

All uses and structures permitted in the PF Public Facilities District shall comply with the following Development Standards:

- A. Bulk Standards (lot area, lot width, lot coverage, building height, yards and building setback requirements); pursuant to requirements set forth in “Table 12: Bulk Standards” (in Article 12).
- B. Parking and Loading Standards; pursuant to requirements set forth in Article 44.
- C. Signs; pursuant to requirements set forth in Article 46.
- D. Buffer Yards, Screening and Landscape Material Standards; pursuant to requirements set forth in Article 48.
- E. Impact Controls and General Standards; pursuant to requirements set forth in Article 52.
- F. Supplemental Regulations—Use Standards; pursuant to requirements set forth in Article 54.
- G. Supplemental Regulations- Site Standards; pursuant to requirements set forth in Article 56.
- H. Standards Specific to the PF District:
 - 1. The area or parcel of land for a permitted public facility shall adequate for the main and accessory buildings, off-street parking and other accessory uses and yards and open spaces to accommodate the facility and maintain the character of the neighborhood. The Planning Commission may reduce the minimum area or parcel of land for a permitted public facility after making findings of compliance with the purpose statements in Section 24.01.
 - 2. Flood lighting or other lighting of playfields, buildings, bulletin boards and parking areas shall be located and designed so as to shield the light source from adjoining residences, and, except for general lighting, shall be extinguished between 11:00 p.m. and 7:00 a.m. of the following day.

24.06 Procedures Specific to the PF District (site plan review).

- A. Development plans of proposed public buildings, land improvements and any modification of such plans or modifications of the zoning regulations shall be submitted, along with maps, surveys and other required information, to the Planning Commission for review and a public hearing may be held thereon.
- B. Criteria for reviewing a development plan for a public facility or for modifying development standards provided in the zoning code shall be that the proposed building or use shall be located properly in relation to the criteria of this chapter and to community plans duly adopted by the Planning Commission.
 - 1. Development plans shall be approved by the Planning Commission only after making written findings of compliance with the purpose statements in Section 24.01.
 - 2. A zoning certificate shall not be issued until development plans are approved by the Planning Commission and confirmed by Council.

Article 26

IO Industry / Office District

Sections:

- 26.01 Purpose
- 26.02 Principally Permitted Uses
- 26.03 Accessory Permitted Uses
- 26.04 Conditionally Permitted Uses
- 26.05 Development Standards

26.01 Purpose.

The purpose of the IO Industry/Office District is:

- A. To provide places for business and industries engaged in low intensity operations that manufacture, process or store products for distribution or sale, whose operations are within buildings and clean, quiet and free from objectionable or dangerous nuisance or hazard off site, but often involve materials, processes, machines or equipment which would interfere with pedestrian accessibility to stores if located in a business district; and would be detrimental if located in a less intensive district;
- B. To provide, through conditional use review, places for business and industries engaged in more intensive operations which manufacture, process or store products for distribution or sale; whose operations often require outdoor storage or business operations, and would be detrimental if located in a less intensive district due to generation of noise, odor, vibration, after hours activities, or traffic impacts well beyond the subject property lines.
- C. To provide places for businesses which frequently use large trucks or heavy equipment, need space for outdoor storage or business operations; serve a large market area; and often create noise which would be objectionable to less intensive uses;
- D. To enhance employment opportunities;
- E. To enhance property values and accommodate development contributing to the economic base of the Village;
- F. To encourage efficient use of land and high quality of design in office, business and industrial developments;
- G. To provide for the separation of such industrial operations from residential districts and compatibility with other districts by means of natural or man-made buffers or structural boundaries such as drainage channels, dramatic breaks in topography, vegetation, traffic arteries and similar types of buffers and boundaries;
- H. To preserve land for industry and prevent potential conflicts by limiting encroachment of unplanned residential and other non-industrial development within active industrial areas; and
- I. To help implement land use plans, thoroughfare plans and corridor studies adopted by the Village.

26.02 Principally Permitted Uses.

- A. Principally permitted uses in IO Industry/Office District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for permitted uses are contained in Section 26.06.

26.03 Accessory Permitted Uses.

- A. Accessory permitted uses and structures in the IO Industry/Office District are listed in Table 10 (in Article 10).
- B. Additional criteria, standards, and procedures for uses accessory to a principal use are contained in Section 26.06 and Article 40.

26.04 Conditionally Permitted Uses.

- A. Conditional permitted uses in the IO Industry/Office District are listed Table 10 (in Article 10).
- B. Additional information on the criteria, standards, and procedures for conditional uses are contained in Article 88.

26.05 Development Standards.

All uses and structures permitted in the IO Industry District shall comply with the following Development Standards:

- A. Bulk Standards (lot area, lot width, lot coverage, building height, yards and building setback requirements); pursuant to requirements set forth in “Table 12: Bulk Standards” (in Article 12).
- B. Parking and Loading Standards; pursuant to requirements set forth in Article 44.
- C. Signs; pursuant to requirements set forth in Article 46.
- D. Buffer Yards, Screening and Landscape Material Standards; pursuant to requirements set forth in Article 48.
- E. Impact Controls and General Standards; pursuant to requirements set forth in Article 52.
- F. Supplemental Regulations—Use Standards; pursuant to requirements set forth in Article 54.
- G. Supplemental Regulations- Site Standards; pursuant to requirements set forth in Article 56.

Article 28

PUD Planned Unit Development District

Sections:

- 28.01 Purpose
- 28.02 Qualifying Conditions
- 28.03 PUD Requirements
- 28.04 General Provisions
- 28.05 Review Process
- 28.06 Review Standards
- 28.07 Changes To PUD
- 28.08 Appeals

28.01 Purpose.

The Planned Unit Development (PUD) District is established as an optional development tool. The purpose of the PUD District is:

- A. to permit property to be developed under flexible standards based on public review and legislative approval of a comprehensive site plan without the need to conform to uniform zoning requirements of the underlying district regulations.;
- B. to encourage innovation in land use, form of ownership and variety of design, layout and type of structures constructed;
- C. to achieve economy and efficiency in the use of land;
- D. to preserve significant natural, historical and architectural features and open space;
- E. to promote efficient provision of public services and utilities;
- F. to minimize adverse traffic impacts; to provide better housing, employment and business opportunities particularly suited to residents;
- G. to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the property and surrounding areas; and
- H. to promote a higher quality of development than can be achieved from conventional zoning requirements in furtherance of the vision, goals and plans duly adopted by the Village of Batavia Planning Commission.

28.02 Qualifying Conditions.

In order to qualify for PUD approval, the project must satisfy the conditions of this Article. It is the applicant's responsibility to demonstrate, in writing, that each of the following criteria is or will be met by the proposed PUD:

- A. Recognizable Benefit. A PUD shall achieve recognizable and substantial benefits that would not be possible under the existing zoning classification(s). At least three of the following benefits shall be accrued to the community as a result of the proposed PUD:
 - 1. preservation of significant natural features,

2. a complementary mix of land uses or housing types,
 3. extensive open space and recreational amenities,
 4. connectivity of open space with new or existing adjacent greenway or trail corridors,
 5. preservation of small town appeal,
 6. improvements to public streets or other public facilities that mitigate traffic and/or other development impacts,
 7. coordinated development of multiple small parcels, or
 8. removal or renovation of blighted buildings, sites or contamination clean-up.
- B. Size. Each PUD shall contain a minimum of five acres; provided sites containing less than five acres may be considered for rezoning to PUD, if the Village Council determines that the site will advance the purposes of the PUD District. When determining the appropriateness of areas less than the applicable minimum required, the Village Council shall determine that:
1. rezoning the area to PUD will not result in a significant adverse effect upon nearby or adjacent Village lands;
 2. the proposed uses will complement the character of the surrounding area;
 3. the purpose and qualifying conditions of the PUD District can be achieved within a smaller area; and
 4. the PUD is not being used as a means to circumvent conventional zoning requirements.
- C. Utilities. The PUD shall be served by public water and sanitary sewer.
- D. Ownership. The PUD application shall be filed by the property owner, lessee or other person with legal interest in the property and written consent by the owner. The proposed development shall be under unified ownership or control, so one person or entity has proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions indicating that the development will be completed in its entirety as proposed.
- E. Consistency with Adopted Plans. Proposed uses and design of the PUD shall be substantially consistent with the vision, goals and plans duly adopted by the Village of Batavia Planning Commission.
- F. Pedestrian Accommodation. The PUD shall provide for integrated and safe pedestrian and bicycle access and movement within the PUD and to adjacent properties.
- G. Architecture. Building forms, relationships, scale and styles shall be harmonious and visually integrated.
- H. Traffic. The PUD shall provide for safe and efficient vehicular movement within, into and out of the PUD site. Traffic calming techniques, parking lot landscaping, and other sustainable design solutions shall be employed to improve traffic circulation, storm water management, pedestrian safety and aesthetic appeal.

- I. Eligible Districts. Land within any zoning district may qualify for PUD zoning.

28.03 PUD Requirements.

- A. Permitted Uses. Any use permitted by right or conditional approval in any zoning district (herein referred to as a base zoning district) may be permitted within a PUD, subject to the provisions of Section 28.02, Qualifying Conditions and the requirements of this Article.
- B. Minimum Lot Size and Zoning Requirements. Lot area, width, setbacks, height, lot coverage, minimum floor area, parking, landscaping, lighting and other requirements for the district applicable to the proposed use shall be applicable for all such uses within a PUD, unless modified in accordance with Section 28.03 D. In the case of a mix of uses, the base zoning requirements permitting and applicable to each use category shall apply to that use.
- C. Connectivity. Pathways for bicycles and pedestrians shall be incorporated throughout the development and along all perimeter streets to ensure connectivity between uses and with adjacent properties. The pathways shall be paved and shall be designed to Village standards.
- D. Modification of Minimum Requirements. District regulations applicable to a land use in the PUD may be altered from the requirements specified in the base zoning district permitting the use, including but not limited to, modification from the lot area and width, building setbacks, height, lot coverage, density, signs and parking. The applicant for a PUD shall identify, in writing, all intended deviations from the base zoning requirements. Modifications may be approved by the Village Council during the preliminary development plan review stage, after Planning Commission recommendation. These modifications may be permitted only if they will result in a higher quality and more sustainable development consistent with the purposes of PUD expressed in Section 28.01. The modifications shall also satisfy at least four of the following criteria:
1. preserves the best natural features of the site;
 2. creates, improves or preserves at least 25% open space;
 3. includes a mix of residential and non-residential uses;
 4. provides a mix of residential types such as single family, townhome and/or multiple family;
 5. introduces new development concepts, such as cohousing;
 6. provides a fresh food market;
 7. employs low impact design and/or other best practices to manage storm water and reduce the off-site impacts of runoff;
 8. employs best practices in site layout, building construction and materials that will result in a measurable reduction in energy consumption;
 9. employs cool roof technology and/or green roof gardens; and/or
 10. includes buildings that will be LEED certified.

- E. Open Space. At least 15 percent of the area of a PUD site shall be preserved as open space, in accordance with the following requirements. For purposes of this requirement, “green roofs” shall be counted as open space.
1. Areas Not Considered Open Space. The following land areas shall not be counted as required open space for the purposes of this Article:
 - a. the area within any public street right-of-way or private street easement;
 - b. any easement for overhead utility lines, unless adjacent to qualified open space;
 - c. storm water detention ponds; provided, rain gardens or ponds designed as water features that may also provide for storm water storage may be counted toward required open space;
 - d. 50 percent of any flood plain, wetland, water body or steep slope (15 percent or greater) area and 50 percent of the area of any golf course;
 - e. the area within a platted lot, unless the lot has been dedicated to open space on the plat via conservation easement or other means of ensuring that the lot is permanent open space; and
 - f. parking and loading areas.
 2. Specifications for Required Open Space. Required open space areas shall meet the following specifications:
 - a. shall be designed for use by all residents, employees and visitors of the PUD, subject to reasonable rules and regulations. In the case of a golf course, stable or similar facility, membership shall be available to all residents of the PUD, subject to charges, fees or assessments for use;
 - b. shall leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public street rights-of-way;
 - c. shall protect the roadside character and improve public safety and vehicular carrying capacity by establishing buffer zones along scenic corridors and avoiding development that fronts directly onto existing roadways;
 - d. shall be configured so the open space is reasonably usable by residents of the PUD;
 - e. shall be of sufficient size and dimension and located, configured, or designed in such a way as to achieve the applicable purposes of this chapter and enhance the quality of the development. The open space shall neither be perceived nor function simply as an extension of the rear yard of those lots abutting it;
 - f. shall, to the extent practical, be linked with adjacent open spaces, public parks, bicycle paths or pedestrian paths;
 - g. shall provide safe and convenient pedestrian access points and related identification signs to the required open space areas from the interior of the PUD;

- h. shall be designed to minimize grading and preserve existing topography and landscaping; and
- i. shall not utilize more than 50% of the required open space for ball fields, tennis courts, swimming pools, community buildings, golf courses, and similar recreational facilities and related buildings.

28.04 General Provisions.

- A. Conditions. Reasonable conditions may be imposed upon the PUD approval by the Planning Commission and/or Village Council. The conditions imposed shall be recorded in the minutes of the approval action, and shall remain unchanged except upon amendment of the PUD in accordance with Section 28.07 of this zoning code. Conditions may include, but are not limited to, those necessary to:
 - 1. ensure public services and facilities will be capable of accommodating increased loads;
 - 2. protect the natural environment and conserve natural resources and energy;
 - 3. ensure compatibility with adjacent uses of land;
 - 4. meet the intent and purpose of this code and the standards established for PUDs;
 - 5. ensure compliance with the approved development plan.
- B. Performance Guarantees. The Village Council or Planning Commission may require reasonable performance guarantees, in accordance with Section xx.xx of this code to ensure completion of specified improvements within the PUD.
- C. Interior Streets. Public or private streets may be required to be extended to exterior lot lines in order to allow connection to existing or planned streets on adjacent parcels, so as to provide for secondary access, continuity of the circulation system and to reduce traffic on collector streets.
- D. Time Limits. Each PUD and each approved phase or part thereof, shall be under construction within 12 months after the date of approval of the final development plan. If the PUD has not been commenced within the initial 12 month approval period, or within an authorized extension thereof, any building permits issued for the PUD or any part thereof shall be null and void. At the expiration of the applicable period of time, the Planning Commission or Village Council may initiate proceedings for the rezoning of the property to some other zoning district.
- E. Extension of Time Limit. One extension of the time period for start of construction may be granted by the Village Administrator for up to an additional 60 days, if a request is submitted by the applicant, in writing, prior to the expiration of the original 12 month approval period. Extensions of the time period for start of construction not exceeding 12 additional months for each such extension may be granted by the Village Council provided that prior to the expiration of the initial 12 month period and any subsequent extension, the applicant submits reasonable evidence in writing to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in commencement of the PUD or part thereof.

28.05 Review Process.

The following procedures shall be followed in the establishment of any planned unit development:

- A. Pre-Application Conference. Prior to filing a formal application for a planned unit development, the applicant shall meet with the Village Administrator and/or other Village officials in order to review the general character of the proposed development, i.e., its scope, nature and location. At this time, the applicant shall be advised of the PUD review procedures and the various information, studies, etc., which may be required as part of the review process.
- B. Preliminary PUD Application. An application for rezoning to PUD shall be submitted to the zoning administrator on a form for that purpose, along with an application fee in accordance with the schedule of fees established by the Village Council. In addition, the application shall include the following:
 1. Density calculation. Residential density shall be determined through the preparation of a conventional development plan illustrating how the site could be developed in accordance with topographic constraints and the requirements specified in the base zoning district. A concept layout shall be prepared to scale showing, as applicable, single family and two- family lots, townhome and multiple family buildings, parking, setbacks and street rights-of-way. The number of units that could be accommodated under the requirements of the base zoning district and related environmental constraints shall serve as maximum number permitted, unless a density bonus is approved in accordance with Section 28.03-D. Live/work units located above main floor businesses shall not be counted toward the maximum number of dwellings.
 2. Preliminary development plan. A preliminary development plan containing the following information shall be submitted:
 - a. general location map;
 - b. legal description of the subject property;
 - c. title block, date, north arrow, scale, name and contact information of applicant and name and contact information of plan preparer;
 - d. current topographical map clearly showing existing topographic conditions, including contour intervals of no more than 2 feet based on field survey or photogrammetric methods;
 - e. property boundary survey;
 - f. location of existing natural features including woods, streams, ponds, wetlands and steep (15 percent or greater) slopes;
 - g. existing land uses within the development site and surrounding areas for a distance of 300 feet, including the approximate location of all buildings, structures, lots and streets (an aerial photo may suffice);
 - h. location and identification of existing and proposed public, semi-public, or community facilities such as schools, parks, trails, churches, public buildings and dedicated open space;

- i. existing zoning on all abutting properties;
 - j. approximate location of existing and proposed utilities, including a preliminary utility and drainage concept plan;
 - k. uses proposed within the PUD;
 - l. number and type of dwelling units proposed, including the number and type of committed affordable units, if any;
 - m. conceptual layout;
 - n. general location of proposed interior streets and access points to abutting streets;
 - o. number and general location of off-street parking facilities; and
 - p. perspective drawings or photographs of representative building types, indicating the proposed architectural style and appearance.
3. Summary of intent. A written statement containing the following information shall be submitted with the preliminary development plan:
- a. statement of how the proposed PUD meets each of the qualifying conditions of Section 28.02;
 - b. statement of the present ownership of all land within the proposed development;
 - c. explanation of the character of the proposed development including a summary of acres or square footage by type of use, number and type of dwelling units, gross density calculation for dwelling units, and minimum standards for floor area, lot size, and setbacks;
 - d. verification that the subject site is not located within an existing flood plain;
 - e. a complete description of any requested variations from the applicable spatial or other base district requirements applying to the property;
 - f. statement of the proposed development schedule and progression of each phase or stage; and
 - g. intended agreements, provisions, and covenants to govern the use of the development, building materials or architectural styles and any common or open space areas, including the provisions which will organize, regulate and sustain a property or home owners association, if applicable.
- C. Preliminary PUD Plan and Rezoning.
1. Planning Commission review. Upon receipt of the PUD application and related materials, the Planning Commission shall conduct a work session with the applicant to review the development concept and determine the need for additional information, prior to conducting a public hearing.
 2. Additional information. If required by the Planning Commission, the applicant shall submit additional information and/or studies to support the request such as, but not limited to: impact assessment, traffic analysis, storm water study, market feasibility study.

3. Public hearing. Upon completion of its initial review and following receipt of any additional materials, the Planning Commission shall conduct a public hearing, notice of which shall be in accordance with the requirements of Article 92
 4. Recommendation. Following the public hearing, the Planning Commission shall review the PUD request and the preliminary development plan, based on conformance with the standards of Section 28.06 and shall make a recommendation to the Village Council to approve, disapprove, or approve with modifications the request for PUD zoning and the preliminary development plan.
 5. Village Council action. Upon receipt of the Planning Commission recommendation, the Village Council shall review the preliminary development plan, the record of the Planning Commission proceedings, the standards of Section 28.06 and the recommendation of the Planning Commission and shall approve, disapprove, or approve with modifications the preliminary development plan and rezoning request.
 6. Zoning map. If the PUD zoning is approved, the zoning administrator shall cause the zoning map to be changed to indicate the planned unit development. If the preliminary development plan is approved with modifications, the applicant shall file with the zoning administrator written notice of consent to the modifications and a properly revised preliminary development plan prior to the map being changed.
- D. Final Development Plan. Within 12 months of the Village Council's approval of the preliminary development plan and PUD rezoning, the applicant shall submit a final development plan for the entire PUD or one or more phases to the zoning administrator, in accordance with the requirements of this code for final site plan review. If determined to be complete by the zoning administrator, copies of the plan shall be forwarded to the Planning Commission.
1. Phased projects. If the PUD is to be developed in phases, the final development plan may be submitted for one or more phases of the overall PUD. A tentative schedule for the completion of each phase and commencement of the next phase shall also be submitted for Planning Commission approval.
 2. Extension of time limit. One extension of the time period for submitting the final development plan may be granted by the Village Administrator for up to an additional 60 days, if a request is submitted by the applicant, in writing, prior to the expiration of the original 12 month approval period. Extensions of the time period for submitting the final development plan not exceeding 12 additional months for each such extension may be granted by the Village Council provided that prior to the expiration of the initial 12 month period and any subsequent extension, the applicant submits reasonable evidence in writing to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in submitting the final development plan or part thereof. If an application for final development plan approval has not been submitted prior to the expiration of the original 12 months or an approved extension, the preliminary development plan shall be null and void. In addition, the Planning Commission or Village Council may initiate a

rezoning of the property to another zoning district.

3. Subdivision plat. For any PUD requiring subdivision plat approval, the subdivision plat shall be submitted simultaneously with the final development plan and reviewed concurrently as part of the PUD.
4. Review and action. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions or modifications attached to the PUD rezoning by the Village Council. If it is determined that the final plan does not substantially conform with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with Section 28.05 B. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the standards for site plan review and the PUD standards of Section 28.06. The Planning Commission shall prepare a record of its findings and shall approve, disapprove, or approve with modifications the final development plan.

E. PUD Agreement.

1. Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the Village, in recordable form, setting forth the applicant's obligations with respect to the PUD.
2. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required modifications, other documents which comprise the approved PUD, and all conditions attached to the approval by the Village.
3. A phasing plan shall also be submitted, if applicable, describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
4. The agreement shall also establish the remedies of the Village in the event of default by the applicant in carrying out the PUD, and shall be binding on all successors in interest to the applicant.
5. All documents shall be executed and recorded in Clermont County.

28.06 Review Standards.

In considering the PUD request, the reviewing body shall apply the following general standards:

- A. Whether modifications of the zoning or other regulations are warranted by the innovative design of the development plan;
- B. Whether the PUD will result in substantial benefit to users of the project and to the community, which would not otherwise be feasible or achievable under the conventional zoning districts;
- C. Whether the PUD will respect or enhance the established or planned character, use, and intensity of development within the area of the Village where it is to be

located and contribute to the Village's identity and vitality;

- D. Whether the proposed phasing of the development is appropriate and the development can be substantially completed within the period of time specified in the schedule of development submitted by the applicant;
- E. Whether the size and physical features of the project area assures adequate protection of, and compatibility with, adjacent and surrounding property and enables orderly and coordinated improvement of property in the vicinity of the site;
- F. Whether the development includes an appropriate amount of, and appropriate access to, dedicated open space and adequately preserves or conserves natural features and resources;
- G. Whether the proposed pedestrian circulation system adequately insulates pedestrian circulation from vehicular movement;
- H. Whether the proposed project will be consistent with the public health, safety, and welfare needs of the village;
- I. Whether the proposed development is served adequately and efficiently by essential public facilities and services which are existing or planned, or are adequately provided for or mitigated by features of the PUD as approved;
- J. Whether the PUD will be consistent with the community plans and vision adopted by the Village;
- K. Whether the PUD promotes the intent and purpose of this chapter and complies with the standards, conditions, and requirements of this chapter.

28.07 Changes to PUD.

Changes to an approved PUD shall be permitted only under the following circumstances:

- A. Notify Zoning Administrator. The holder of an approved PUD final development plan shall notify the zoning administrator of any desired change to the approved PUD.
- B. Minor Change Determination. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified modifications imposed as part of the original approval. Minor changes shall include the following:
 - 1. reduction of the size of any building and/or sign;
 - 2. movement of buildings and/or signs by no more than ten feet;
 - 3. landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
 - 4. changes in floor plans which do not alter the character of the use or increase the amount of required parking;
 - 5. internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design; or

6. changes required or requested by the Village of Batavia or other county, state or federal regulatory agency in order to conform to other laws or regulations.
- C. Major Change Determination. A proposed change not determined by the zoning administrator to be minor shall be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application for the final development plan. While not required, the Planning Commission may elect to hold a public hearing in which case the notification requirements of Article 92 shall be followed.

28.08 Appeals.

The Board of Zoning Appeals shall have no jurisdiction or authority to accept or consider an appeal from any PUD determination or decision, or any part thereof, nor shall the Board of Zoning Appeals have authority to grant variances for or with respect to a PUD or any part thereof.

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[Articles 30 to 38 Reserved]

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Batavia Code of Ordinances, Chapter 153 – Zoning

Part III
Regulations Applying to Multiple Districts

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- 40 Accessory Permitted Uses and Structures
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Article 40

Accessory Permitted Uses and Structures

Sections:

- 40.01 General Authorization
- 40.02 Accessory Uses Not Permitted
- 40.03 Zoning Permits
- 40.04 Exemptions for Public Utilities and Railroads
- 40.05 Use Limitations
- 40.06 Fences, Walls and Hedges
- 40.07 Decorative Features in Front and Side Yards
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- 40.09 Freestanding Antennas
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- 40.14 Detached Garage, Storage Structures and Other Detached Structures as Accessory to Residential Uses Only
- 40.15 Outdoor Stoves and Furnaces
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- 40.18 Outdoor Storage and Bulk Display In Business and Industry Districts.
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- 40.20 Outdoor Lighting
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- 40.25 Outdoor Dining Areas
- 40.26 Kennels and Veterinary Hospitals or Clinics
- 40.27 Heliports

40.01 General Authorization.

- A. Except as otherwise expressly provided or limited in this Article, accessory uses and structures are permitted in any zoning district in connection with any principal use lawfully existing within such district provided such uses and structures conform to all applicable requirements of this Code and that the accessory use or building is incidental and subordinate in height, area, bulk extent and purpose to the principal use. Any accessory use or structure may be approved in conjunction with the approval of the principal use.
- B. Accessory uses permissible with required Zoning Permits are listed in “Table 10: Permissible Uses by District”.
- C. The Planning Commission may approve other uses, buildings and structures customarily accessory and incidental to a principally permitted use that are similar to the accessory uses listed in Table 10 and consistent with the purpose of the district.

40.02 Accessory Uses Not Permitted.

The following accessory uses are not permitted in Residence Districts or the B-1 Village Business District:

- A. Outdoor storage or parking, except temporary parking, not exceeding 48 hours, for the delivery of goods and/or services of:
 - 1. Trucks over 7,500 lbs. gross vehicle weight and 8 feet tall;
 - 2. Buses;
 - 3. Mobile homes;
 - 4. Semi-tractor and/or trailers.
 - 5. Recreational Vehicles (RVs) and boats except as provided in Section 44.11.
- B. Unenclosed outdoor storage, such as but not limited to: junk, lumber, building materials, parking of inoperative or unlicensed motor vehicles or similar items of property, unless specifically permitted by the specific zoning district regulations.
- C. Storage or any other use of a trailer or non-permanent structure unless expressly permitted by the Planning Commission as a Minor Modification.

40.03 Zoning Permits.

No accessory use or structure shall be established or constructed unless a Zoning Permit evidencing compliance of the proposed use or structure with the provisions of this Article and all other applicable regulations of this Zoning Ordinance has first been issued, except that the following accessory uses shall not require a Zoning Permit:

- A. Satellite dish antennas 80 inches or less in diameter in all nonresidential zoning districts except the B-1 Village Business District.
- B. Satellite dish antennas 36 inches or less across in their smaller dimension and located in any zoning district.

- C. Ornamental landscape structures when compliant with minimum yard requirements of the District.
- D. Swing sets, jungle gyms and other play devices not requiring a building permit when compliant with minimum yard requirements of the District.
- E. Dumpsters and trash handling areas in all non-residence districts when compliant with minimum yard requirements of the District and impact controls set forth in Article 52.

40.04 Use Limitations, General.

In addition to the applicable use limitations of the residential zone district in which it is located, no accessory use or structure shall be permitted unless it complies with the following restrictions:

- A. Principal Structure Permit Required. No accessory use or structure shall be approved, established or constructed before the principal use is approved in accordance with these regulations. Accessory buildings that are to be used for storage materials necessary for the construction of the principal structure may be erected upon a lot prior to the construction of that structure but only after a permit for the principal structure has been issued.
- B. Utility Connections. Any utilities serving an accessory building shall be extended from, and metered through the facilities in the principal building. Any lines, pipes, wires, cables or other infrastructure making the extension of these utilities shall be installed underground.
- C. Location.
 - 1. No accessory use or structure shall be located in the front or side yard and the total combined area of all accessory structures shall not occupy more than 25 percent of the required area of the rear yard, except as provided in Subsection 2 below.
 - 2. Where the principal structure is at least 200 feet from the right-of-way, an accessory structure may then be located within the front or side yard but must be at least 100 feet from the right-of-way, and all district setback requirements shall be maintained. In the case of panhandle lots, the area of the panhandle cannot be counted towards setback from the right-of-way line or edge of easement.
 - 3. Accessory buildings or structures shall be located no less than 5 feet from another accessory or principal structure. Accessory structures located less than 5 feet from the principal structure shall not be considered detached structures and shall be subject to the same minimum setback requirements as principal structure.
 - 4. No detached accessory building shall be placed closer to the street than the nearest foundation line of the principal use structure on the lot, but in no case shall this distance be required to be greater than 2 times the front yard setback required for the district in which the property is located.
 - 5. In the case of a corner lot, no accessory building shall be erected or altered so as to project beyond the front yard required on any adjacent lot, nor shall it be located closer to either street line than the main building constructed on

the lot, but in no case shall this distance be required to be greater than 2 times the front yard setback required for the district in which the property is located.

40.05 Fences, Walls, and Hedges.

A. Location.

1. On residential property where no structure exists, no fence, wall or hedge may project past the front building line of the average of the adjacent properties or the minimum front yard setback, whichever is greater.
2. No fence, wall, or hedge shall be located in the right-of-way or directly on the right-of-way line or property line unless the applicant submits, to the Village Administrator, the written consent of the adjacent property owner certifying agreement with the specific location of the fence, wall, or hedge.
3. No fence, wall, or hedge shall obstruct line-of-sight visibility of vehicle traffic on any adjacent street.

B. Height and Opacity. Fences, walls, and hedges shall comply with the height and opacity requirement set forth in this table:

Maximum Height and Opacity for Fences, Walls, and Hedges						
District Type	Front Yard		Side Yard**		Rear Yard	
	Maximum Height	Maximum Opacity*	Maximum Height	Maximum Opacity*	Maximum Height	Maximum Opacity*
Residence Districts	4 feet	50 %	4 feet	50 %	6 feet	100 %
Nonresidence Districts	4 feet	50 %	10 feet	100	10 feet	100

* Opacity means the screening effectiveness expressed as the percentage of vision that the screen or fence blocks.

** Side yard on corner lot for this requirement shall mean the part of the lot on the side of the structure beyond the front line of the building.

A. Materials.

1. Fences shall not contain an electric charge.
2. Barbed wire shall only be permitted in the General Industry District and then, only on the top of a perimeter fence.
3. If the fence or wall has only one finished side, the finished side shall face the adjacent property.
4. Chain link fencing shall only be permitted in the side and rear yards in residential districts.

B. Maintenance. Both the fence and the property surrounding both sides of the fence shall be properly maintained to prevent both unsightly and unsafe conditions.

C. Entrance Walls in Front Yard. An entrance wall or one set of entrance walls

constructed on opposite sides of the entrance street or drive shall be allowed in a front yard in accordance with the following requirements:

1. The entrance wall shall be part of a single family development containing at least 10 dwelling units or a multi-family, commercial or industrial development having a minimum of 500 ft. of lot frontage.
 2. The entrance wall shall be constructed at a maximum height of 6 feet above grade and does not extend into the sight distance triangle measured 20 feet from the intersection of the right-of-way lines, easement of access, or pavement edge of an access drive.
 3. Signage on the entrance wall shall be subject to size and illumination standards provided in Article 46.
 4. The entrance wall is constructed with a minimum setback of 10 feet from the right-of-way, easement of access or edge of pavement, whichever is the greater setback, and 5 feet from all other property lines.
- D. Security Fences and Walls. Barbed wire and razor wire are prohibited, except that barbed wire may be used on fences associated with a permitted industrial use provided that barbed wire strands are not less than 7 feet and not more than 10 feet above grade. Security fences associated with a permitted nonresidential use shall not be built to height greater than 10 feet above grade and shall be located in the side and rear yards only. Such security fences and walls may be solid in construction.

40.06 Retaining Walls.

- A. Required Setback. Retaining walls facing a residence district or in residence districts shall be set back from the residential property line a minimum of 2 feet for every 1 foot of height.
- B. Height Limit. Any embankment to be retained that is over 48 inches in height shall be stepped so that no individual exposed retaining wall exceeds 36 inches in height, and each intervening step is a minimum width of 36 inches.
- C. Front Setback Requirements. Retaining walls not exceeding 3 feet, 6 inches in height, may be permitted in the required front setback provided that the coverage does not exceed 5 percent of the area of the required front setback. On corner lots, such structures shall not be located within 35 feet of the intersected street lines.

40.07 Decorative Features in Front and Side Yards.

- A. Ornamental landscape structures such as fountains, ponds, and other decorative features shall not occupy more than 25 percent of the front or side yard area and shall not exceed 5 feet tall.
- B. Ornamental water structures that exceed water depth of 24 inches or water surface area of 150 square feet shall require a zoning permit and be subject to the following standards:
 1. The structure shall be at least 10 feet from all property lines.
 2. Fixed lighting shall be located, screened, or shielded so that any adjacent residential lots are not directly illuminated.

40.08 Satellite Dishes.

- A. Exemptions. Digital satellite dishes (DSS) thirty-six (36) inches or less in their smaller dish dimension placed on the exterior wall of any dwelling or building shall be exempt from these regulations. However, the satellite dish should be placed in the most inconspicuous place that permits reception on the property.
- B. Conditions. Satellite dishes, when permitted as an accessory use, are subject to the following conditions:
1. Location.
 - a. Satellite dishes are permitted to be installed on the ground in any district and are permitted to be mounted on the roof only in nonresidence districts.
 - b. Ground mounted satellite dishes shall be set back a minimum equal to the measurement of its height. However, in no case, shall the ground mounted satellite dish be located closer than three feet to the property line.
 - c. Satellite dishes shall be prohibited in front and side yards.
 2. Height and size.
 - a. The maximum height of any ground- mounted satellite dish shall not exceed 15 feet above finished grade and its diameter shall not exceed 12 feet.
 - b. The maximum height of any roof- mounted satellite dish shall not exceed the roof height it is mounted on by more than four feet and its diameter shall not exceed three feet.
 3. Landscaping, maintenance and appearance.
 - a. The satellite dish apparatus, where mounted to the ground, shall be screened with shrubbery and/or landscaped if viewed from the public right-of-way.
 - b. The satellite dish apparatus, landscaping and shrubbery shall be properly maintained to prevent both unsightly and unsafe conditions.
 - c. The satellite dish apparatus shall employ (to the extent possible) materials and colors that blend with the surroundings, and shall bear no advertising, lettering, picture, or visual image, except for the provider's or manufacturer's name and/or logo not to exceed four (4) inches in height.
 4. Permit. No person, firm or corporation shall undertake the construction, erection or installation of any satellite dish without a zoning permit issued in accordance with the provisions of this code. In addition to the requirements of this code, the application for such permit shall include the following:
 - a. A description of the type of satellite dish proposed;
 - b. A plot plan of the lot, premises, or parcel of land showing the location of the proposed satellite dish and all other buildings thereon;

- c. Plans depicting the specifications and elevations of the proposed location, to include satisfactory screening and landscaping for ground-mounted structures.

40.09 Freestanding Antennas.

Any freestanding antenna or other aerial adjacent to any residential use or residential zone district shall be set back from the adjacent residential property line a minimum of one foot for each foot in height. To the extent required by law, licensed amateur radio towers are exempt from this requirement.

40.10 Outdoor Vending Machines Accessory to Non-Single-Family Uses.

Outdoor vending machines shall be situated according to the following:

- A. Shall be located along the face of a building or against a structure and on an impervious surface such as concrete or asphalt.
- B. Shall not obstruct pedestrian pathways, driving aisles, parking spaces, or any areas necessary for proper vehicular circulation or loading activities. A clear path of travel at least four feet wide must be provided around outdoor vending machines.

40.11 Play Devices in Rear Yards.

Swing sets, jungle gyms, and other play devices shall be located in the rear yard.

40.12 Private Swimming Pools, Tennis Courts, Basketball Courts.

- A. Private swimming pools (measured from the edge of water), tennis courts, basketball courts and similar active recreation areas shall be permitted as an accessory use in all Residence Districts or any district with permitted residential uses provided they are located behind the rear line of the principal structure and at least 5 feet from all property lines.
- B. Above ground swimming pools shall be placed in an area which is structurally acceptable, provided no part of the pool, pool enclosure or deck exceeds 6 feet above grade.
- C. Any pool 24 inches or more in depth shall have an enclosure surrounding the pool area. The enclosure shall extend not less than four (4) feet above the ground. All gates shall be self-closing and self-latching with the latches placed at least four (4) feet above the ground.
- D. Fixed lighting for these uses shall be located, screened, or shielded so that any adjacent residential lots are not directly illuminated.
- E. Fences for uses such as swimming pools shall comply with the Clermont County Building Code.

40.13 Home Occupations.

Home occupations shall be permitted in any zoning district as an accessory use to any permitted dwelling unit in accordance with the following conditions:

- A. Employees prohibited. No persons shall be employed or engaged in such home occupation other than members of the immediate family residing on the premises.

- B. Maximum Area. The home occupation shall be conducted only within the closed living area of the dwelling unit or existing accessory structure, and shall be clearly incidental and subordinate to its use for residential purposes by its occupants, such that not more than twenty-five (25) percent of the gross floor area of the dwelling or three hundred (300) square feet, whichever is greater, shall be used in the conduct of the home occupation.
- C. Use of Accessory Structures. If the home occupation is conducted within an existing accessory structure, then that structure shall also serve as the garage or storage structure for the residents of the dwelling unit.
- D. Outside Appearance.
1. The external appearance of the structure in which the use is conducted shall not be altered; and, no external alteration, construction or reconstruction of premises to accommodate the use shall be permitted.
 2. No display of products shall be visible from the street.
- E. Sign. 1 non-illuminated sign (nameplate) of not more than 2 square feet, attached flat against the building, shall be permitted to identify the home occupation. No other identification is permitted.
- F. Parking.
1. No expansion of existing off-street parking shall be permitted.
 2. No additional parking burden, due to the home occupational use, shall be created.
 3. The home occupation may increase parking and traffic flow by no more than 1 vehicle at a time.
 4. No vehicles may be parked or otherwise kept at the premises, other than as are normal for use for domestic or household purposes, unless housed in a fully enclosed structure and no vehicles exceeding 7,500 lbs. gross vehicle weight or eight feet tall may be parked or otherwise kept at the premises.
- G. Sales Limited. No commodity or product shall be sold, displayed or stored outside or inside the premises except that which is prepared on the premises.
- H. Nuisance Prohibited.
1. No equipment, process, materials or chemicals shall be used which create offensive noises, vibration, smoke, dust, odor, heat, glare, x-rays, radiation or electrical disturbances detectable to normal senses off the premises.
 2. No equipment or process shall create electrical interference, or visual or audible interference in any radio or television receivers or other audio appliances used off the premises, or cause fluctuation in line voltage off the premises.
 3. No equipment, process, or storage associated with a home occupation shall create any fire or explosion hazard, or involve the storage or use of hazardous materials in any concentration greater than that which would normally be found in a dwelling containing no home occupation.

- I. Essential Residential Character. The home occupation shall not adversely affect adjacent properties or the neighborhood.
- J. Employee Assembly Prohibited. No home shall serve as a gathering point for employees engaged in the business that takes place off the premises. This may include, but it is not limited to, landscape business offices, construction offices, or a trucking business where drivers or employees gather at the home before being dispatched from the home.
- K. Uses Prohibited as Home Occupations. Home occupations shall not, under any circumstance, be deemed to include the following activities nor any other activities similar in kind or intensity of use: nursing homes; funeral homes, mortuaries and embalming establishments; restaurants; bed and breakfast establishments; clinics, massage services, hospitals or the general practice of medicine or dentistry; clubs, including fraternities and sororities; instruction of persons; day care centers or type A day care home; retail or wholesale business; warehousing; beauty shop; barbershop; tailoring shops; shoe or hat repair; drop-off or pick-up station; and on-premises consultation, sales or transaction.

40.14 Detached Garage, Storage Structures and Other Detached Structures as Accessory to Residential Uses Only.

Detached private garages, storage barns, portable carports and other detached structures, excluding “portable storage containers”, shall be permitted as an accessory use in all Residential Districts or any district with permitted residential uses, in accordance with the following requirements:

- A. Area and Height.
 - 1. On parcels of 1 acre or less, no more than 1,032 square feet and 14.5 feet tall measured to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
 - 2. On parcels greater than 1 acre and having a minimum width of not less than 150 feet at the building line, no more than 2,000 square feet and 24 feet tall measured to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
- B. Setback.
 - 1. No detached accessory structure having 1,032 square feet or less in floor area and 14.5 feet tall measured to the mean height level between eaves and ridge shall be closer than 3 feet from any property line.
 - 2. When permitted by Section 40.15-A-2, no detached accessory structure having more than 1,032 square feet in floor area or being more than 14.5 feet tall measured to the mean height level between eaves shall be closer than 25 feet from any property line.
- C. Location. No detached garage or storage barn shall be located in the front or side yard.

40.15 Outdoor Stoves and Furnaces

- A. Minimum Lot Size. Outdoor stoves and furnaces shall be considered accessory uses to permitted residential uses. Due to the potential for the emission of excessive smoke and noxious odors beyond the property line, and in an attempt

to prevent such nuisance situations, outdoor stoves and furnaces shall be prohibited on lots totaling less than 3 acres unless Conditional Use approval is granted by the Board of Zoning Appeals.

- B. **Setbacks.** The outdoor stove or furnace shall be situated no closer than 100 feet to any property line. If located within 200 feet of any residential dwelling on an adjoining property, the stove's chimney must be no less than 2 feet higher than the peak of the roof of the neighboring residence(s).
- C. **Permitted Fuels.** Fuel burned in any new or existing outdoor stove or furnace shall be only natural untreated wood, wood pellets, corn products, biomass pellets, or other listed fuels specifically permitted by the manufacturer's instructions such as fuel oil, natural gas, or propane backup.
- D. **Prohibited Fuels.** The following fuels are strictly prohibited in new or existing outdoor wood furnaces:
 - 1. Wood that has been painted, varnished or coated with similar material and/or has been pressure-treated with preservatives and contains resins or glues as in plywood or other composite wood products.
 - 2. Rubbish or garbage, including but not limited to food wastes, food packaging, or food wraps.
 - 3. Any plastic materials, including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
 - 4. Rubber, including tires or other synthetic rubber-like products.
 - 5. Any other items not specifically allowed by the manufacturer or this Article.
- E. **Non-conforming Use.** Outdoor stoves or furnaces that were installed prior to the effective date of this amendment shall be permitted to continue. However, if the existing outdoor stove or furnace does not meet the standards of this Article, the outdoor stove or furnace shall be considered a non-conforming use subject to the non-conforming use provisions of this zoning ordinance.

40.16 Small Wind Energy Conservation Systems

- A. **Purpose.** It is the purpose of these regulations to allow the safe, effective and efficient use of small wind energy conservation systems installed to reduce the on-site consumption of utility supplied electricity while continuing to provide adjoining properties protection from any undesirable effects of such installation.
- B. **Lot size.** Small wind energy conservation systems shall be considered accessory uses and shall be subject to Conditional Use approval by the Board of Zoning Appeals unless the lot on which they are located is 3 acres or more.
- C. **Standards.** The following shall be minimum requirements for all small wind energy systems:
 - 1. The base of the tower shall be setback from all property lines, public right-of-ways and public utility lines a distance equal to one and one half (1 ½) times the extended height of the tower and turbines. In no case shall the tower be located in the front yard, and shall not extend into the other required yard setbacks for the district in which it is located.

2. Sound produced by the system under normal operating conditions, as measured from the property line, shall not exceed the noise regulations of this Zoning Ordinance, however such guidelines may be exceeded during short term events such as power outages or severe wind storms.
3. The height of the system shall not exceed 120 feet, except that greater limits may be imposed by FAA regulations. The height of a wind turbine shall be measured from natural grade to the tip of the rotor blade at its highest point, or blade tip height.
4. No illumination of the turbine or tower shall be allowed unless required by the FAA.
5. All climbing foot pegs or rungs below 12 feet shall be removed to prevent unauthorized climbing of the tower.
6. If a wind energy system is inoperable for 6 consecutive months the owner shall be notified in writing that they must, within 6 months, restore the system to an operating condition. Failure of the property owner to do so shall be deemed a violation of this Zoning Ordinance and subject to the violation remedies of this code
7. No advertising shall be permitted on the wind energy system.

40.17 Solar Panels

- A. Purpose. It is the purpose of this regulation to allow the safe, effective and efficient use of solar panels installed to reduce the on-site consumption of utility supplied electricity while continuing to provide adjoining properties protection from any undesirable effects of such installation.
- B. Location. Solar panels shall be considered accessory uses, and shall be permitted as of right and exempt from obtaining a Zoning Permit if attached or located on the roof or wall of a building and if the solar panels lie flat on the surface or not more than six inches from the surface of the building roof or wall.
- C. Conditional Use. Other installations of solar panels shall be subject to Conditional Use approval by the Board of Zoning Appeals and shall comply with the following standards:
 1. The solar panels detached from the principle structure shall not be located in the front or side yard nor closer than 3 feet to any property line.
 2. Sound produced by any solar facility under normal operating conditions, as measure from the property line, shall not exceed 62 decibels (dBA) between the hours of 7:00 AM to 10:00 PM and 52 decibels (dBA) between the hours of 10:00 PM and 7:00 AM.
 3. Solar panels located on the roof of a residential structure may not extend above the highest point of the existing roof.
 4. Solar panels detached from the principle structure shall not exceed 14.5 feet tall.
 5. Solar panels and related accessory structures detached from the principle structure shall be considered together with all other accessory structures for the purposes of determining maximum amount of yard coverage permitted.

40.18 Outdoor Storage and Bulk Display in Business and Industry Districts.

- A. Application. Outdoor storage or display locations shall require approval by the Planning Commission upon the application of the record owner of the property.
- B. Site Plan. Applications for outdoor storage or display areas shall be submitted with a site plan depicting the location of the said storage or display areas with supporting documentation indicating the impact of the storage or display area on the property as a whole.
- C. Standards. The outdoor storage or display of bulk goods including seasonal items such as firewood and mulch shall be controlled by the following regulations:
 - 1. No outdoor storage or display area may occupy any required parking space and the outdoor storage or display of merchandise, inventory or materials shall not otherwise interfere with parking or the safe and unobstructed use of vehicular or pedestrian access ways or walkways.
 - 2. The outdoor storage or display of merchandise, inventory or materials shall not be located in any required yard area within the lot.
 - 3. The outdoor storage or display of merchandise, inventory or materials shall not include the use of banners, pennants or strings of pennants.
 - 4. Outdoor storage areas shall be required to be fully screened with an opaque fence or wall not to exceed 8 feet tall.

40.19 Dumpsters and Trash Handling Areas for Non-Single-Family Districts.

The following requirements shall apply to all dumpsters, trash handling areas, and related service entrances:

- A. Setbacks. Dumpsters, trash handling areas and related screening, shall be located in compliance with the same minimum setbacks as a main building as determined by the zone district in which such structure is constructed.
- B. Location of Screen. Any such accessory use or structure shall be screened on three sides by a fence or wall from the view from public streets and any abutting properties located in residence or business districts.
- C. Height. Any fence or wall required under this Article shall have a height no greater than 8 feet and no less than the height of the dumpster.
- D. Construction. Any wall shall be constructed in a durable fashion of brick, stone, or other masonry materials with no greater than twenty-five percent (25%) of the wall surface left open. Any fence shall be constructed in a durable fashion of wood posts and/or planks with minimum diameter or width of three inches (3”) and with no greater than twenty-five percent (25%) of the fence surface left open between posts and/or planks.

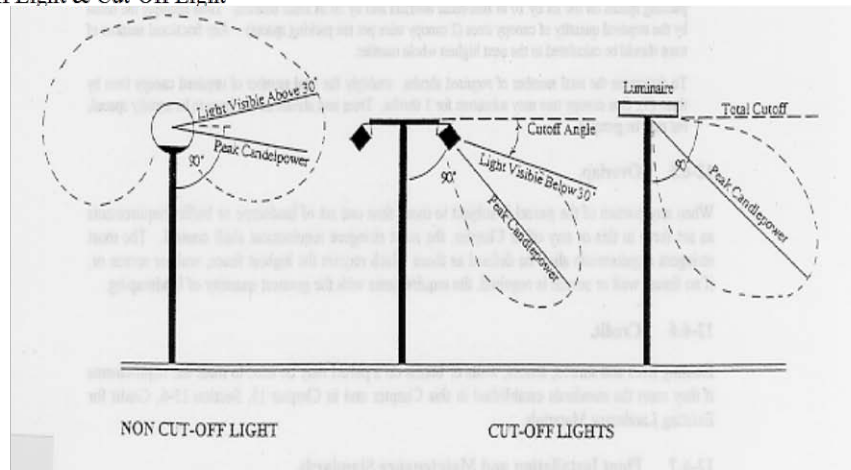
40.20 Outdoor Lighting.

- A. Evaluation Factors. The following factors shall be considered in the evaluation of lighting plans: pole height, type of luminaries, average maintained site coverage, maximum-minimum uniformity, average-minimum uniformity, and intensity at the property line.

B. **Standards.** All outdoor lighting located in any district on parcels, including parking areas and areas where on-building lighting or other security lighting is utilized shall comply with the following standards:

1. All outdoor lighting shall be designed, located, and mounted at heights no greater than sixteen (16) feet above grade for non-cutoff lights and twenty-four (24) feet above grade for cutoff lights. A greater height may be authorized in any district by a variance approved by the Board of Zoning Appeals. Cutoff and non-cutoff lights are illustrated below.

Non Cut-Off Light & Cut-Off Light



2. All outdoor lighting for non-residential and residential uses shall be located, screened, or shielded so that adjacent lots located in residential districts are not directly illuminated.
3. No outdoor lighting shall be of such an intensity or color distortion as to cause glare or to impair the vision of drivers or pedestrians.
4. Outdoor lighting need not comply with the yard requirements of this Zoning Ordinance, except that no such light shall obstruct the required sight triangle at access points.

40.21 Day Care Centers as Accessory to Non-Residential Use.

A day care center receiving state certification pursuant to the Ohio Revised Code shall be permitted as accessory to any non-residential use in accordance with the following requirements:

- A. **Area of Outdoor Play Space.** At least 100 square feet of outdoor play space per child shall be provided on the lot, exclusive of driveways, off-street parking and service areas, and required yards.
- B. **Location and Enclosure of Outdoor Play Space.** All outdoor play space shall be located in the rear yard and fenced or otherwise enclosed on all sides to a height of no less than 3 feet and no greater than 6 feet.
- C. **Parking Standards.** Parking standards for accessory uses shall be in addition to, and calculated the same as, permitted uses.

40.22 Drive-In or Drive-Through Service Windows.

A drive-in service window, ATM (automatic teller machine), photo drop off or other similar type facility shall be permitted only as an accessory use in the Business Districts, in accordance with the following requirements:

- A. Principal Use. The principal use shall be a retail establishment, office, or restaurant located on the same lot.
- B. Setbacks. Any freestanding drive-in service window shall be located in compliance with the same minimum setbacks as a main building as determined by the zone district in which such structure is constructed.
- C. Circulation and Stacking Space. The amount of stacking space and circulation patterns on the lot shall be at least 5 spaces per window lane, calculated from the first customer contact point, and shall be adequate to keep traffic from backing up into the street.
- D. Parking Standards. Parking standards for accessory uses shall be in addition to requirements for the principle use.

40.23 Roadside Stands

Roadside stands shall be regulated per Ohio Revised Code and as follows:

- A. Location. Roadside stands shall meet the setback requirements of the district in which they are permitted and shall be limited to the sale of agriculturally related products.
- B. Parking. Roadside stands shall provide for an off-street area which can accommodate a minimum of 5 vehicles.
- C. Signs. Signage for roadside stands shall not be illuminated and shall be limited to 32 square feet. The sign shall be setback no less than 10 feet from the public road right-of-way.

40.24 Pre-School and Elementary Schools as Accessory to Existing Churches.

- A. Building Location. All buildings shall be setback from any property line the minimum distance that is required in the District in which it is located. An additional 2 feet shall be added to the setback requirement for each foot of building height which exceeds the maximum height permitted (not to exceed 45 feet tall).
- B. Building Type. All accessory structures shall be designed to reflect the main building and the use of temporary, portable or modular structures shall be prohibited.
- C. Area of Outdoor Play Space. At least 100 square feet of outdoor play space per child shall be provided on the lot, exclusive of driveways, off-street parking and service areas and required yards.
- D. Location and Enclosure of Outdoor Play Space. All outdoor play space shall be located in the rear yard and fenced or otherwise enclosed on all sides to a height of no less than 3 feet and no greater than 6 feet.

40.25 Outdoor Dining Areas

An outdoor dining area accessory to a restaurant is a Conditional Use requiring approval by the Board of Zoning Appeals and is subject to the following standards:

- A. No outdoor dining areas shall encroach into a public right-of-way.
- B. An outdoor dining area may be allowed as an accessory use to a restaurant with an indoor eating area on the same site; provided, the outdoor dining area shall not replace any off-street parking, loading, or landscaping areas as may be required by this Zoning Ordinance.
- C. 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. 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.
- D. Umbrellas, or other protective elements, that shelter diners from the elements shall be secured so as not to create a hazard.
- E. Enclosing an outdoor dining area 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 Zoning Permit.
- F. There shall be no use of electronics (e.g., televisions, radios, or speakers) that generate noise in the outdoor dining areas.
- G. The location of outdoor dining areas shall ensure that access to the building and pedestrian walkways are not obstructed.

40.26 Kennels and Veterinary Hospitals or Clinics.

Kennels and veterinary hospitals or clinics with outdoor runs shall be located no closer than 200 feet to an adjoining property line unless a variance is approved by the Board of Zoning Appeals.

40.27 Heliports.

A heliport shall be permitted as an accessory use in non-residential districts provided it complies with all applicable Federal Aviation Administration regulations and guidelines.

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Article 42

Temporary Permitted Uses and Structures

Sections:

- 42.01 Authorization
- 41.02 Zoning Permit Required
- 42.03 Use Limitations
- 42.04 Permitted Temporary Uses
- 42.05 Tents
- 42.06 Portable Storage Containers
- 42.07 Mobile Food Vending Services
- 42.08 Bulk and Yard Regulations

42.01 Authorization.

Temporary uses as defined in this Zoning Code and as hereinafter specified are permitted in accordance with the provisions set forth in this Article.

42.02 Zoning Permit Required.

Except as specifically provided in this Zoning Ordinance, no temporary use shall be established or maintained unless a Zoning Permit evidencing the compliance of such use with the provisions of this Ordinance shall have first been issued in accordance with the provisions of this Ordinance.

42.03 Use Limitations.

- A. General Limitations. Every temporary use shall comply with the use limitations applicable in the district in which it is located as well as with the limitations made applicable to specified temporary uses in this Article. No temporary use shall be permitted if it would have significant negative impact on any adjacent property or on the area as a whole.
- B. Hours and Days of Operation. No temporary use shall be operated during any hours or on any days of the week except such as are designated by the Village Administrator, in the Zoning Permit. This determination shall be based on the nature of the temporary use and the character of the surrounding area.
- C. Traffic. No temporary use shall be permitted if the Village Administrator, upon review of the application, finds that additional vehicular traffic reasonably expected to be generated by such temporary use would have undue detrimental effects of surrounding streets and uses which cannot be adequately mitigated by the applicant.
- D. Conflicts with Other Temporary Uses. No temporary use shall be permitted if such use would conflict with another previously authorized temporary use.
- E. Sign Limitations. Signs shall be in accordance with regulations contained in this Zoning Ordinance.
- F. Parking. Before approving any temporary use, the Village Administrator shall make an assessment of the total number of off-street parking spaces that will be reasonably required in connection with the proposed temporary use. This shall be done on the basis of the particular use, its intensity, and the availability of other parking facilities in the area. The Village Administrator shall approve such

temporary use only if such off-street parking is provided. No temporary use shall be authorized that would, in the opinion of the Village Administrator, unreasonably reduce the amount of off-street parking spaces available for use in connection with permanent uses located on the zoning lot in question.

- G. Additional Conditions. Every temporary use shall, in addition, comply with any other conditions as the Village Administrator may reasonably impose to achieve the purposes of this Ordinance or to protect the public health, safety, and welfare.

42.04 Permitted Temporary Uses.

Subject to the specific regulations and time limits that follow, and to the other applicable regulations of the district in which the use is permitted, the following temporary uses, and no others, are permitted in the zoning districts herein specified:

- A. House, apartment, garage, and yard sales are permitted in any Residential District, but only when limited to the personal possessions of the owner-occupant of the dwelling unit at which such sale is being conducted. Such use shall be limited to a period not to exceed 3 consecutive days and no more than 3 such sales shall be conducted from the same residence in any 12 month period. No zoning permit shall be required for such use.
- B. Outdoor art, craft and plant shows are permitted in any non-residence district; provided, however, that any such use shall require the specific prior approval of the Village Administrator on the basis of the adequacy of the parcel size, parking provisions, traffic access and the absence of undue adverse impact on other properties. Every such sale shall be limited to a period not to exceed 3 days.
- C. Christmas tree sales are permitted in any non-residence district and, when conducted by a not-for-profit religious, philanthropic or civic group or organization on property owned or leased by such group or organization, in any Residential District. Such use shall be limited to a period not to exceed 50 days. Display of Christmas trees need not comply with the yard requirements of this Ordinance, except that no tree shall be displayed so as to obstruct the sight triangles as defined in this Zoning Ordinance.
- D. Contractor's offices and equipment sheds are permitted in any district when accessory to a construction project. No such use shall contain any sleeping accommodations. Such use shall be limited to a period not to exceed the duration of the active construction phase of such project.
- E. Model units including real estate offices, are permitted in any district when an accessory use to a new development. No such use shall contain any sleeping accommodations unless located in a model dwelling unit. Such use shall be limited to the period of the active selling or leasing of units or space in such development and to activities related to the development in which such office is located. No such office shall be used as the general office or headquarters of any firm.
- F. Festivals and circuses, including festivals and any other fundraisers as accessory to existing churches, are permitted in any district when sponsored by a not-for-profit religious, philanthropic or civic group or organization on property owned or leased by such group or organization. Such use need not comply with the minimum yard or the maximum height standards of this Code. Commercial festivals and circuses are permitted in any non-residence district; provided, however, that any such use shall require the specific prior approval of the Village

Administrator on the basis of the adequacy of the parcel size, parking provisions, traffic access and the absence of undue adverse impact on other properties, and compliance with the following conditions:

1. The use shall be limited to a period not to exceed 10 days.
2. The use, including structures and equipment, shall not be located within the sight triangle of any public or private street.
3. The applicant/concessionaire responsible for the operation of such use at least 7 days in advance of the event date shall submit:
 - a. a site layout displaying adequate ingress and egress routes for emergency vehicles and no dead-end aisles.
 - b. a detailed description of the event including the opening and closing dates, hours of operation, expected attendance and related information.
 - c. written approval of the Fire Authority having jurisdiction over the use.

42.03.1 Tents.

Tents are permitted in all districts in connection with any permitted, accessory or temporary use. No tent shall be allowed to remain for a period of more than 2 days longer than the use with which it is associated. Unless waived in writing by the Village Administrator, every tent shall comply with the bulk and yard requirements of the district in which it is located.

42.04 Portable Storage Containers.

Properties used for residential or nonresidential use are permitted 1 portable storage container for fourteen (14) consecutive days per year. The container must be situated on a paved surface and be set back a minimum of 10 feet from rights-of-way, easements of access, and edges of pavement of private and public streets. A portable storage container is intended to provide “temporary” storage for moving and similar short-term purposes. These units are not permitted as a permanent accessory storage structure, regardless of the proposed location of the unit. A temporary/accessory residential use zoning permit is required before the container is placed on-site.

42.07 Mobile Food Vending Services.

Mobile Food Vending Services (“Food Trucks”) shall be permitted only in nonresidential zoning districts, provided that all of the following criteria are met:

- A. The mobile food vending service must be located entirely on private property and shall not be located in any required setback, sight distance triangle, buffer, or public right-of-way.
- B. Any operator of a mobile food vending service must receive and display a valid zoning permit.
- C. The maximum duration of a mobile food vending service permit is for 30 days at one location, renewable up to 2 additional times, for a total period of 90 days per calendar year at a single location.
- D. The operator of a mobile food vending service shall obtain, in writing, the permission of the property owner to operate on his property and shall submit a copy as part of a Zoning Permit application.

- E. Trash receptacles shall be provided for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food, and other such waste. Such receptacle shall be located not more than 10 feet from the mobile food vendor.
- F. The hours of operation shall be limited to 7:00 AM to 10:00 PM.
- G. The vendor shall not locate in any minimum required parking spaces for other businesses on the site.
- H. The mobile food vendor must meet all applicable local and state codes.

42.08 Bulk and Yard Regulations.

Except as expressly provided otherwise in this code, every temporary use shall comply with the bulk and yard requirements of the district in which such temporary use is located.

Article 44

Parking and Loading Facilities

(Off-Street Vehicular Use Areas)

Section:

- 44.01 Purpose
- 44.02 Off-street parking, when required
- 44.03 Parking plan required
- 44.04 Determination of required spaces
- 44.05 Required off-street parking spaces
- 44.06 Collective parking provisions and mixed uses
- 44.07 Provisions for off-site off-street parking
- 44.08 Minimum number of spaces
- 44.09 Drive through or drive-in facilities
- 44.10 Off-street parking design standards
- 44.11 Parking and storage of recreation vehicles, boats and trucks
- 44.12 Off-street loading and unloading spaces required
- 44.13 Number of loading and unloading spaces required
- 44.14 Loading and unloading space design standards

44.01 Purpose.

The purpose of these off-street parking regulations are:

- A. To relieve congestion on the streets by requiring that parking be provide on property and off streets in relation to the parking demand generated by the property user(s).
- B. To promote safety and convenience for people by requiring that parking areas and driveways be located and constructed according to good standards for visibility and accessibility.
- C. To protect the light, air, visual amenities, and values of residential areas by the visual screening of large parking areas by limiting the parking and storage of recreational vehicles, boats, trailers and trucks in residential areas.

44.02 Off-Street Parking, When Required.

Off-street parking shall be required as follows:

- A. Applicability. Whenever a building or use constructed or established after the effective date of this ordinance is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise to create a need for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Ordinance is enlarged to the extent of 25% or more in floor area or in the area used, such building or use shall then comply with the parking requirements set forth herein.
- B. Credit for Availability of Public Parking. Off-street parking spaces are not required in the B-1 Village Business District, provided on street parking and public parking areas are available within the district.
- C. Change in Use. Off-street parking spaces are not required for uses in any building existing at the time of adoption of this zoning code where no off-street parking

had been provided previously unless there is a change in use.

44.03 Parking Plan Required.

A parking plan shall be required for all uses except single family detached dwellings and two family dwellings. The parking plan shall be submitted to the Zoning Administrator as part of the application for the zoning permit. The plan shall show the boundaries of the property, parking spaces, access driveways, circulation patterns, drainage and construction plans, lighting plan, boundary walls, fences and a landscaping and screening plan, as appropriate.

44.04 Determination of Required Spaces.

In computing the number of parking spaces required by this code, the following shall apply:

- A. Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross leasable horizontal area of all floors of a non-residential building.
- B. Where seating capacity is designated as the standard for determining parking space requirements, the capacity shall mean the number of seating units installed or indicated for, each 20 lineal inches of seating facilities.
- C. Fractional numbers shall be increased to the next highest whole number.
- D. Parking space requirements for a use not specifically mentioned in this code shall be determined by using the most similar and restrictive parking space requirement as specified by the Zoning Administrator based on the intended use, the location of the use, the traffic arteries leading into the premises and the expected patronage or use by individuals operating motor vehicles.

44.05 Required Off-Street Parking Spaces.

The following standards shall be used in order to determine the minimum number of parking spaces required for the specified use:

Type of Use	Minimum Number of Spaces Required
Residential	
Single Family Detached Dwelling	
Up to three bedrooms	Two spaces per dwelling unit
Four or more bedrooms	Three spaces per dwelling unit
Two Family Dwelling	
Up to three bedrooms	Two spaces per dwelling unit
Four or more bedrooms	Three spaces per dwelling unit
Multi-Family Dwelling	
Up to two bedrooms	One and one half spaces per dwelling unit

Three or more bedrooms	Two spaces per dwelling unit.
Visitor Parking	Planning Commission may require additional spaces as necessary.
Bed and Breakfast Establishment	One space per guest room plus two spaces for the owner.
Public and Institutional Uses	
Assisted Elderly Housing and Elderly Housing	One space for each resident/patient room.
Auditoriums and places of assembly with or without fixed seats	One space for every five fixed seats or every five persons of designed capacity.
Clinic, Medical and Dental	One space for each 400 square feet of floor area.
Club	One space for each 100 square feet of floor area.
Educational Institution	
Elementary or Junior High School	One space for each classroom plus one space for every five seats in any auditorium or assembly hall or area.
High School	One space for every five students of design capacity plus two spaces for each classroom plus one space for every five seats in any auditorium or assembly hall.
Vocational or Technical School	One space for every two students of design capacity.
Hospital	One space for each bed.
Office and Retail Uses	
Nursing Home	One space for each three beds.
Public or Institutional Facility	One space for each 300 square feet of floor area.
Religious Place of Worship	One space for each five fixed seats in the place of assembly.
Residential Facility	Two spaces per facility
Animal Hospital/Kennel	One space for each examination room plus two spaces for each 50 square feet of reception area.
Automobile Filling Station	One space for each pump plus two spaces for each service bay or work area. Automotive filling stations with convenience retail uses shall also provide one space for each 200 square feet of net

	floor area.
Automobile Repair Garage	Four spaces for each service bay or work area.
Automobile Sales and Service	One space for each 400 square feet of floor area under roof.
Business, Delivery Services	One space for each 400 square feet of floor area and one space for each company vehicle.
Business, Retail	One space for each 200 square feet of floor area.
Business, Service	One space for each 400 square feet of floor area and one space for each company vehicle.
Business, Shopping Center	
Under 100,000 square feet of leasable area	One space for each 300 square feet of floor area.
100,000 - 249,999 square feet of leasable area	One space for each 250 square feet of floor area.
250,000 square feet of leasable area and over	One space for each 225 square feet of floor area.
Child Day Care Center	One space per employee plus one space for each four persons of design capacity.
Building Materials and Lumber Yard	One space for each 500 square feet in floor area.
Commercial Entertainment	One space for each three seats or one space for each 100 feet of floor area, whichever is greater.
Financial Institution	One space for every 300 square feet of floor area.
Funeral Home	One space for every 75 square feet of parlor or chapel space or one per five seats, whichever is greater. This number shall be exclusive of spaces dedicated to hearses, company vehicles or ambulances.
Hotel/Motel	One space for each sleeping room plus one space for each 400 square feet of public meeting area and/or restaurant space.
Office, Professional	One space for each 300 square feet of floor area.
Personal Services	One space for each 200 square feet of

	floor area.
Professional Services	One space for each 200 square feet of floor area.
Restaurant	One space for each 100 square feet of floor area.
Restaurant, Fast Food	One space for each 50 square feet of floor area.
Self Storage Warehouse	One space for every five rental storage units.
Studio for Art, Music or Photography	One space for each 300 square feet of floor area.
Tavern, Bar or Lounge	One space for every three seats or one space for each 100 square feet of floor area, whichever is greater.
Wholesale and Industrial Uses	
Manufacturing, Heavy	One space for each 1,000 square feet of floor area.
Manufacturing, Light	One space for each 1,000 square feet of floor area.
Research and Development Laboratory	One space for each 500 square feet of floor area.
Warehouse, Storage	One space for each 2,000 square feet of floor area.
Wholesale Distribution	One space for each 2,000 square feet of floor area.

44.06 Collective Parking Provisions and Mixed Uses.

Collective parking provisions and mixed use development parking shall be as follows:

- A. In business and industrial districts, off-street parking facilities may be provided collectively by two or more establishments in the same building or several buildings. The establishments may be the same use or different uses. The collective parking must be a common area open to all users of all establishments using the collective provision. The spaces provided collectively may be reduced to 75% of the sum of the requirements computed separately.
- B. For mixed uses in one or more buildings not classified as a shopping center, off-street parking requirements shall be the sum of the requirements for the various uses computed separately, reduced to the extent permitted by the collective provisions.

44.07 Provisions for Off-Site Off-Street Parking.

Provisions for off-street parking off-site shall be as follows:

- A. Off-street parking requirements for private property as set forth in this Article

must be provided for on-site or within 250 feet from the subject property, measured between the nearest corner of the parcel to contain the off-site off-street parking and parcel upon which the land use occurs.

- B. The applicant shall submit a drawing identifying the location of the off-site off-street parking, the number of spaces available, and the distance to the parcel where the land use occurs. The applicant shall also provide evidence of ownership or availability of the off-site off-street parking for use toward the total off-street parking requirements.
- C. If a public parking lot is located within 250 feet of the subject parcel, the applicant may consider use of such parking up to a maximum of 50% of the total off-street parking required, subject to the Planning Commission approval pursuant to the reasonable availability of such public parking to serve the public interests.

44.08 Minimum Number of Spaces.

Every non-residential use for which off-street parking is required must provide a minimum of three off-street parking spaces even though the calculation of the required spaces may be less than three.

44.09 Drive Through or Drive-In Facilities.

Any use incorporating a drive through or drive-in facility through which business is transacted with any customer, without the need for the customer to leave their automobile or motor vehicle, shall be regulated as follows:

- A. Stacking length shall be provided for at least five vehicles in each drive through or drive-in lane.
- B. Obstruction of required off-street parking spaces by stacking areas shall be prohibited.
- C. Circulation through the stacking lane shall be provided in such a manner that vehicles using the drive through or drive-in facilities are traveling in a continuous forward motion.
- D. Bypass lanes shall be provided to permit unimpeded circulation around a drive through lane. A bypass lane shall not include parking spaces.

44.10 Off-Street Parking Design Standards.

All off-street parking facilities including entrances, exits, circulation areas and parking spaces shall be in accordance with the following standards and specifications:

- A. Dimensions. Minimum standards dimensions for off-street parking spaces shall be as follows:

Angle of Parking (Degrees)	Width	Depth	Aisle Width
45 feet	9 feet	19.5 feet	12 feet
60 feet	9 feet	20.5 feet	16 feet
90 feet	9 feet	18.5 feet	26 feet

- B. Striping. All parking areas with a capacity of over five vehicles shall be striped between stalls to facilitate the movement into and out of the parking stalls.
- C. Wheel blocks. Whenever a parking lot extends to a property line, wheel blocks or other suitable devices, shall be installed to prevent any part of a parked vehicle from extending beyond the property line or into any required landscaping or screening.
- D. Screening and landscaping. Whenever a parking area for five or more vehicles is located in, or adjacent to a residential district, or is adjacent to a church, school, or other institution located on an adjoining lot, it shall be effectively screened on all sides which adjoin or face any property used for these purposes on adjacent lots. Screening shall be as established in Article 48.
- E. Maintenance. The owner of property used for parking shall maintain such area in good condition without holes and free of all trash, abandoned or junk vehicles, and other rubbish.
- F. Access requirements. Any off-street parking area accessed from a public right-of-way shall be designed in such a manner that any vehicle leaving or entering the parking area shall be traveling in a forward motion. Access driveways for parking areas or loading spaces shall be located in such a way that any vehicle entering or exiting the area shall be clearly visible to any pedestrian or motorist approaching the access or driveway from a public or private street. The entrance and exits to the parking area shall be clearly marked.
- G. Paving. All parking spaces, together with driveways, aisles, and the other circulation areas shall be surfaced with bituminous concrete or equivalent pavement material to provide a durable, dustless surface.
- H. Drainage. All parking areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks. For any off-street parking area of more than five vehicles, plans for drainage shall be submitted to the Village Engineer for approval prior to the commencement of construction.
- I. Lighting. Any parking area for five or more vehicles, which is intended to be used during non-daylight hours, shall be illuminated. Lighting fixtures shall be as follows:
 - a. Any lights used to illuminate a parking lot shall be so arranged as to reflect the light away from the adjoining property.
 - b. All lighting fixtures serving parking lots shall be of full cutoff fixtures. Such shielding shall obstruct a line of sight to the bulb with an opaque material when viewed from the property line.
 - c. Light poles used in lots designed to contain 50 vehicles or less shall not exceed 20 feet tall.
- J. Minimum distance and setbacks. Minimum distances and setbacks shall be as follows:
 - a. In any business or industrial district, off-street parking spaces may occupy all or any part of any required side or rear yard except where the parking space abuts any residential district in which case a minimum five foot setback shall be required from the residential district line.

- b. In any residential district, or on the same lot with a one or two family residence building in any other district, the parking area, except for parking on driveways, shall not be located within the front yard or required side yard for such residential district or building. In no case, shall any part of a parking area be closer than five feet to any established street or alley right-of-way.
- K. Parking of commercial vehicles in parking lots. Commercial vehicles with or without signage, which are over nine feet in width and 18 feet in length, shall not be parked in a parking area when not in use or during non-business hours. Such vehicles shall be parked or stored in the required off-street loading space(s).
- L. Signage. Except for one directional sign at each point of ingress and egress, no advertising signs shall be erected in any required off-street parking area. Such signs shall not exceed dimensions and requirements of the sign regulations of this code.

44.11 Parking and Storage of Recreation Vehicles, Boats and Trucks.

The parking and storage of recreational vehicles, boats and trucks shall be as follows:

- A. In all residential districts, only passenger cars, which do not exceed 20 feet in length, may be parked or stored upon a driveway or parking area, or within a garage area, or other permitted enclosed structure.
- B. All other motor vehicles, boats, trucks and trailers, not described in division (A) of this Article, shall be stored or parked on residential property only within a permitted enclosed structure or as otherwise specifically permitted as hereafter described:
 - 1. Any recreational vehicles, boats on trailers, trucks, and trailers may be parked on driveways for periods which do not exceed a total cumulative time of 72 hours during any calendar month, for the limited purposes of loading, unloading, cleaning or effecting minor repairs or routine, minor maintenance.
 - 2. One recreational vehicle, one boat on a trailer, or one trailer, may be stored in an unenclosed area of the rear yard, but no closer than 10 feet to the nearest lot line, or any right-of-way line. However, such recreational vehicle, boat on a trailer, or a trailer, shall not exceed 30 feet in length, or 11 feet tall. Storage of such a vehicle in a side or rear yard is permissible only if the wheels of the vehicle are placed on an improved surface of sufficient size to accommodate each wheel and sufficiently thick to support the weight of the vehicle.
 - a. No temporary or permanent human occupancy may occur therein, except for loading, unloading, effecting minor repairs or routine maintenance, or while in the process of actual transportation.
 - b. If a recreational vehicle, a boat on a trailer, or a trailer is stored in the side or rear yard, it must be placed on an improved surface meeting the building and zoning code requirements. The improved surface for storage must extend continuously from the existing driveway or alley, must be no closer to the street than the front building line and must maintain the required number of off-street parking spaces.
 - c. Without regard to whether vehicles are resting on wheels, no more than one recreational vehicle, one boat on a trailer, or one trailer may be stored in an unenclosed area on any residential parcel or residential lot.

- d. Equipment used in construction work and commercial tractors shall not be stored, or parked, on residential property except as provided herein. Vehicles used and needed in connection with permitted construction or other permitted improvements on the residential property are not subject to this zoning code during the period involved of actual need or use.
- e. All vehicles stored or parked in open areas or on driveways, or on parking areas, shall be roadworthy and currently licensed at all times. All boats on trailers stored in open areas or parked on driveways shall be water worthy at all times. Vehicles and boats which are undergoing minor repairs or maintenance, the duration of which does not exceed 30 calendar days, shall not be considered to be in violation of this requirement, provided such units are restored to roadworthy/water worthy condition before the elapse of the 30 calendar days.

44.12 Off-Street Loading and Unloading Spaces Required.

In connection with every building or part thereof hereafter erected, except residential dwellings, there shall be provided, on the same lot with such buildings, off-street loading spaces or berths, for uses which customarily receive or distribute material or merchandise by vehicle, in accordance with the requirements of this Article.

44.13 Number of Loading and Unloading Spaces Required.

Loading space as required under this Article shall be provided as area in addition to off-street parking spaces required by other provisions of this Article and shall not be considered as part of the off-street parking space calculations. In no case, shall an off-street loading space obstruct the public right-of-way.

Building Area	Number of Loading Spaces Required
Less than 5,000 sq. ft.	No spaces required
5,000 sq. ft. but less than 20,000 sq. ft.	One space required
20,000 sq. ft. or more	Two spaces required plus one additional space for each 20,000 sq. ft. over the initial 20,000 sq. ft.

44.14 Loading and Unloading Space Design Standards.

All off-street loading spaces shall be in accordance with the following standards and specifications:

- A. Dimension. Each off-street loading space shall be at least ten feet in width by 40 feet in length having a vertical clearance of 15 feet or more, plus adequate area for ingress or egress.
- B. Surfacing. All loading spaces shall be graded and provided with a durable and dustless hard surface of asphalt, concrete, or other suitable materials capable of withstanding 1,000 pounds per square inch (psi).
- C. Drainage. All loading spaces shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks. Plans for drainage shall be submitted to the Village Engineer for approval prior to the commencement of construction.
- D. Location. All required loading spaces shall be off-street and shall be located on

the same lot as the specific use to be served. No loading space shall be located within a required front yard. No loading space shall be located within a rear yard when such yard is adjacent to a Residential District unless sufficient buffering and screening is installed.

- E. Access. All required off-street loading spaces shall have access from a public street or alley in such a manner that any vehicle entering and leaving the premises is traveling in a forward motion.
- F. Screening. In addition to the setback requirements specified above, screening shall be provided on each side of an off-street loading space that abuts any residential district. Screening shall comply with the requirements of this zoning code.
- G. Lighting. Lighting fixtures for off-street loading spaces shall be as follows:
 - 1. Any lights used to illuminate an off-street parking area shall be so arranged as to reflect the light away from the adjoining property.
 - 2. All lighting fixtures serving off-street parking areas shall be of full cutoff fixtures. Such shielding shall obstruct a line of sight to the bulb with an opaque material when viewed from the property line.
- H. Maintenance. The owner of property used for off-street loading and unloading shall maintain such area in good condition without holes and free of all trash, abandoned or junk vehicles, and other rubbish.

Article 46 Signs

[Note: Article 46 was previously adopted as Sections 153.039 through 153.055 by Ordinance 1034-04.]

Sections:

- 46.01 Purpose
- 46.02 Compliance Required
- 46.03 Definitions and Structural Classifications
- 46.04 General Requirements for Temporary and Permanent Signs
- 46.05 Measurement Standards
- 46.06 Design Standards
- 46.07 Illumination
- 46.08 Signs in Residential Districts
- 46.09 Signs in Non-residential Districts
- 46.10 Permanent Signs
- 46.11 Temporary Signs
- 46.12 Community Activities and Special Events
- 46.13 Signs Not Requiring a Permit
- 46.14 Signs with Special Conditions
- 46.15 Maintenance of Signs
- 46.16 Prohibited Signs
- 46.17 Outdoor Advertising
- 46.18 Prohibited Sign Locations
- 46.19 Nonconforming Signs
- 46.20 Permit Required
- 46.21 Application for Permits
- 46.22 Removal of Signs
- 46.23 Abandoned Signs
- 46.24 Fees

46.01 Purpose.

The purpose of this Article is to protect the health, safety and welfare of the community by providing an instrument for protecting the physical appearance of the community and for encouraging high-quality, effective outdoor graphics for navigation, information and identification. This Article is meant to provide businesses in the municipality with equitable sign standards in accord with fair competition and aesthetic standards acceptable to the community; to provide the public with a safe and effective means of locating businesses, services and points of interest within the municipality; and to provide for a safe vehicular and pedestrian traffic environment. This Article is based on the premise that signs are as much subject to control as noise, odors, debris and other characteristics of land use, and that signs, if not regulated, can present a nuisance to adjacent properties or the community in general, or can depreciate the value of other properties within the community. It is also the intent of this Article to provide equal treatment under the laws through accurate record keeping and consistent enforcement.

More specifically, sign regulations, including provisions to control their type, design, size, location, motion, illumination and maintenance, are established in order to achieve, among others, the following purposes:

- A. To maintain high-value residential districts and promote attractive public facilities, by permitting only nameplate, bulletin boards and signs related to the development rental or sale of properties in such districts.
- B. To provide reasonable and appropriate conditions for advertising goods sold or services rendered in business and industrial districts by relating the size, type and design of signs to the type and size of establishments.
- C. To eliminate conflict between advertising signs and traffic-control signs that would imperil the safety of the motoring public or the pedestrian.
- D. To promote the most desirable developments and economic activity in accordance with the general plan of land use in the village.

46.02 Compliance Required.

- A. Signs shall be designed, erected, altered, reconstructed, moved and maintained, in whole or in part, in accordance with the type, design, size, location and other provisions set forth in this Article.
- B. These regulations shall not govern the display of official public notices, public seasonal decorations and the flag, emblem or insignia of an official government body.
- C. The Mayor or the Village Administrator may authorize signs announcing local fairs, carnivals, festivals and socials or similar activities; such signs must be removed within 24 hours after the expiration of such event and are not otherwise governed by this Article.

46.03 Definitions and Structural Classifications.

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. Abandoned sign. A sign associated with an abandoned use that no longer correctly directs any activity conducted or product available on the premises, a sign that remains after the termination of the business, or a sign on its immediate premises not adequately maintained and or kept in good repair.
2. Animated sign. Any sign or part of a sign that changes physical position by any movement or rotation or that gives visual impression of such movement or rotation, or that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene.
3. ATM (automated teller machine). An electronically operated device used to conduct financial transactions on site by direct computerized access and accessible by automobile, pedestrians, or both.
4. Awning. A roof-like cover, temporary or permanent, that projects from a wall to shield an area and that has a rigid supporting framework with a fabric or other non-rigid covering.
5. Awning sign. A permanent sign that is mounted or painted on or attached to a seasonal or permanent awning structure.
6. Banner. A non-rigid cloth, plastic, paper, or canvas sign, typically related to a special event or promotion, under the sponsorship of a business or a public, private nonprofit, or religious organization.

7. Bench sign. Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public roadway.
8. Billboard. An off-premises sign directing attention to a business, product, service, entertainment or other activity sold, offered, or conducted off-site.
9. Building frontage. The maximum horizontal width of the ground floor of a building that approximately parallels and faces an adjacent public right-of-way.
10. Bulletin board. See Changeable copy sign.
11. Bus shelter sign. Any sign painted on or affixed to any bus shelter.
12. Canopy. A freestanding permanent roof-like shelter not attached to or requiring support from an adjacent structure.
13. Canopy sign. Any permanent sign attached to or constructed in or on a canopy.
14. Changeable copy sign. A sign or portion of a sign with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.
15. Channel letters. The outline of a letter, border, or similar object with a vertical side wall to confine the lighting on the face either to restrict vision at an angle or to prevent light spillage over adjacent areas.
16. Code. This Article, sometimes referred to as the sign code. Broadly, the Village of Batavia Zoning Ordinance, known also as the Zoning Code.
17. Community activity. An educational, cultural, or recreational activity that is open to the public, typically sponsored by a public, private nonprofit, or religious organization, but also that could be sponsored by a business or individual. Examples are a school play or a church fair.
18. Development sign. A temporary sign at any public or private project relating such details as the names of the designers, builders, owners, financial supporters, sponsors and other individuals or entities having a role or interest in the development, structure, or project.
19. Directional sign. A temporary or permanent sign that provides information regarding location, instructions for use, or functional or directional data.
20. Earthen mound. A mound or berm formed as a result of man-made grading or excavation.
21. Electronic copy sign. See Changeable copy sign.
22. Electronic scoreboard. An electronically-controlled changeable copy sign at a sports field used to display scoring information.
23. Entry feature sign. An on-premises ground-mounted sign that graphically identifies a residential subdivision or multifamily development. For commercial properties, see Joint identification sign.
24. Established grade line. The average finished grade for that area of the site where the sign is located, provided that the height of the sign shall not be increased by the use of mounding. All references to sign height are from the established grade line unless otherwise noted.

25. Exempt sign. Signs exempted from permit requirements.
26. Extension. A wall or other structure connected to and extended from a building.
27. Flag. Any fabric or bunting containing the recognized and adopted colors, patterns, or symbols used as the symbol of a government, political, or corporate entity.
28. Flashing sign. Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means.
29. For sale/For lease sign. A sign indicating the sale, rental, or lease of a structure or property.
30. Free-standing sign. See Ground sign.
31. Gas-inflatable sign/device. Any permanent or temporary device capable of being expanded by any gas and used to attract attention. This definition includes hot-air or cold-air balloons tethered or otherwise anchored.
32. Governmental sign. A sign erected and maintained pursuant to and in discharge of any government functions or required by law, ordinance, or other governmental regulations.
33. Ground sign. Any permanent or temporary sign six feet tall or less placed upon the ground or attached to a supporting structure not attached to any building.
34. Height of sign. The vertical distance to top of sign structure measured from the adjacent street grade or upper surface of the nearest street curb, excluding any elevated roadway. Where the site is elevated above an adjacent roadway on natural topography, sign height shall be determined from the lowest ground elevation point where sign is mounted, to top of sign structure. If sign is located on man-made earthen mound, mounding shall be considered part of sign height. Any visible material providing structural support for the sign shall be considered part of the overall sign height.
35. Hospital. A medical facility that can retain patients overnight.
36. Illuminated sign. A sign lighted by or exposed to artificial lighting either by lights on, within, or directed toward the sign.
37. Illegal sign. Any sign that is contrary to the requirements of this code and that does not satisfy the nonconforming specifications stated in this code.
38. Individual establishment. A separate and distinct operation.
39. Information sign. A sign displaying information for the convenience and safety of residents and visitors, and containing no advertising.
40. Joint identification sign. A sign with text, graphics, or other symbols to identify a shopping center, office park, industrial park, or other building complex containing three or other uses on the same lot, allowed in addition to the permitted signs of the individual occupants.
41. Logo. See Primary images and Secondary images.

42. Marquee. Any permanent structure that projects from a wall of a building over a walkway or entrance way to a shopping center and plaza, generally 10 feet or more above a walkway.
43. Marquee sign. Any permanent sign attached to or constructed in or on a marquee.
44. Monument sign. A ground sign attached to a wall or a base for the display of the sign. A common example is a permanent subdivision sign.
45. Nonconforming sign. Any sign lawfully existing on the effective date of an ordinance that does not conform to all the standards and regulations of the current ordinance.
46. Neon sign. A sign formed from neon lamps containing neon gas or other florescent material, or forming a pattern or decorative border or design as on a marquee, archway, awning, or building facade.
47. Open house. A temporary public showing of a structure available for sale, rent, or lease.
48. Panel sign. See Wall sign.
49. Pennant. A flag or banner longer in the fly than in the hoist, usually tapering to a point.
50. Parcel. A distinct portion or tract of land as is recorded and distinguished in the Clermont County Auditor's Property Tax records.
51. Permanent sign. Any permitted or legal nonconforming sign intended to remain in place until a change of occupancy occurs. A permanent sign must be securely attached or installed upon a building, a structure, or the ground.
52. Pole sign. Any sign placed upon a pole and not attached to any building.
53. Political sign. A sign concerning candidates for elective office, public issues and other matters to be decided by the public at an election.
54. Portable sign. Any sign that can be moved or transported intact and is not permanently affixed or attached to any building, structure, or grounds.
55. Premise. A previous statement or proposition from which another is inferred
56. Premises. A building together with its ground or other appurtenances.
57. Primary image. The name of the use or business identified on a sign. The primary image must be displayed in text.
58. Product sign. A sign typically located in a window, advertising a product or service offered by a business.
59. Projected image. An image projected onto a building, structure, or sign.
60. Projecting signs. A sign that is wholly or partly dependent upon a building for support or suspended from a pole attached to a building. Such signs must be perpendicular to the building face upon which they are attached.
61. Promotional signs. A temporary sign that provides information regarding time, place, and the like of a special event, community activity or similar activity.

62. Pylon sign. A permanent sign on a free-standing pole or other support in which the sign exceeds six feet tall.
63. Raceway. An elongated metal enclosure used to mount individual channel lettering and to conceal related transformers and wiring.
64. Re-facing. Any alteration to the face of a sign involving the replacement of materials or parts. Re-facing does not refer to replacing the entire sign.
65. Roof line. The uppermost line or point of the facade or parapet of a flat roof structure, or the lower edge of an eave, gable or rake of a sloped roof.
66. Roof signs. A sign mounted on the roof of a building or wholly dependent upon a building for support and which projects above the building's eave line.
67. Sandwich board sign. A sign with two hinged boards that can be placed on the ground.
68. Secondary image. Any and all text, graphics, or images displayed on a sign in addition to the name of the use or business.
69. Section. In the text, the term "Section" refers to the Arabic number under which it appears in an article of this zoning code.
70. Setback. The distance from the property line or from the right-of-way line, whichever is less, to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line or right-of-way line.
71. Sign. Any physical object bearing or projecting graphic representation of any idea or information using text, symbols, pictures, illumination, or a combination of these, visible from a public right-of-way or adjacent property. Interior signs and lighting to identify and attract attention, rather than to illuminate space for human activity, are signs within this definition.
72. Sign area. The entire display area of a sign on one or more sign faces and any framing, trim and molding, but excluding the supporting structure. The area of a sign composed of individual elements placed against a non-localized background, such as letters placed against an awning, canopy, wall or window, shall comprise the area of the smallest single rectangle that would completely enclose all elements of the sign.
73. Sign code. This Article, sometimes referred to as the sign code or the code.
74. Sign face. The surface intended for the display of information on the sign.
75. Sign structure. The supporting unit of a sign face, including but not limited to frames, braces and poles.
76. Special event. A non-periodic educational, cultural or recreational event or activity that is open to the public and supported by the Village.
77. Streamer. A ribbon-shaped or cord-like rope, which may have pennants or banners attached and which is stretched or hung between supports.
78. Tack board. A board for posting temporary or time sensitive bulletins, posters or notices, using tacks, pins, magnets, or other temporary fasteners.
79. Temporary sign. A sign permitted by this code to be located on a premises for a limited time. Section 46.11

80. Trailblazer sign. A government sign identifying company logos for lodging, gasoline stations, restaurants and other public accommodations.
81. Trailer sign. Any sign that is designed to move on trailer wheels, skids, or similar devices, or to be transported or moved by a motor vehicle, whether or not mobility devices remain.
82. Tree lawn. That portion of a public right-of-way between the back face of the curb and the leading edge of the sidewalk.
83. Under marquee sign. A sign attached to the underside of a marquee.
84. Wall sign. Any sign attached to, erected against, or painted on a wall so that the wall is the supporting structure or the background surface of the sign. Wall signs are also known as Panel Signs.
85. Window sign. Any sign, poster, symbol, identification or information about the use or premises attached to a window or inside a window and visible from any public right-of-way or adjacent property.

46.04 General Requirements for Temporary and Permanent Signs.

- A. Size. Sign area shall include the face of the entire display area not including the bracing, framing and structural supports of the sign, unless such support members are part of the message or face of the sign. Where a sign has two or more display faces, the area of all faces of the sign shall be included in determining the area of the sign. The area of a sign consisting of individual letters or symbols, either free-standing or attached to or painted on a surface, building, wall, or window, shall be the smallest single rectangle that encompasses all the letters and symbols.
- B. Design
 1. Signs shall not resemble the color, shape, design, or other characteristics of any common traffic control device, directional or warning signs directed or maintained by the state, municipality, or any railroad, public utility, or similar agency concerned with the protection of the public health and safety.
 2. The primary image of a sign shall be only the name of the business in text. Any additional text, graphic, or image on the sign face is a secondary image and shall not exceed 20% of the maximum permitted area of the sign face.
 3. Any multi-faced sign shall consistently display the same name, message and graphics on all faces, except bulletin boards.
 4. Reverse sides of signs shall be unobtrusive and blend with the surroundings.
 5. Reverse sides of all permanent signs and structural supports must be completely enclosed.
- C. Landscaping. The base of permanent ground signs shall be effectively landscaped with living plant material and maintained in good condition. The minimum landscaped area shall extend at least three feet beyond all faces or supporting structures in all directions. Exposed foundations must be constructed with a finished material such as brick, stone, or wood, or be screened with evergreens to the top of the anchor bolts. The landscaped area shall include all points where sign structural supports attach to the ground.

D. Lighting.

1. Signs shall be illuminated only by the following means:
 - a. By a white, steady, stationary light of reasonable intensity, directed solely at the sign or otherwise prevented from beaming directly onto adjacent properties or rights-of-way. Light fixtures shall be screened from view by site grading or evergreen shrubs.
 - b. By white interior light of reasonable intensity with primary and secondary images lit or silhouetted on an opaque background. The background must be opaque. No additional background lighting or illuminated borders or outlines shall be permitted.
 2. The level of illumination emitted or reflected from a sign shall not be of an intensity sufficient to constitute a demonstrable hazard to vehicular traffic on any right-of-way or parking lot from which the sign may be viewed.
- E. Construction. All signs must be constructed to meet current building code regulations of the municipality. Signs and related surroundings shall be properly maintained and shall not show signs of rust or corrosion, exposed wiring, chipped paint or faces, cracked, broken, or missing faces, or loose materials. The structural integrity of sign foundations must be maintained.

46.05 Measurement Standards.

- A. This Article limits signs by relating the gross area of signs to the building or use of a lot, or to the size of the building unit to which the sign is accessory.
- B. The “gross area of signs” for a building or use shall include all surfaces visible from a public way and shall be measured as the area enclosed by one rectangle, the sides of which reach the extreme points or edges of the sign, excluding any supporting structure that is not part of the advertisement of the sign proper.
- C. The area of a sign composed of characters or words attached directly to a large, uniform building wall surface shall be the smallest rectangle that encloses the entire group.
- D. In calculating the allowed area of signs related to the size of a building or lot, the “frontage of a building” is the width of the facade of the building, store, service, or office unit that faces the principal street, and the “frontage of a lot” not occupied by a building is the distance the lot abuts the principal street.
- E. For a corner building and lot, the frontage width factor shall add 50% of the building or lot depth facing the side street.

46.06 Design Standards.

Signs permitted herein shall be designed, constructed and installed in accordance with the standards set forth below and shall comply with applicable building code provisions.

- A. A wall or panel sign shall not project more than 18 inches from the building wall to which it is attached, shall be set back at least three feet from the end of the building and party wall lines, and shall not project above the coping or eaves of the building on which it is placed.
- B. A projecting sign may be attached to the wall of the building and project at an angle of approximately 90 degrees for a distance of not more than seven feet from

a party wall or property line, and the lowest member of a projecting sign shall be at least 10 feet above a public sidewalk and 15 feet above a driveway. All projecting signs shall be rigidly fastened to allow no movement. No projecting sign shall encroach on that portion of the public right-of-way used for vehicular traffic.

- C. The lowest member of a canopy or marquee designed or used primarily to display a sign shall be at least eight feet above the sidewalk, and no part of the canopy or marquee can be closer than five feet from the party wall or side property line. The canopy or marquee shall comply with applicable building code provisions.
- D. Pole signs shall not exceed 20 feet tall, shall not be closer than 30 feet from an adjoining lot, and shall not exceed 100 square feet of gross area. The lowest member shall be at least 15 feet above grade, and the base supports shall be at least 10 feet from the public right-of-way.
- E. Ground signs shall not exceed 6 feet tall, shall not be located closer than 30 feet from an adjoining lot, and shall not exceed 50 square feet of gross area. The base supports shall be at least 10 feet from the public right-of-way.
- F. Signs of every type shall be erected so that they do not interfere with pedestrian or vehicular traffic. No sign shall overhang the curb line of any street. All signs shall be positioned so that a clear line of sight exists along public ways and so that traffic-control lights, street name signs at intersections and other traffic control devices are visible. The content, coloring or manner of illumination shall not resemble highway or traffic control signs.
- G. If the earthen mound is mandated by the village for screening or landscaping and meets or exceeds the district height requirement, a sign may be erected on top of such earthen mound with height of sign not to exceed two feet.
- H. No signs shall employ flashing or moving illumination. All signs shall be stationary with no moving parts. Streamers, spinners and other such devices for attracting attention to a business or industry are prohibited.

46.07 Illumination.

- A. In residential districts only bulletin boards may be illuminated, and in business and industrial districts all signs may be illuminated.
- B. Any permitted illuminated sign shall be internally illuminated or by reflected light of constant intensity, and no sign shall be illuminated by external neon light or contain flashing, intermittent, rotating or moving light or lights.
- C. Light sources to illuminate signs shall not be so bright or so directed as to cause glare hazardous to pedestrian or automobile drivers or so as to cause reasonable objection from adjacent residential districts.

46.08 Signs in Residential Districts.

The types of signs permitted as to use, structure, size and number of each dwelling, unit or lot shall be regulated as follows:

- A. One nameplate not to exceed two square feet indicating an occupant's name, house number and permitted home occupation, or the name of the apartment, club, lodge, or organization located therein.

- B. One temporary real estate sign advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed, not to exceed seven square feet nor more than three feet tall.
- C. One temporary sign placed upon the building or premises under construction to designate the contractor, architect, owner, and/or proposed use, not to exceed 50 square feet.
- D. One bulletin board or changeable copy sign may be located on the premises of a public, charitable, or religious institution, not to exceed 20 square feet.
- E. Directional, warning and informational signs not to exceed two square feet.
- F. Structural types permitted shall be limited to wall, panel and ground signs.
- G. One additional sign shall be permitted in residential districts for conditional uses. No such sign shall be internally or externally illuminated: no such sign shall exceed 12 square feet of display per side, no sign shall display more than 2 sides, yard signs will not exceed a height of 4 feet and shall be anchored with posts set in concrete below ground level. No temporary banners, streamers or other signs of a temporary nature are permitted, except as described in section B and C above.

46.09 Signs in Non-residential Districts.

The types of signs permitted as to use, structure, size and number for each building, unit or lot shall be regulated as follows:

- A. The maximum gross area of all permanent signs permitted for each separate use occupying a building, unit of a building or lot not occupied by a building shall relate to the width of the building, unit thereof, or lot not occupied by a building, within limitations set for specific types of signs. The maximum gross area of signs shall not exceed 2 square feet multiplied by the frontage of the building, unit of the building, or lot not occupied by a building.
- B. Signs shall direct attention to the business or industry of the establishment, goods sold, goods manufactured, or services rendered on the premises.
- C. Professional nameplates and identification signs.
- D. One temporary real estate sign advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed, not to exceed 10 square feet.
- E. One temporary sign placed upon the building or premises under construction to designate the contractor, architect, owner, and/or proposed use, not to exceed 50 square feet.
- F. One bulletin board or announcement sign on the premises of a public, charitable, or religious institution, not to exceed 20 square feet.
- G. Structural types permitted in business and industrial districts, limited to wall or panel, tack board, projecting, canopy, pole, ground and window signs.
- H. A single wall sign not exceeding 100 square feet.
- I. Projecting signs, limited to not more than one for each establishment or store unit and not exceeding 24 square feet in total area for each face visible from any location on a public way.

- J. Pole signs, limited to one for each independent store unit and group of stores developed as a unit.
- K. Directional, warning and informational signs not exceeding 2 square feet for each such sign.
- L. Political signs as regulated in § 46.13.G.

46.10 Permanent Signs.

All permanent signs shall also comply with the following requirements and with the height, area and setback requirements of § 46.06.

- A. Wall Signs. Wall signs are permitted for any business or use not identified by a ground sign.
 - 1. Placement.
 - a. Wall signs shall not protrude more than 14 inches from the wall or face of the building to which it is attached, whether or not a raceway is used.
 - b. Signs may be attached to a building wall or architecturally integrated extension which faces a street, parking lot or service drive, or may be attached to a canopy which projects beyond the building, provided that no part of the sign may extend above the roof or canopy.
 - 2. Height. Refer to § 46.06 for height limitations according to use. The height of a wall sign is measured from the established grade line to the top of the sign. In no case shall the sign extend above the roof line of the building.
 - a. Signs may be attached to a building facade that faces a street, parking lot, or service driveway. It may be attached to a canopy that projects beyond the building, provided that no part of the sign extends above the roof or canopy.
 - 3. Size. The maximum allowable size for any wall sign shall be 1 square foot for every lineal foot of width of the building face to which the sign is attached, but shall not exceed the maximum size allowed for the use by § 46.06.
 - 4. Number. Wall signs shall be limited in number to 1 per building or use. For buildings or uses on corner lots having at least 100 feet of lot frontage on each of 2 public rights-of-way, a second wall sign is permitted facing the second right-of-way. Each sign is limited to 1 square foot in area for every lineal foot of width of the building face to which the sign is attached, not exceeding the installed maximum size allowed for the use by § 46.06. The distance between the signs shall not be less than two-thirds the length of the longest elevation to which the sign is attached. The distance will be measured by 2 straight lines along the elevations of the building, from edge of sign to edge of sign. In no case shall 2 wall signs be closer than 30 feet apart. The provision for a second sign does not apply to individual tenants in a multi-tenant building.
- B. Ground Signs. A ground sign or pole sign is permitted only when all of the following conditions are fulfilled:
 - 1. Placement.
 - a. The sign is located on the property to which it refers;
 - b. The use is free-standing on its individual lot, and the lot is accessible by automobile and has off-street parking;

- c. The use has no wall sign visible from the public right-of-way or adjacent property; and
 - d. Such signs shall not interfere with the safe movement of vehicular and pedestrian traffic.
2. Size. The maximum allowable size for any ground or pole sign shall be in accordance with § 46.06.
 3. Height. Refer to § 46.06 for height limitation according to use. The height shall be measured from the established grade line to the highest point of the sign or its frame or support. The height may not be artificially increased by mounding.
 4. Setback. All ground or pole signs must be set back at least 10 feet from any public right-of-way, unless specifically exempted of this requirement; refer to § 46.12.
 5. Number. Ground or pole signs shall be limited to 1 per lot or multiple lots if devoted to 1 specific use or user. Buildings on corner lots having at least 100 feet of frontage on 2 public rights-of-way may be entitled to 1 pole sign or 2 ground signs, 1 facing each public right-of-way, if they meet the following criteria:
 - a. The total combined height of both signs shall not exceed $1\frac{1}{3}$ times the maximum permitted height of a single ground sign for that use.
 - b. The total combined area of both signs shall not exceed $1\frac{1}{3}$ times the maximum permitted area of a single ground sign for that use.
 - c. The two signs shall be no closer than two-thirds the length of the longest public right-of-way frontage. The distance shall be measured by drawing 2 straight lines, measured from the edge of each sign, forming a 90 degree angle.
 6. Pole signs shall not be permitted on lots bounded on 2 or more sides by residential lots
- C. Window Signs. Window signs shall be permitted for the use specified in § 46.09 in addition to any permitted wall sign or ground sign. The sum of the area of the window signs and the area of the wall or ground sign may not exceed the maximum allowable area for the wall or ground sign.
1. Placement. Window signs shall be limited to the ground floor or first floor windows only, unless a use is located in the second or higher stories of a building and has no first floor occupancy.
 2. Number. Window signs shall be limited to 1 sign per window.
 3. Size. The total area of all such window signs is not to exceed 10% of the total window area of the establishment or 10 square feet, whichever is less. The maximum allowable area on the second floor may not exceed that of the first floor.

46.11 Temporary Signs.

- A. Development Signs. These signs indicate or promote the development of land, facilities, or structures. Such signs must comply with the provisions of § 46.06, with the exception that development signs shall not be illuminated. Such signs

must be rectangular. One such sign shall be permitted per street frontage and development signs may be installed only on the property to which they refer. For sites having at least 100 feet of frontage on each of two public rights-of-way, a second sign may be permitted facing the second right-of-way. Such signs shall be limited to 32 square feet and 8 feet tall. They shall be placed at least 8 feet from any public right-of-way. If the site is entitled to two temporary development signs, the distance between the signs shall be at least two-thirds the length of the longest right-of-way frontage. The distance shall be measured by drawing two straight lines, from the edge of each sign, forming a 90 degree angle. Application shall be made to the Village Administrator or designee for review. Approval shall be for a period not to exceed 1 year. In residential subdivisions, development signs must be removed when 75% of the lots in the subdivision have received any permit of occupancy.

B. Community Activity Signs. See § 46.12

C. For Sale/For Lease. See §§ 46.13.I and 46.14.F

D. Political Signs. See § 46.13

46.12 Community Activities and Special Events.

- A. A community activity or special event may be promoted by placing banners along the designated utility poles within the business district at the discretion of the Village Administrator. Banners must be a standard size, installed by the village.
- B. A community activity or special event, as defined in § 46.03, shall be limited to a maximum of 5 off-site promotional sign. These signs are temporary, and a sign permit is required before installation, issued by the Village Administrator or designee. The application and permit fees, as determined by Council, are included in the fee schedule. On-site community activity signs to be used only for the duration of the event, other than banners and gas-inflatable devices, do not require permits. The event organizer is responsible for supplying paper or plastic signs to affix to the sign posts.
 - 1. The event must be open to the public and be non-discriminatory. Free admission is not a requirement.
 - a. Community activity promotional signs shall not contain commercial advertising. If an organization is sponsoring the event, the title of the organization may be used on promotional signs.
 - b. Promotional signs may not exceed 6 square feet and 3 feet tall.
 - c. Promotional signs shall not be illuminated.
 - d. Promotional signs shall not be displayed earlier than 14 days preceding the event and shall be removed within 24 hours following conclusion of the event.

46.13 Signs Not Requiring a Permit.

The following signs do not require a permit, but are subject to the restrictions in § 46.04, § 46.05, and § 46.07 of this Article unless expressly exempted. This Article does not defeat § 46.16, but why would anyone think it did? This explanation carries forward the redundant concept of an earlier version.

- A. **Government Flags.** Poles for government flags (the flag, pennant, or insignia of any nation, state, city or other political unit) must be no more than the lesser of 35 feet tall or the maximum structure height allowed in the district. A foundation permit must be received from the Building Department for all flagpoles. The area of such flags must be determined according to the following table:

Pole Height	Maximum Flag Size
35'	5' x 9' 6"
30'	5' x 8'
25'	4' x 6'
20'	3' x 5'

- B. **Corporate Flags.** Corporate flags are exempt from the Sign Code subject to the following conditions:
2. One corporate flag may be flown per eligible parcel of land.
 3. The corporate flag shall not be larger than a government flag, if one is flown, and in no case larger than 3 feet high and 5 feet long.
 4. All corporate flags must be flown below any government flag flown.
 5. The maximum height for a corporate flag on a separate pole shall be 20 feet as measured from established grade line to the top of the pole.
 6. Corporate flags may display only the name, corporate emblem and/or logo of a given corporation. Slogans and tag lines are not permitted.
- C. **Governmental Signs.** Governmental signs shall include traffic or similar regulatory devices, official "Welcome to Batavia" signs, legal notices, warnings at railroad crossings, or any other such sign required by law. Such signs shall be consolidated with other governmental signs whenever possible.
- D. **Public Information Signs.** Public information signs established by the village, including "Block Watch," "Tree City, USA," and comparable signs, provided that they do not exceed 3 square feet. Such signs shall be consolidated with other governmental signs when possible. If the sign is in a right-of-way, it must be approved by the Village Administrator.
- E. **Public Banners.** Banners established by the Village of Batavia to promote the community and village-sponsored events and located on utility poles in the public right-of-way; such banners are restricted to 8 square feet.
- F. **Holiday Signs.** Signs clearly in the nature of decorations customarily associated with any national, state, local, or religious holiday, to be limited to an aggregate total of 90 days in a calendar year, and to be displayed not more than 90 consecutive days. Such signs may be illuminated, providing no safety or visibility hazards are caused by such illumination. Animated and flashing holiday signs are permitted for residential uses only, providing no safety or visibility hazards are caused by such illumination. Gas inflatable signs, other than residential holiday displays, require a permit before being installed.
- G. **Political Signs.** Political signs or posters concerning candidates for office or ballot to be decided by the public at an election, provided they are removed no later than 7 days after the relevant election. Such signs shall not exceed 8 square feet, shall not be illuminated in any manner, shall not be affixed to any public utility, pole, tree, or natural object, nor be located within a public right-of-way, nor

create a safety or visibility hazard. Permission to post such signs must be obtained from the owner(s) of the property on which the signs are placed.

- H. Street Address Signs. Signs bearing only the street address of the properties on which they are located. For residences, such numbers must consist of Arabic numerals not less than 3 inches or more than 8 inches high. For non-residential uses, maximum number height varies according to front setback. If the setback is less than 100 feet, the maximum number height is 12 inches. For setbacks between 100 and 200 feet, the maximum height is 18 inches. For setbacks greater than 200 feet, the maximum height is 24 inches. All street address signs shall contrast to the color of the surface on which they are mounted and shall be clearly identifiable from the street and attached to the building or mailbox. Every building is required to post its street address.
- I. Residential For Sale/For Lease Signs. Signs indicating the sale, rental, or lease of residences, provided such signs are limited to 7 square feet and 3 feet tall in residential areas. Free-standing signs must be located so that they do not interfere with the safe movement of vehicular or pedestrian traffic, and all signs shall be removed within 14 days after the sale, rental, or lease has occurred. Signs must be located on the property involved, and only 1 such ground or window sign per street frontage is permitted.
- J. Open House Signs. Signs promoting an open house for property that is available for sale, rent, or lease, provided that only three such signs for each open house. All such signs shall be installed not more than 24 hours immediately preceding the open house and removed no more than 2 hours following conclusion of the open house. Such signs may not exceed 7 square feet or 3 feet tall and must not impede the visibility or safe movement of vehicular or pedestrian traffic. Such ground signs may not be located in medians.
- K. Private Traffic and On-Site Directional Signs. Traffic and directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited to a maximum of 4 square feet and 3 feet tall and do not interfere with safe vehicular or pedestrian traffic circulation or obstruct the view of drivers exiting onto highways or thoroughfares. Such signs may contain information such as “in,” “enter,” “entrance,” “out,” “exit,” “do not enter” or similar language as approved by the Village Administrator or designee. Arrows indicating desired traffic movement may also be used for directional signage. Such signs may contain no advertising or logotypes and must be rectangular. Such signs must be on the property to which they refer and may not be placed in a public right-of-way.
- L. Informational Window Signs. Window signs with a total area of 2 square feet or less and bearing only information about entry and exit, business hours, authorized service representative information, or discount and credit systems accepted in that establishment (e.g., American Express, MasterCard, Visa, Golden Buckeye Card). This includes product signs. Each individual sign is limited to 3 colors plus the background color.
- M. Residential Information Signs. Information signs are allowed only when they display information necessary for the safety and convenience of residents and visitors, such as “beware of dog” and “no trespassing.” Such signs may not exceed 2 square feet and may contain no advertising.

- N. Scoreboards. Scoreboards used for sporting events, provided they are not visible from a public right-of-way or adjacent property.
- O. Security System Signs. Signs displaying information about the security system protecting buildings or property, provided such signs do not exceed 1 square foot.
- P. Construction Trailer Signs. Signs painted on or affixed to construction trailers, vans, or other vehicles temporarily in use on a construction site.
- Q. Barber Poles. According to state law, all barber shops must display either a barber pole or a window sign reading “Barber.” If a pole is displayed, it may not exceed 28 inches in height.
- R. ATMs. Signage for all ATM's (Automated Teller Machines) shall be limited to 1 square foot of sign area and have no more than 3 colors plus background. ATM signs must have an opaque background. If the ATM contains a logo, it may be internally illuminated. Monochromatic, non-illuminated logos of accepted credit systems, (Visa, MasterCard, American Express, etc.), are limited to less than 1 square foot and must face the user of the device.

46.14 Signs with Special Conditions.

For permanent and temporary sign types listed below, permits must be obtained in accordance with §46.12. In addition to requirements and regulations previously listed, the following special conditions shall apply:

- A. Gas-Inflatable Sign/Device. Such signs are permitted only for special events in accordance with the restrictions set forth in § 46.12 and for holiday decorations in accordance with the requirements of § 46.13. Such signs shall be located only on the site where the special event occurs. A temporary sign permit is required for all gas-inflatable devices. A scaled diagram of the device and a site plan showing where the device is to be located are required. These signs must not be inflated with helium or other buoyant gas. The signs shall be securely attached or tethered to the ground so that they will not shift more than 3 feet in any direction during any wind up to 25 miles per hour. Such signs shall not be attached to or mounted on any platform, roof, or similar structure. They must be placed so that they will be clear of all utility lines, roads, parking lots and adjacent property in case of collapse. Inflatable signs may contain no commercial advertising and shall not be internally illuminated.
- B. Banners. Banners are permitted only for the promotion of special events or for grand openings of businesses. A grand opening occurs only with a change of tenant or owner that brings a new business to a site. Banners are subject to the following regulations:
 - 1. All banners shall be located only on the site where the community event or grand opening occurs. They shall not be located in any public right-of-way or such that they would interfere with the safe movement of vehicular and pedestrian traffic.
 - 2. All banners shall be safely secured to a building, structure, or stake. Banners shall have ventilated faces to reduce wind load.
 - 3. Banners shall not be illuminated.
 - 4. A temporary sign permit is required for all banners. A scaled diagram of the banner(s), a site plan showing the location of the banner(s) and a description

of how the banner(s) is to be ventilated and secured shall be submitted to the Village Administrator or designee.

5. Banners may be erected for a maximum of 14 days.
- C. Joint Identification Signs. Where 3 or more uses share a site, 1 ground sign or pole sign is allowed, identifying only the name of a shopping center or other building complex. Such signs shall be permitted in addition to the permitted signs of individual occupants, but shall not list the occupants. A joint identification sign shall not exceed the maximum permitted height of any pole sign (20 feet) or ground sign (6 feet) identifying the individual occupants; and the area of a joint identification sign shall not exceed 80 square feet for a pole sign or 40 square feet for a ground sign. A second joint identification sign of the same size is permitted if the site abuts two streets and the total lot frontage on two streets is 1,000 feet or greater. The two signs shall be separated by at least 75 feet. The Village Administrator or designee must approve a total sign plan for buildings or complexes designed or intended for multi-tenant usage before issuing a sign permit for the complex or a tenant.
- D. Entry Feature Signs. These include signs graphically identifying a subdivision or multi-family development. Such signs shall be limited to monument signs only and must consist entirely of natural materials, such as wood, brick and stone. The reverse sides of such signs shall be finished to match the fronts. The graphic area of Entry Feature signs shall not exceed 20 square feet and the height of the monument shall be limited to 6 feet. Such signs may not interfere with the safe movement of vehicular and pedestrian traffic. If an entry feature sign is to be located within the right-of-way, it must be reviewed and approved by Village Council, the Planning and Zoning Commission, and the Village Administrator.
- E. Commercial and Industrial For Sale/For Lease Signs. Commercial and Industrial For Sale/For Lease Signs require a temporary sign permit. Signs indicating the sale, rental, or lease of commercial or industrial real estate are limited to 16 square feet and 4 feet height for lots with less than 100 feet of street frontage and 32 square feet and 8 feet tall for lots with street frontage of 100 feet or more. Individual tenant spaces within a parcel are allowed a window or wall sign no larger than 16 square feet. Free-standing signs must be located so that they do not interfere with the safe movement of vehicular and pedestrian traffic and must be removed within 14 days after the sale, rental, or lease has occurred. One such sign per street frontage is permitted.
- F. Signs for Model Homes. In addition to a special permit from the Board of Zoning Appeals, a sign permit must be obtained for model home signs. Such signs shall be permitted in lieu of an exempt residential for sale/for lease sign as described in § 46.13. Such signs must not exceed 8 square feet and may not be internally illuminated.
- G. Garage/Yard Sale Signs. Three such signs may be posted no more than 24 hours immediately preceding the event and such signs must be removed no more than two hours after the event has ended. Such signs shall be no more than 2 square feet. They may be located in a public right-of-way so long as no safety or visibility hazards are created.
- H. Nonconforming Signs. All pre-existing illegal nonconforming signs must be removed in accordance with this Article. The Village Administrator shall issue an order for the sign to be removed within 15 days. The cost of removal will be

assessed to the property owner. If the property owner refuses to pay for removal of the sign, the cost of such removal shall be assessed to the property owner's tax records. All pre-existing legal signs that do not conform to the standards of this Article must be brought into conformity under any of the following conditions:

1. Upon any change in the use of the property for which such property was intended at the time this Article became effective.
2. Upon the discontinuance of the present use of property for a period of more than 6 months.
3. Upon alterations to the existing sign, the following regulations shall apply:
 - a. **Structural.** No display sign shall hereafter be altered, rebuilt, enlarged, extended, or relocated except in conformity with the provisions of this Article.
 - b. **Repainting or Re-facing.** The repainting of existing nonconforming signs shall not be considered an alteration within the meaning of this Article. Re-facing an existing nonconforming sign shall not be considered an alteration as long as the re-facing constitutes an exact replica of the existing sign face. The design, color scheme, translucency, graphics, and text must exactly match those existing. If any portion of the replacement face(s) is not an exact replica of the original sign face, the replacement face(s) must be brought into compliance with this Article insofar as practicable.
 - c. **Existing Signs; continuance.** Except as otherwise specifically provided, nothing in this Article shall require the removal or discontinuance of a legally existing nonconforming permanent display sign which is attached to the property, as distinguished from a temporary or portable sign, that is not altered, rebuilt, enlarged, extended, or relocated.
- I. **Seasonal Business.** One sign per street frontage is allowed for a seasonal business. Such signs are limited to 32 square feet and 6 feet tall. They must be at least 10 feet from any public right-of-way. Such signs are limited to three colors, including black and white.
- J. **Gasoline Stations.** Gasoline stations, whose principal business is the sale of motor fuel, may display signs in addition to those herein above authorized. Such signs shall be limited to the following:
 1. One non-illuminated, double-faced sign not exceeding 5 square feet on a side is permitted for each set of motor fuel pumps identifying “self-service” or “full service.”
 2. Price and grade information can be displayed only on the permitted sign, in manually changeable copy. Changeable copy for these purposes shall not include liquid crystal display (LCD), light emitting diodes (LED), or other similar electro-mechanical displays. This is the only circumstance in which changeable copy may be used.
 3. Signs limited to the identification of the brand name, logo or type of fuel sold and other signs as may be required by law shall be permitted on the motor fuel pumps. Fuel pumps shall not be illuminated. No signs projecting above the pumps may be permitted, except as required by law.
 4. Any other such signs as may be required by law.

- K. Drive-thru menu board signs. This shall include free-standing, pole, pylon and monument signs. A drive-thru menu board sign is permitted only when all of the following conditions are fulfilled:
1. The sign is on the property to which it refers;
 2. The sign is not visible from the public right-of-way; and
 3. The sign does not exceed 32 square feet.

46.15 Maintenance of Signs.

All signs and sign structures shall be maintained in a safe and attractive condition. Signs that no longer serve the purpose for which they were intended, that have been abandoned, or that are not maintained in accordance with this Article shall be removed by the latest permit holder or the village at the expense of such permit holder.

- A. Re-inspection. All signs for which a permit shall be issued in accordance with this Article shall be subject to the following provisions:
1. The Village Administrator or designee may re-inspect each sign without notice at any time following erection of such sign to determine its continued compliance with the approved permit and plans as they were issued and to insure proper operating conditions and maintenance in accordance with this Article. The sign owner shall be solely responsible for maintaining the appearance, safety and structural integrity of the sign at all times.
 2. Whenever the inspecting official finds a sign in need of repair, support, replacement, cleaning, repainting, or any maintenance service necessary to maintain reasonable and proper appearance and public safety, he or she shall issue an order to the owner allowing 30 days to effect needed repairs or maintenance. If the inspecting official determines that the existing condition of the sign creates an immediate hazard to public health or safety, the official shall order the owner to remove the sign immediately.
 3. Failure of an owner to comply with the provisions of this section shall be cause for the inspecting official to void the permit issued for the sign and order that the sign be removed. The cost of removal will be assessed to the property owner. If the property owner refuses to pay for removal of the sign, the cost of such removal shall be assessed to the property owner's tax records

46.16 Prohibited Signs.

The following signs or similar devices are prohibited: Off-premises signs, trailblazer signs, externally visible neon and neon look-alike signs, trailer signs, search lights, laser lights, pennants, streamers, spinners, bench signs, portable signs, roof signs, billboards, flashing signs, projected images and animated signs, signs with moving or moveable parts, and any look-alike version of any of these prohibited sign types. Signs on vending machines, trash bins or other devices serving any premises shall be screened from view of any public right-of-way and adjoining private property. Neon may be used for internal illumination if totally enclosed and not externally visible.

46.17 Outdoor Advertising.

Outdoor advertising consisting of logo signs, billboards or posters shall be prohibited. Signs which advertise products and give secondary mention to a business enterprise, for example Coca Cola type signs, are prohibited. Advertisement of any

business or product other than the business name conducted within or upon the structure is prohibited.

46.18 Prohibited Sign Locations.

Signs may not be installed in any of the following locations:

- A. In any public right-of-way unless specifically authorized by the Village Administrator.
- B. In any utility easement or no-build zone.
- C. In any public park or other public property unless authorized by the Village Administrator.
- D. On any traffic control signs, constructions signs, fences, utility poles, street signs, trees, or other natural objects
- E. In any location where the view of approaching and intersecting traffic would be obstructed.
- F. In any location as to interfere with the safe movement of vehicles or pedestrians entering or leaving a public right-of-way.
- G. In any residential area except as expressly permitted in section 46.08 of this Article.
- H. On any property without the prior authorization granted by the property owner on which any sign is to be placed.

46.19 Nonconforming Signs.

- A. Other than “Temporary Signs,” a sign conforming to the regulations prevailing prior to the effective date of this Article, but which does not conform with the regulations of this or any subsequent amendment, shall be construed as a legal nonconforming sign under the definition of this ordinance. The owner of an existing temporary sign may submit to the Village Administrator an application for a temporary sign permit. The permit shall be issued only in accordance with the provisions of this Article.
- B. Nonconforming permanent signs that have not been abandoned may be maintained and structural parts repaired or restored to a safe condition if required and if a permit is issued. Altering or changing the advertising message by repainting or replacing portions of the sign shall terminate the nonconforming status. Any sign or part thereof which has been taken down shall not be rebuilt, re-erected or relocated, unless it is made to comply with the provisions of this Article and the building code. Signs may be repaired or replaced if blown down or otherwise damaged or destroyed.

46.20 Permit Required.

Signs on land within or hereafter annexed to the municipality shall comply with this Article, unless specifically exempt. No person shall locate or retain any sign or cause a sign to be located, relocated, altered, modified, or retained unless all provisions of this Article have been met. To ensure compliance with these regulations, a sign permit shall be secured from the Village Administrator or designee for each sign, unless such sign is specifically exempted in this Article. Any sign requiring a structural steel foundation or electricity must obtain a foundation or electric permit from the Building Division, as well as a sign permit. An application fee will be

required at the time of application. Fees may be paid by cash, check, or money order. No permit shall be issued until a completed application and fees have been submitted.

46.21 Application for Permits.

- A. The owner or lessee of the property for which a sign is proposed shall apply for a permit to erect, place, paint, illuminate, or alter a sign. The application shall be submitted to the Village Administrator on forms furnished by the village. The fee for a sign permit shall be established by separate ordinance.
- B. A permit shall be required for all signs in all districts.
- C. Each application shall include drawings to scale showing:
 - 1. The proposed sign design and layout, including the total area, size, height, character, and construction materials.
 - 2. The exact sign location in relation to the building and property, rights-of-way, sidewalks, curbs, and roadways.
 - 3. For ground signs, a sign base landscaping plan
 - 4. For wall signs, a building elevation drawn to scale showing the proposed wall sign and the dimension from established grade to the top of the sign
 - 5. Details and specifications for construction, erection, and attachment.
 - 6. For illuminated signs, the number and types of lamps and lens material, and a statement in writing that the illumination of such sign shall meet the provisions of this Article.

46.22 Removal of Signs.

Whenever the Village Administrator has ordered in writing the removal or maintenance of any sign, the person, firm or corporation who erected such a sign or on whose premises such sign or display structure exists shall remove or maintain such sign within 48 hours after receiving such notice. In the event of noncompliance, the Village Administrator may remove or cause to be removed or maintain such sign at the expense of the person, firm, or corporation who erected such sign or on whose premises it was erected, affixed, or attached. Such person, firm, or corporation shall be jointly and severally liable for the expense incurred in the removal or maintenance of such a sign. This provision shall be in addition to criminal prosecution provided for herein. If the property owner refuses to pay for removal of the sign, the cost of such removal, as determined by the Village Council, will be added to the owner's tax records.

46.23 Abandoned Signs.

- A. A sign shall be considered abandoned:
 - 1. When the sign remains after the discontinuance of a use.
 - a. A business is considered to have discontinued operations if it is closed to the public for at least 90 consecutive days.
 - b. A seasonal business is considered to have discontinued operations if it is closed to the public for at least 72 hours.

2. When the sign on its immediate premises is not adequately maintained and the repairs or maintenance ordered under § 46.15 are not effected within the 30-day time limit.
 3. When the pre-existing legal sign does not conform to the provisions of this Article and is not brought into conformity upon any change in use or design as specified in § 46.19.
- B. Abandoned signs shall be removed by the property owner. If the property owner does not remove the abandoned sign, the following procedure shall apply:
1. The Village Administrator shall determine abandonment after a public hearing before the Board of Zoning Appeals.
 2. Upon determination that the sign is abandoned, the right to maintain and use such sign shall terminate immediately and the Village Administrator or designee shall issue an order for the sign to be removed within 15 days by the property owner.
 3. The Village Administrator may remove any abandoned sign still standing after 15 days following an order for removal.
 4. If the property owner refuses to pay for removal of the sign, the cost of such removal, as determined by Village Council, will be added to the owner's tax records.

46.24 Fees.

Fees. Permit and any other fees as determined by the Village Administrator with the approval of Council are posted in a fee schedule available through the office of the Village Administrator. The application fee is payable at the time of application.

ARTICLE 48

Buffering, Screening, and Landscape Material Standards

SECTIONS:

- 48.01 Purpose
- 48.02 Applicability
- 48.03 Submission and approval
- 48.04 Buffer area materials and standards
- 48.05 Conflicts in requirements
- 48.06 Easements and setbacks
- 48.07 Buffering and interior landscaping of off-street parking and off-street loading areas
- 48.08 Screening of service structures
- 48.09 Buffer requirements
- 48.10 Riparian Buffer Area

48.01 Purpose.

The purpose of this article is to provide minimum standards involving the development of land to:

- A. Provide attractive views from roads and adjacent properties;
- B. Protect, preserve and promote the character and value of surrounding neighborhoods
- C. Screen from view visually undesirable uses;
- D. Assure appropriate screening between incompatible land uses; and
- E. Protect the health, safety and welfare of the community through the reduction of noise, air and visual pollution, and artificial light glare.

48.02 Applicability.

- A. This Article shall apply to new property development and any collective substantial expansion or change in land use, except for single family dwellings and two family dwellings (duplexes). Substantial expansion or modification of the existing structures shall be defined based on the criteria established below:

When Existing Structure is...	A Substantial Expansion is...
0 - 1,000 Sq. Ft.	50% or Greater
1,001 - 10,000 Sq. Ft.	40% or Greater
10,001 - 25,000 Sq. Ft.	30% or Greater
25,001 - 50,000 Sq. Ft.	20% or Greater
50,001 Sq. Ft. and larger	10% or Greater

- C. Buffer areas shall only be required along side and rear property lines as

established in Section 48.09. Buffer areas shall not be required along street frontage or along other rights-of-way unless required by the Village Planning Commission.

48.03 Submission and Approval.

- A. Submission of buffering plans shall be as follows:
1. No site or development plan required under this zoning code shall receive final approval unless a buffering plan has been submitted and approved.
 2. No zoning permit or permit of occupancy shall be issued unless such plan has been fully implemented on the site.
 3. Any property or site to which this Article applies shall illustrate all proposed buffers including the proposed landscaping materials on a site plan or on a separate buffer plan at a reasonable scale.
 4. All plans submitted shall include a table listing the existing plant materials within the buffer area. This table shall include the common and botanical names, sizes and other such information as necessary to fully describe the plant material selection.
 5. Detailed cross sections shall be provided identifying the proper planting of trees, shrubs and ground cover within the buffer areas.
- B. Approval of buffering plans shall be as follows:
1. Buffer plans including the information as identified in division (A) of this section shall be submitted to the Village Administrator for review as part of the application for a zoning permit.
 2. The Village Administrator shall review the information and approve, deny, or approve with modifications the plans as submitted.
 3. The Village Administrator may seek professional advice from a landscape architect or licensed nurseryman in the review of the submitted plans. The cost of such consultation may be passed on to the applicant.

48.04 Buffer Area Materials and Standards.

- A. Existing Vegetation. New development, changes of use or substantially expanded structures shall provide buffer areas as provided in Section 48.09. Existing vegetation shall be preserved, as much as feasibly possible, in accordance to acceptable nursery industry procedures.
- a. Suitable Screening. The following items are suitable for screening use individually or in combination with each other provided they create a dense

screen, subject to review and approval by the Village Administrator. Nursery stock identification tags shall not be removed from any planting prior to inspection and approval of final installation by the Village.

1. Walls and fences.

- a. When walls or fences are used to fulfill screening requirements, they shall be detailed on the plan. They are to be constructed of weatherproof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with or without wooden or synthetic slat material shall not be permitted when used to satisfy buffering requirements.
- b. Any wall or fence used for buffering shall be constructed so that the finished, or most visually appealing side of the wall or fence, is facing the adjacent property.

2. Plants. Plant materials used in conformance with the provision of this Article shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations. Trees shall be balled and burlapped or in containers. Shrubs, vines and ground covers can be planted as bare root as well as balled and burlapped or containers. All trees shall be measured from the top of the root ball to the top of the tree mass.

- a. Deciduous trees. Deciduous trees shall have a minimum caliper of at least two and one-half inches with a single central leader, for large and medium trees, conforming to acceptable nursery industry procedures at the time of planting. If deciduous trees are to be used for screening purposes, additional materials listed in this section must be used to create a dense buffer.
- b. Evergreen trees. Evergreen trees shall be a minimum of six feet tall at the time of planting and shall be unsheared, full and branched to the ground. Evergreen plantings shall be designed to provide an effective, dense screen within four years of planting. It is recommended that evergreen trees be planted no further than ten feet on center to assure an effective buffer.
- c. Shrubs and hedges. Shrubs and hedges shall be at least 36 inches in height at the time of planting. All shrubs and hedges shall be designed to provide an effective, dense screen and mature height of at least five feet within four years after the date of the final approval of each planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.
- d. Grass or ground cover. Grass shall be planted in species normally grown

as permanent lawns in Clermont County. In swales or other areas subject to erosion, solid sod, erosion reducing net, or suitable mulch and temporary seeding shall be used for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Grass shall be sown or placed in any area not landscaped or paved. Ground cover shall be planted in such a manner as to provide 75% complete coverage after two growing seasons.

- e. Earth mounds. Earth mounds may be used as physical barriers which block or screen a view. Differences in elevation between areas requiring screening does not constitute an earth mound. Earth mounds shall be constructed of earthen materials and shall conform to the following standards:
 - (1) The maximum side slope shall be three horizontal to one vertical and the design shall be reviewed by the Village Administrator to ensure that proper erosion prevention and control practices have been utilized.
 - (2) Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.
 - (3) Landscape plant material installed on berms and earth mounds shall be arranged in an irregular pattern to accentuate the physical variation and achieve a natural appearance.
 - (4) The landscape plan shall show sufficient detail, including a plan and profile of the berm or earth mound, soil types and construction techniques to demonstrate compliance with the above provisions.
 - (5) Berms and earth mounds shall be located and designed to minimize the disturbance to existing trees located on the site or adjacent thereto.
 - (6) No part of any berm or earth mound which is elevated more than 30 inches above natural grade shall be located within ten feet of any right-of-way or property line.
 - (7) Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.
3. Maintenance of buffer areas and landscaping.
- a. All landscaping materials shall be installed and maintained according to accepted nursery industry procedures. The owner of the property shall be responsible for the continued maintenance of all buffer and landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris at all times. All unhealthy or dead plant

material shall be replaced within one year, or by the next planting period, whichever comes first, by plant material similar in size and type to that which was removed. The owner or developer must show a proof of maintenance plan which indicates how the established buffer areas and landscaping will be maintained.

- b. Violation of these installation and maintenance provisions shall be a violation of this zoning code.
4. Buffer establishment. Once a buffer has been approved by the Village Administrator and established by the owner, it may not be used, disturbed or altered for any purpose.
5. Location of buffer. A required buffer area may be erected in the required yard as established by this zoning code.

48.05 Conflicts in Requirements.

When an activity or land use falls under more than one of the categories listed in the matrix in Section 48.09, the most stringent of the requirements shall be applied.

48.06 Easements and Setbacks.

- A. Required landscaping may be placed wholly or partially in utility or other easements providing all requirements can be fulfilled and approval is granted by the holder of the easements. The planting of trees directly under utility wires shall be avoided.
- B. In no case, however, shall landscaping and buffer areas be established that block the sight distance at street or driveway intersections. In the case of a village street intersection, the sight triangle shall consist of the area between points 35 feet from the right-of-way line along both intersecting streets.
- C. Buffer areas are not required in the front yard or in side yards closer to the street than the front building line of the structure unless screening an off-street parking area.

48.07 Buffering and Interior Landscaping of Off-Street Parking and Off-Street Loading Areas.

- A. Buffering of off-street parking and loading areas.

1. Whenever a parking area for five or more vehicles or an off-street loading space is located in, or adjacent to a residential district, or is adjacent to a religious place of worship, school, or other institution located on an adjoining lot, it shall be effectively screened on all sides which adjoin or face any property used for these purposes on adjacent lots. Screening shall be as follows:
 - a. Screening shall be by an acceptably designed wall, fence, or planting screen that is approved by the Village Administrator.
 - b. Such fence, wall, or opaque planting shall not be less than three feet nor more than five feet tall for off-street parking areas and six feet tall for off-street loading areas. Such fence, wall or opaque planting shall be maintained in good condition.
 - c. The space between such fence, wall or planting screen and the lot line of the adjoining premises in any residential district shall be landscaped with grass, hardy shrubs, or evergreen ground cover, and maintained in good condition.
 - d. The finished face of the fence or wall shall face the adjoining property.
 2. In the event that terrain or other natural features are such that the erection of such fence, wall or planting screen will not serve the intended purpose, then the Village Administrator may allow an exception, so that no such fence, wall, or planting screen and landscaping shall be required.
- B. Landscaping of off-street parking areas. Off-street parking areas containing more than 6,000 square feet of area or 20 or more vehicular parking spaces, whichever is less, shall provide interior landscaping of the peninsular or island types of uncompacted, well-drained soil as well as perimeter landscaping. For each 100 square feet or fraction thereof of vehicular use area, at least five square feet of landscape area shall be provided.
1. Interior landscape requirements. Interior landscaping shall be dispersed throughout the parking area. Landscaping shall be situated such that large, unbroken areas of pavement are avoided.
 - a. Minimum area. The minimum landscape area permitted shall be 180 square feet, excluding curbs, with a four foot minimum dimension to all trees from edge of pavement where vehicles overhang.
 - b. Maximum contiguous area. In order to encourage the required landscape areas to be properly dispersed, no individual landscape area shall be larger than 400 square feet in size. The smallest distance to a tree in an interior landscaped area from the edge of pavement where vehicles overhang shall be four feet.
 2. Minimum tree specifications.
 - a. In addition to any tree requirements required by the Village, a two inch

diameter tree (as measured six inches above ground) shall be planted for each 3,000 square feet of impervious surface.

- b. To retain visibility within the parking area, trees shall have a clear trunk of at least five feet above the ground. The remaining area shall be landscaped with shrubs, and/or ground cover, not to exceed three feet tall.
- C. Vehicle overhang. Parked vehicles may hang over the interior landscaped area no more than two and one-half feet. Concrete or other wheel stops shall be provided to ensure no greater overhang or penetration in the landscaped area.
- D. Grass and ground cover. Grass or ground cover shall be planted on all portions of the landscaped areas not occupied by other landscaped material.

48.08 Screening of Service Structures.

Service structures shall include but not be limited to loading docks, propane tanks, dumpsters, electrical transformers, utility vaults which extend above the ground, ground mounted utility equipment and electrical and other equipment or elements providing service to a building or a site. The screening height shall be based upon the tallest point of the structure(s) being buffered.

- A. Location of screening. A continuous planting of evergreen, fence or wall must enclose any service structure on all sides, unless such structure must be frequently moved or accessed, in which case screening material shall be established to allow access to the structure.
- B. Protection of screening. Whenever screening material is placed around any dumpster or waste collection unit which is emptied or removed mechanically on a regular basis, a curb to contain the placement of the container shall be provided within the screening material. The curbing shall be at least one foot from the material and shall be designed to prevent possible damage to the screening when the container is moved or emptied.

48.09 Buffer Requirements.

The following table establishes the minimum buffer area requirements. When any activity or use of land falls under one or more of the categories listed, the most stringent of the requirements shall apply to the entire property or project.

TABLE 48: MINIMUM BUFFER AREA REQUIREMENTS

When...	Is proposed to abut...	The minimum buffer area shall be...	With the following materials...
Any non-residential use in the Village Business District	Any Residential District or Residential Land Use	A width sufficient to erect and maintain an acceptable buffer area	<p>A six foot fence or wall, and A mix of evergreen trees, deciduous trees and shrubs to soften the fence, wall or mound/berm.</p> <p>OR</p> <p>A buffer area planted and maintained with evergreens at least five feet tall or an evergreen hedge at least four feet tall, situated so as to provide an effective opaque and permanent visual buffer upon installation.</p>
When...	Is proposed to abut...	The minimum buffer area shall be...	With the following materials...
Any non-residential use in the General Business District	Any Residential District or Residential Land Use	A width sufficient to erect and maintain an acceptable buffer area	<p>A six foot fence, wall or earthen mound/berm, and Five evergreen trees, plus three deciduous trees, plus six shrubs for every 60 lineal feet of buffer area.</p> <p>OR</p> <p>Ten evergreen trees, planted in an offset manner, plus three deciduous trees plus 12 shrubs for every 60 lineal feet of buffer area.</p>

**MINIMUM BUFFER AREA REQUIREMENTS
(continued)**

When...	Is proposed to abut...	The minimum buffer area shall be...	With the following materials...
Any industrial use in the Light Industry District.	Any Non-Industrial Land Use	30 Feet in Width	A six foot fence, wall or earthen mound/berm, and Six evergreen trees, plus four deciduous trees, plus eight shrubs for every 75 lineal feet of buffer area. OR Twelve evergreen trees, plus four deciduous trees, plus 14 shrubs for every 75 lineal feet of buffer area.

When...	Is proposed to abut...	The minimum buffer area shall be...	With the following materials...
Any industrial use in the General Industry District	Any Non-Industrial or Light Industrial Land Use	40 Feet in Width	A six foot fence, wall or earthen mound/berm, and Eight evergreen trees, plus five deciduous trees, plus ten shrubs for every 75 lineal feet of buffer area. OR Fourteen evergreen trees, plus six deciduous trees, plus 16 shrubs for every 75 lineal feet of buffer area.

48.10 Riparian Buffer Area.

A. Purpose.

The purpose of this area is to retain existing forested areas along streams and rivers in order to reduce erosion and pollution, preserve stability of channels, retard runoff, maintain suitable water temperature for aquatic life, to maintain scenic integrity and provide a natural environment that benefits people and wildlife.

B. Buffer Requirements.

A minimum 50 foot wide forested buffer strip should be maintained along all streams and rivers and along related bikeways.

C. Credit.

In consideration of compliance with buffer requirements in this Article, the Planning Commission may, upon proper application through the Village Administrator, reduce or eliminate the landscape requirements specified in this zoning code.

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ARTICLE 50

Supplemental Regulations–Site Standards

SECTIONS

- 50.01 Buildings on lots
- 50.02 General yard regulations
- 50.03 Frontage
- 50.04 Height and open space requirements
- 50.05 Setback Requirements for Corner Building
- 50.06 Visibility across corner lots
- 50.07 Projections and obstructions
- 50.08 Permitted Uses Revoked

50.01 Buildings on Lots.

- A. Only one principal building shall be erected or used on a residential lot. A group of multi-family dwelling structures shall be considered as one principal building for purposes of this provision only.
- B. Where a lot is approved for institutional, commercial, industrial or multiple family purposes and where specifically approved by the Planning Commission, more than one main building may be located on the lot, but only when such buildings conform to all yard and open space requirements at the perimeter of the lot for the district in which the lot is located.

50.02 General Yard Regulations.

- A. On lots fronting on two non-intersecting streets, a front yard shall be provided on both streets.
- B. Where a frontage is divided among districts with different front yard requirements, the deepest front yard required shall apply to the entire frontage.

50.03 Frontage.

Every lot with an area of less than 5 acres shall front on a public street, and shall have a minimum street frontage of twenty-five (25) feet. An access easement does not constitute ownership and therefore does not fulfill the public street frontage requirement. This Section shall not apply to any lot 5 acres or more in size.

50.04 Height and Open Space Requirements.

The following regulations shall supersede the height and open space requirements found in this Ordinance:

- A. Parapet walls not exceeding four (4) feet tall, chimneys, ventilators, cooling towers, elevators, bulkheads, tanks, telecommunication towers, radio towers, ornamental towers, monuments, cupolas, domes, and church spires may be erected above the height limits herein established.
- B. Every part of a yard required herein shall be open and unobstructed from the lowest point at ground level to the sky except for the ordinary projections of windowsills and other ornamental features to the extent of not more than four (4) inches.
- C. Chimneys and bay windows may be erected within the limits prescribed for yards provided that they do not extend more than 2 feet into any such yard.
- D. Barns, silos or other farm and agricultural related structures on farms shall meet the minimum yard requirements for the district in which it is located if the agricultural use or property is located on a lot of less than five acres in size and is adjacent to or is abutting an area consisting of 15 or more residential lots or a platted subdivision.
- E. No building may be over 40 feet tall without Board of Zoning Appeal approval, unless specifically exempted herein. The following shall be required for approval:
 - 1. All necessary fire equipment has been provided.
 - 2. Local fire and building department permits have been obtained.
 - 3. A Clermont County airport Zoning Permit has been obtained

50.05 Setback Requirements for Corner Building.

On a corner lot, the principal building and its accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard setback in the district in which such structures are located.

50.06 Visibility across Corner Lots and at Street and Access Drive Intersections.

- A. In any district on any corner lot, no opaque fence, structure or planting higher than three feet, shall be erected or maintained within a triangle 20 feet from the intersection of the right-of-way lines, easement of access, or pavement edge of an access drive which may interfere with traffic visibility across the corner.
- B. Trees shall be permitted within the sight triangles as long as, except during early growth stages, only the tree trunk (no limbs, leaves, etc.) is visible between the ground and nine (9) feet above the ground, or otherwise does not present a traffic visibility hazard. Restrictions shall not apply to fire hydrants, public utility poles, street markers, governmental signs, traffic control devices, and existing natural grades.

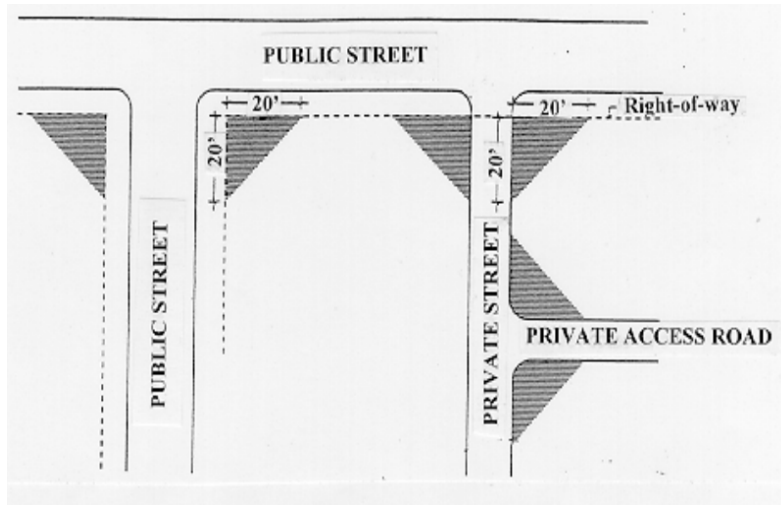


Figure 52.04 Sight Distance Diagram

50.07 Projections and Obstructions.

- A. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear or side yard for a distance of not more than four feet when so placed as to not obstruct light and ventilation, may be permitted by the Village Administrator or authorized representative.
- B. In a residential district, on a corner lot, no fence structure, planting or foliage shall be maintained within 20 feet of any corner so as to interfere with traffic visibility across the corner.
- C. Open structures such as porches, decks, canopies, balconies, platforms, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into the required minimum front, side, or rear yard.

50.08 Permitted Uses Revoked.

Any use permitted in this Ordinance shall be revoked and discontinued if because of dust, odors, smoke, noise, fumes, flame, vibration, or physical deterioration it becomes a hazard to the neighborhood in which the use is located.

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ARTICLE 52

Supplemental Regulations–Use Standards

SECTIONS:

- 52.01 Industry Performance Standards
- 52.02 Automotive Service Stations and Filling Stations
- 52.03 Wireless and cellular telecommunications towers and facilities
- 52.04 Adult entertainment facilities (sexually oriented businesses)
- 52.05 Active Outdoor Recreation Areas
- 52.06 Convalescent Care, Assisted Living Facilities, and Nursing Homes
- 52.07 Multiple Family Dwellings

52.01 Industry Performance Standards (Regulating Potential Hazards and Nuisances).

The following minimum standards shall apply to all uses in the Industry Districts:

- A. **Fire and Explosion Hazards:** All activities including storage, involving flammable or explosive materials, shall include the provision of adequate safety devices against the hazard of fire and explosion. All standards enforced by the Occupational Safety and Health Administration shall be adhered to. Burning of waste materials in open fire is prohibited, as enforced by the Ohio Environmental Protection Agency.
- B. **Air Pollution:** No emission of air pollutants shall be permitted which violate the Clean Air Act Amendment, as amended from time to time, as enforced by the Ohio Environmental Protection Agency.
- C. **Glare, Heat and Exterior Light:** Any operation producing intense light or heat, such as high temperature processes like combustion, welding or otherwise, shall be performed within an enclosed building and shall not be visible beyond any lot line bounding the property whereon the use is conducted. No exterior lighting shall be positioned so as to extend light or glare onto adjacent properties or rights- of-way.
- D. **Dust and Erosion:** Dust or silt shall be minimized through landscaping, paving or other adequate means in a manner as to prevent their transfer by wind or water to points off of the lot in objectionable quantities.
- E. **Liquid or Solid Wastes:** No discharge at any point into any public sewer, private sewage disposal system, or stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply or interfere with bacterial processes in sewage treatment shall be permitted. The standards of the Ohio Environmental Protection Agency shall apply.
- F. **Vibrations and Noise:** No uses shall be located and no equipment shall be installed in such a way as to produce intense, earth shaking vibrations which are discernible without instruments at or beyond the property lines of the subject

premises. Noise standards of the Ohio Environmental Protection Agency shall be adhered to.

- G. Odors: No use shall be operated so as to produce the continuous, frequent, or repetitive emission of odors or odor causing substances in such concentrations as to be readily perceptible at any point or beyond the lot line of the property on which the use is located. The applicable standards of the Ohio Environmental Protection Agency shall be adhered to.

52.02 Automotive Service Stations and Filling Stations.

- A. No canopy shall be located any closer than 15 feet from the public right-of-way.
- B. All driveways, platforms, and curbs of the service stations, whether located on a municipal street, county road, or state highway, shall be designed in accordance with the latest standards, or revision thereof, of the Regulations Governing Ingress and Egress at Gasoline Service Stations Fronting on all Highways Under State Jurisdiction in Ohio adopted by the Ohio Department of Transportation.

52.03 Wireless and Cellular Telecommunications Towers and Facilities.

Cellular or wireless communication systems shall be regulated as follows:

- A. Purpose. In recognition of the quasi-public nature of cellular and/or wireless communication systems, the purpose of regulations in this Section is to:
 - 1. Accommodate the need for cellular or wireless communication towers while regulating their location and number in the Village;
 - 2. Minimize adverse visual effects of communication towers and support structures through proper siting, design and screening;
 - 3. Avoid potential damage to adjacent properties from communication towers and support structure failure; and
 - 4. Encourage the joint use of any new and existing communication towers and support structures to reduce the number of such structures needed in the future.
- B. Use Regulations. The following use regulations shall apply to cellular or wireless communication antennas and towers:

1. A cellular or wireless communications antenna that is mounted to an existing communications tower (whether said tower is for cellular purposes or not), smoke stack, water tower or other tall structure, shall be permitted as of right in districts where permitted as specified in this Code. Cellular or wireless communications antenna may also be located on the top of buildings which are 50 feet tall or greater. Any cellular or wireless communications antenna that is mounted to an existing structure as indicated above shall be painted a color that matches, or is compatible with, the structure on which it is located.
 2. A cellular or wireless communications antenna that is not mounted on an existing structure or is more than 15 feet higher than the structure on which it is mounted, is permitted in all zoning districts, with the exception of any single household or multi-household zoning district, as a conditional use.
 3. All other uses accessory to the cellular or wireless communications antenna and towers (except a building to house mechanical equipment) including, but not limited to business offices, maintenance depots, and materials and vehicle storage, are prohibited from the site unless otherwise permitted in the zoning district in which the cellular or wireless communications antenna and/or tower is located.
 4. Cellular or wireless communications sites shall not be located in any single family or multi-family residential zoning district nor shall they be located any closer to any residential zoning district than as follows:
 - a. Cellular or wireless communication towers less than 100 feet tall shall be located no closer than 400 feet to any residential zoning district.
 - b. Cellular or wireless communication towers less than 150 feet tall shall be located no closer than 650 feet to any residential zoning district.
 - c. Cellular or wireless communication towers 150 feet tall and greater shall be located no closer than 850 feet to any residential zoning district.
- C. Standards. The following standards shall apply to the review and approval of all cellular or wireless communications antennas and towers
1. Height. The applicant shall demonstrate that the antenna/tower is the minimum height required to function satisfactorily. No antenna that is taller than the minimum height shall be approved, unless it is demonstrated that the additional height will allow the structure to support future co-location.
 2. Setbacks. If a new cellular or wireless communications tower is to be constructed, the minimum distance between the base of the tower or any guy wire anchors and the property line shall be the greater of the following:
 - a. 40 percent of the tower height;
 - b. The minimum setback in the underlying zoning district; or
 - c. 50 feet.

3. Safety. The applicant shall demonstrate that the proposed cellular or wireless communications tower and its antenna are safe and that the surrounding properties will not be negatively affected by tower failure, falling ice or other debris. Furthermore, all cellular or wireless communications towers shall be fitted with anti-climbing devices as approved by the manufactures.
4. Fence. A fence shall be required around the cellular or wireless communications tower and its support structure(s), unless the antenna is mounted on an existing structure. The fence shall be a minimum of 8 feet tall and shall be erected to prevent access to non-authorized personnel.
5. Landscaping. Landscaping shall be required to screen as much of the support structures as possible, the fence surrounding the cellular or wireless communications tower, support structure(s) and any other ground level features and, in general, minimize adverse impact of the appearance of the cellular communications site. The Village may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted on an existing structure, and other equipment is housed inside of an existing structure, landscaping shall not be required. The operator of the facility shall be required to maintain the landscaping and to replace dead or severely damaged plants. Any freestanding cellular or wireless communications tower shall incorporate landscaping which includes trees, shrubs and other vegetation that is subject to review and is acceptable to the Planning Commission. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
6. Co-location. In order to reduce the number of antenna support structures needed in the Village in the future, the proposed cellular or wireless communications tower shall be required to accommodate other users, including other cellular communications companies, and local police, fire and ambulance departments.
7. License. The cellular or wireless communications company must demonstrate to the Village that it is licensed by the Federal Communications Commission (FCC).
8. Required Parking. If the cellular or wireless communications site is fully automated (i.e., not requiring employees for daily operations), adequate parking shall be required for maintenance workers. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift. All parking specifications and requirements shall be consistent with the applicable parking requirements as established in the Zoning Code.
9. Minimal Visual Impact.

- a. Cellular or wireless communications towers under 200 feet tall shall be painted a non- contrasting gray or-silver color or have a galvanized finish retained in order to reduce visibility, unless otherwise required by the Federal Aviation Administration (FAA).
 - b. Cellular or wireless communications towers shall meet all FAA regulations.
 - c. No cellular or wireless communications towers may be artificially lighted except when required by the FAA.
 - d. No cellular communication tower or antenna shall contain any signage containing a commercial message.
 - e. The cellular or wireless communications company shall be required to demonstrate that adverse visual effects of the communication tower and support structures will be minimized through proper siting, design and screening. A balloon test, if requested by the Planning Commission, shall be conducted at the height of the application request. Photographs shall be taken up to one-half mile away from the site from a minimum of four opposing directions.
10. Site Plan Requirements. A full site plan shall be required for all proposed cellular or wireless communications sites, at a scale of 1 inch to 100 feet (1"=100'), indicating the following. This information shall be submitted in addition to other application requirements specified in this Code.
- a. The total area of the site.
 - b. The existing zoning of the property in question and of all adjacent properties.
 - c. All public and private right-of-way and easement lines located on or adjacent to the property proposed to be continued, created, relocated or abandoned.
 - d. Existing topography with a maximum of 5 foot contour intervals.
 - e. The proposed finished grade of the development shown by contours not exceeding 5 foot intervals.
 - f. The location of all existing buildings and structures and the proposed location of the cellular or wireless communications tower and all cellular or wireless communications support structures including dimensions, heights, and where applicable, the gross floor area of the buildings.
 - g. The location and dimensions of all curb cuts, driving lanes, off- street parking and loading areas including the number of spaces, grades,

surfacing materials, drainage plans and illumination of the facility.

- h. All existing and proposed sidewalks and open areas on the site.
- i. The location of all proposed fences, screening and walls.
- j. The location of all existing and proposed streets.
- k. All existing and proposed utilities including types and grades.
- l. The schedule of any phasing of the project.
- m. A written statement by the cellular or wireless communications company as to the visual and aesthetic impacts of the proposed cellular or wireless communications tower on all adjacent residential zoning districts.
- n. Any other information as may be required by the Planning Commission to determine the conformance with this Zoning Code.

11. Procedure.

- a. Upon submission of a complete application for site plan review to the Village Administrator, the application shall be transmitted to the Planning Commission where they shall review the site plan to determine if it meets the purpose and requirements as established in this Section, of the zoning district where the proposed cellular or wireless communications site is located and of any other applicable Section of this Zoning Code.
- b. No public notice or public hearing shall be required in conjunction with the review, approval, approval with modifications or disapproval of the site plan.
- c. The Planning Commission shall act upon the site plan within thirty-five (35) days after the receipt of the complete application from the Village Administrator. The Planning Commission may approve, disapprove or approve with modifications the site plan as submitted. Within the thirty-five (35) day period, a majority of the members of the Planning Commission present at a meeting thereof may vote to extend the period of time, not to exceed an additional 60 days.

D. Maintenance.

- 1. Any owner of property used as a cellular or wireless communications site shall maintain such property, structures and landscaping in good condition and free from trash, outdoor storage, weeds and other debris.
- 2. Any cellular or wireless communications tower that has discontinued its service for a period of 12 continuous months or more shall be removed, along with all accessory structures related thereto. Discontinued shall mean that the

structure has not been properly maintained, has been abandoned, become obsolete, unused or has ceased the daily activities or operations which had occurred.

- E. Additional Conditional Use Standards. The following standards shall apply to all conditionally permitted cellular or wireless communications antennas and towers:
1. The cellular or wireless communications company shall be required to demonstrate, using the latest technological evidence, that the antenna or tower must be placed where it is proposed in order to satisfy its necessary function in the company's grid system.
 2. If the cellular or wireless communications company proposes to build a cellular or wireless communications tower (as opposed to mounting the antenna on an existing structure), it is required to demonstrate that it has contacted the owners of nearby tall structures within a 1 mile radius of the site proposed, asked for permission to install the cellular or wireless communications antenna on those structures, and the reason for denial. "Tall structures" shall include, but not be limited to, smoke stacks, water towers, church steeples, buildings over 50 feet tall, antenna support structures of other cellular or wireless communication companies, other communication towers and roadway lighting poles. The Village may deny the application to construct a new cellular or wireless communications tower if the applicant has not made a good faith effort to mount the antenna on existing structures.

52.04 Adult Entertainment Facilities (Sexually Oriented Businesses).

Adult Entertainment Facilities (Sexually Oriented Businesses) shall be regulated as follows:

- A. Purpose and Intent. The purpose and intent of requiring standards for adult entertainment facilities is to mitigate the adverse secondary effects often caused by such facilities and to maintain compatibility with other land uses and services permitted within the Village. The purpose and intent of these regulations is not to regulate the content of the message promoted by adult entertainment facilities.
- B. Applicability. The standards established in this Article apply to all adult entertainment facilities and include, but are not limited to, the following: adult arcades, adult cabarets, adult motels, adult motion picture theaters, and adult retail stores. A Conditional Use permit for such facilities shall not be approved unless the use complies with the minimum conditions provided in this section.
- C. Limitations. The standards established in this section shall not be construed to restrict or prohibit the following activities or products:

1. Expressive dance;
51. Plays, operas, musicals, or other dramatic works;
52. Classes, seminars, or lectures conducted for a scientific or educational purpose;
53. Printed materials or visual representations intended for educational or scientific purposes;
54. Nudity within a locker room or other similar facility used for changing clothing in connection with athletic or exercise activities;
55. Nudity within a hospital, clinic, or other similar medical facility for health-related purposes; and
56. All movies and videos that are rated G, PG, PG-13, R and NC-17 by the Motion Picture Association of America.

D. Separation Requirements.

1. An adult entertainment facility shall not be permitted to locate in any zoning district other than an Industry District. Within an Industry District, an adult entertainment facility shall not be permitted to locate within one thousand (1,000) feet of any of the following uses whether such uses are located within or outside of the Village limits:
 - a. A commercial child care facility;
 - b. A public or private preschool or nursery school;
 - c. A public or private primary or secondary school;
 - d. A public park;
 - e. A church, temple, mosque, synagogue, or other similar religious facility;
and
 - f. Other adult entertainment establishments.
2. The required 1,000-foot distance shall be measured as a straight line from the nearest wall of the proposed adult entertainment establishment to the property line of the structure or use to be protected.

E. Variation from Separation Requirements. Variances shall be granted from the separation requirements in this Section if the applicant demonstrates that all of the following criteria are met:

1. The physical features of the land would result in an effective separation between the proposed adult entertainment facility and any sensitive zones or uses in terms of visibility and access;
2. The proposed adult entertainment facility complies with the goals and policies of the Village's comprehensive plan;
3. The proposed adult entertainment facility is otherwise compatible with adjacent and surrounding land uses;
4. The applicant has proposed conditions which would minimize the adverse secondary effects of the proposed adult entertainment facility.

F. Additional Conditions.

1. An Adult Entertainment Facility is a conditional use within Industry Districts. A conditional use for such facilities shall not be approved unless the use complies with the standards and requirements for conditional uses provided in this code and the following minimum conditions:
 - a. Separation requirements as provided in subsection D.
 - b. No advertisements, displays or other promotional materials shall be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other public or semi-public areas.
 - c. No screens, loudspeakers or sound equipment shall be used for motion picture theaters (enclosed or drive-in) that can be seen or discerned by the public from public or semi-public areas.
 - d. Additional conditions deemed necessary by the Planning Commission to protect the public interest.

G. Public Nuisance—Injunctions. Any sexually oriented businesses in violation of this section shall be deemed a public nuisance, which, in addition to all other remedies, may be abated by injunctive relief.

H. Definitions. The definitions in this section apply throughout this zoning code unless the context clearly requires otherwise. Adult entertainment, activity, retail, or use shall mean all of the following terms and definitions:

1. "Adult arcade" means a commercial establishment containing individual viewing areas or booths where, for any form of consideration, including a membership fee, one or more still or motion picture projectors, slide projectors, or other similar image producing machines are used to show films, motion pictures, video cassettes, CDs, DVDs, Blu-ray disks, digital files, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.
2. "Adult cabaret" means a nightclub, bar, restaurant, tavern, or other similar

commercial establishment, whether or not alcoholic beverages are served, that regularly features adult entertainment.

3. “Adult entertainment” means:
 - a. Any exhibition, performance or dance conducted in an adult entertainment facility where such exhibition, performance or dance is distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or
 - b. Any exhibition, performance or dance intended to sexually stimulate any patron and conducted in an adult entertainment facility where such exhibition, performance or dance is performed for, arranged with, or engaged in with fewer than all patrons in the adult entertainment facility at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance. For purposes of example and not limitation, such exhibitions, performances or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
4. “Adult entertainment facility” means a commercial establishment defined as an adult arcade, adult cabaret, adult motel, adult motion picture theater, adult retail store, or other adult entertainment facility.
5. “Adult motel” means a hotel, motel, or similar commercial establishment which:
 - a. Offers sleeping accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, DVDs, Blu-Ray disks, digital video files, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas, and that has a sign visible from any location outside of the establishment that advertises the availability of this type of sexually oriented materials; or
 - b. Offers a sleeping room for rent for a rental fee period of time that is less than ten hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

6. “Adult motion picture theater” means a commercial establishment where, for any form of consideration, motion pictures, films, video cassettes, slides, or other similar visual representations are regularly shown that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.
7. “Adult retail store” means a commercial establishment such as a bookstore, video store, or novelty shop which as one of its principal business purposes offers for sale or rent, for any form of consideration, any one or more of the following:
 - a. Books, magazines, periodicals or other printed materials, or photographs, films, motion pictures, video cassettes, CDs, DVDs, Blu-Ray disks, digital files, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas; or
 - b. Instruments, devices, or paraphernalia designed for use in connection with any specified sexual activities.

For the purpose of this definition, the term “principal business purpose” shall mean the business purpose that constitutes 50 percent or more of the stock in trade of a particular business establishment. The stock in trade of a particular business establishment shall be determined by examining either: (a) the retail dollar value of all sexually oriented materials compared to the retail dollar value of all non-sexually oriented materials readily available for purchase, rental, view, or use by patrons of the establishment, excluding inventory located in any portion of the premises not regularly open to patrons; or (b) the total volume of shelf space and display area reserved for sexually oriented materials compared to the total volume of shelf space and display area reserved for non-sexually oriented materials.

8. “Expressive dance” means any dance which, when considered in the context of the entire performance, constitutes an expression of art, theme, story or ideas, but excluding any dance such as, but not limited to, common barroom type topless dancing which, when considered in the context of the entire performance, is presented primarily as a means of displaying nudity as a sales device or for other commercial exploitation without substantial expression of theme, story or ideas, and the conduct appeals to the prurient interest, depicts sexual conduct in a patently offensive way and lacks serious literary, artistic, political or scientific value.
9. “Other adult entertainment facility” means any commercial establishment not defined herein where adult entertainment or sexually oriented materials is regularly conducted, displayed, or available in any form, for any type of consideration; provided, however, that a public library, and a school, university, or similar educational or scientific facility shall not be considered

an adult entertainment facility. In addition, a commercial establishment that offers access to telecommunications networks as a principal business purpose shall not be considered an adult entertainment facility unless the access is provided for the primary purpose of displaying or presenting visual images that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.

10. "Sexually oriented materials" means any books, magazines, periodicals or other printed materials, or any photographs, films, motion pictures, video cassettes, CDs, DVDs, Blu-ray disks, digital files, slides, or other visual representations that are distinguished or characterized by a predominant emphasis on matters depicting, describing, or simulating any specified sexual activities or any specified anatomical areas.
11. "Specified anatomical areas" means and includes any of the following:
 - a. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - b. Less than completely and opaquely covered human genitals, pubic region, anus, buttocks, or female breast below the top of the areola.
3. "Specified sexual activities" means and includes any of the following:
 - a. The caressing, fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
 - c. Masturbation, actual or simulated; or
 - d. Excretory functions as part of, or in connection with, any of the sexual activities specified in this definition.

52.05 Active Outdoor Recreation Areas.

Active commercial and non-commercial recreation areas and facilities such as swimming pools, recreation clubs, golf courses and country clubs when permitted as a conditional use shall meet the following additional requirements:

- A. Lot Size. The site shall contain not less than 1 acre.
- B. Front Yard. Front yards shall be 50 feet; except when fronting on a state highway, then front yards shall be 100 feet. Side yards shall be 40 feet, and rear yards shall be 50 feet.
- C. Access. The site shall have adequate access onto a hard surfaced state highway or village thoroughfare that is regularly maintained and adequate to handle the additional traffic generated by the use.

- D. Landscape Plan. A Landscape Plan, including quantities, sizes and varieties of landscaping, shall be submitted with the application.
- E. Lighting Plan. A lighting plan, including all outdoor artificial lighting specifications, location, height and other standard requested by the Planning Commission.
- F. Parking. Parking areas shall be a minimum distance of 50 feet from the property line of residential uses.

52.06 Convalescent Care, Assisted Living Facilities, and Nursing Homes.

Convalescent Care and assisted living facilities and nursing homes shall require conditional use approval by the Planning Commission and shall conform to the following requirements:

- A. The minimum lot size shall be 2 acres.
- B. The applicant for a conditional use permit for a convalescent care facility, nursing home, and assisted living facility shall furnish assurances from the developer that the following criteria have been satisfied:
 - 1. The disposal of sewage shall meet with the approval of all applicable health authorities.
 - 2. Storm water run-off shall be properly channeled so as to eliminate the possibility of flooding, either on or off the property.
 - 3. The street(s) providing access to the site shall be adequate to carry the additional traffic generated by the development.

52.07 Multiple Family Dwellings.

Multiple family dwellings shall conform to the following requirements:

- A. The following minimum zoning lot size and density requirements shall be observed unless an exception is granted as authorized under the Planned Unit Development provisions of this code:
 - 1. A total minimum lot area of 7,500 square feet shall be required for the first 3 dwelling units.
 - 2. An additional 6,000 square feet shall be required for the fourth unit.
 - 3. An additional 6,000 square feet shall be required for the fifth unit.
 - 4. An additional 8,000 square feet shall be required for each unit over the fifth unit.
- B. In the case of a total landholding proposed for multiple family development of

one acre or more, no portion or phase of the development shall exceed a maximum gross density of 8 dwelling units per acre, unless an exception is granted under the Planned Unit Development Provisions of this code.

- C. The applicant for a conditional use permit for a multiple family use shall furnish assurances from the developer that the following criteria have been satisfied:
1. The disposal of sewage shall meet with the approval of all applicable health authorities.
 2. Storm water run-off shall be properly channeled so as to eliminate the possibility of flooding, either on or off the property.
 3. The street(s) providing access to the site shall be adequate to carry the additional traffic generated by the development.
 4. The development does not include efficiency units.
 5. All one-bedroom units have a minimum of 700 square feet of net living floor area; all two-bedroom units have a minimum of 850 square feet of net living floor area; and all three-bedroom units have a minimum of 1050 square feet of net living floor area.

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ARTICLE 54

Nonconformities

(Nonconforming uses of land and of complying structures, noncomplying structures, noncomplying lots of record, and compatible nonconforming uses)

SECTIONS:

- 54.01 Purpose
- 54.02 General Scope of Regulations
- 54.03 Exception for Repairs Pursuant to Public Order
- 54.04 Nonconforming Accessory Uses and Structures
- 54.05 Burden of Establishing Legality of Nonconformity
- 54.06 Inventory and Notice of Nonconforming Uses
- 54.07 Zoning Permit for Legal Nonconformity
- 54.08 Nonconforming Uses of Land and Structures
- 54.09 Noncomplying Structures
- 54.10 Noncomplying Lots of Record
- 54.11 Compatible Nonconforming Uses

54.01 Purpose.

- A. This Article regulates the continued existence of uses, structures and lots lawfully established prior to the effective date of this Ordinance that do not conform to the regulations of this Ordinance applicable in the zoning districts in which such uses, structures and lots are located. The continued existence of nonconforming uses is frequently inconsistent with the purposes for which such regulations are established. Thus their gradual elimination is generally desirable. The regulations of this Article generally permit such nonconformities to continue without specific limitation of time but are generally intended to restrict further investments in such uses that would make them more permanent or less desirable. The regulations also restrict further investment in noncomplying structures and lots of record that would increase the degree of noncompliance.
- B. This Article recognizes, through provisions for compatible nonconforming uses, that the improvement of a nonconforming use may be desirable in unique circumstances to achieve additional protection of adjacent property and benefit the surrounding neighborhood.

54.02 General Scope of Regulations.

- A. These regulations apply to the following categories of nonconformities:
 - 1. Nonconforming uses of land and of complying structures;
 - 2. Noncomplying structures;
 - 3. Noncomplying lots of record;

4. Compatible nonconforming uses.
- B. This section shall not affect the right of a person to complete, restore, reconstruct, extend or substitute a nonconforming use as provided in Ohio R.C. 713.15.

54.03 Exception for Repairs Pursuant to Public Order.

Nothing in this Article shall be deemed to prevent the strengthening or restoration to a safe condition of a nonconforming structure in accordance with an order of a public official charged with protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition, provided that such restoration is not otherwise in violation of the various provisions of this Article prohibiting the repair or restoration of partial structures or signs.

54.04 Nonconforming Accessory Uses and Structures.

No use, structure or sign that is accessory to a principal nonconforming use or structure shall continue after such principal use or structure has been voluntarily discontinued for 2 years or more, unless it shall thereafter conform to all the regulations of the zoning district in which it is located.

54.05 Burden of Establishing Legality of Nonconformity.

The burden of establishing that any nonconforming use is lawfully existing under the provisions of this Ordinance shall, in all cases, be upon the owner of such nonconformity and not upon the Village.

54.06 Inventory and Notice of Nonconforming Uses.

- A. Within 2 years after the effective date of this Ordinance, or any amendment thereto creating new nonconformities, or such longer period as may be required, the Village Administrator or designee shall inventory all nonconforming uses and determine the names and addresses of the owners of record thereof. For each such nonconformity inventoried, the Village Administrator or designee shall determine the nature and extent of the nonconformity.
- B. Upon making such determination, the Village Administrator or designee shall notify the aforesaid owner or lessee in writing by registered mail of such determination. The inventory and notices shall be kept on file by the Village Administrator and shall be a matter of public record.
- C. The determinations of the Village Administrator or designee made pursuant to this section shall be subject to appeal to the Board of Zoning Appeals pursuant to this code in the same manner as other rulings and interpretations.

- D. This Section does not relieve the burden establishing the legality of the nonconforming use from the property owner. It also does not relinquish the establishment of a nonconforming use if the inventory is not performed or completed.

54.07 Zoning Permit for Legal Nonconformity.

- A. The owner of any nonconforming use may at any time apply to the Village Administrator for a Nonconforming Use Zoning Permit to establish the legality of such nonconformity as of a specified date. Such application shall be filed and processed pursuant to the provisions of this code.
- B. Any person receiving a notice pursuant to Section 54.06 above shall be required, within 60 days of the receipt of such notice, to apply to the Village Administrator for a Nonconforming Use Zoning Permit with respect to the identified nonconformity. Unless an appeal from the determination of the Village Administrator has been filed, such application shall be accompanied by an affidavit acknowledging the Village Administrator's determination. This affidavit shall be kept on file by the Village Administrator and shall be a matter of public record.
- C. If, upon reviewing an application for a Nonconforming Use Zoning Permit for a nonconformity, the Village Administrator determines that the use in question was lawfully existing at the time of the adoption of the provision creating the nonconformity in question, and remains lawful existing subject only to such nonconformity at the time of such application, and that any required affidavit is in order, the Village Administrator shall issue a Nonconforming Use Zoning Permit evidencing such facts and setting forth the nature and extent of the nonconformity. Otherwise, the Village Administrator shall decline to issue such permit and shall declare such use of land or structure to be in violation of this Ordinance.

54.08 Nonconforming Uses of Land and Structures.

- A. Authority to Continue. Any lawfully existing use of land or of any structure which becomes nonconforming through an amendment of this Ordinance or the Zoning Map, may be continued. If no structural alterations are made, it may be changed to another nonconforming use or a more restricted use permitted as-of-right in the zoning district in which it is located.
- B. Nonconforming Use Discontinued. If a lawfully existing nonconforming use of land or of any structure is voluntarily discontinued for 2 years or more, any future use shall conform to all the regulations of the zoning district in which it is located, unless approved by the Board of Zoning Appeals according to the provisions of Section 54.11.
- C. Ordinary Repair and Maintenance of Structures. Normal maintenance and

incidental repair, replacement and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing may be performed on any structure that is devoted in whole or in part to a nonconforming use or that is accessory to a nonconforming use of land.

- D. Structural Alteration. Except as authorized by the Board of Zoning Appeals pursuant to Section 54.11, no structure that is devoted in whole or in part to a nonconforming use, or that is accessory to a nonconforming use of land, shall be structurally altered unless the use thereof shall thereafter conform to the use regulations of the zoning district in which it is located. No such alteration shall create a new parking, loading, bulk, yard, space or other nonconformity or increase the degree of any existing parking, loading, bulk, yard, space or other nonconformity of such structure.
- E. Enlargement of Structure. Except as authorized by the Board of Zoning Appeals pursuant to Section 54.11, no structure that is devoted in whole or in part to a nonconforming use or that is accessory to a nonconforming use of land, shall be enlarged or added to in any manner, including the interior addition for floor area, unless the use of such structure shall thereafter conform to the use regulations of the district in which it is located. Except as authorized by the Board of Zoning Appeals, no such enlargement shall create any new parking, loading, bulk, yard, space or other nonconformity or increase the degree of any existing parking, loading, bulk, yard, space or other nonconformity of such structure.
- F. Extension of Use Prohibited.
Except as authorized by the Board of Zoning Appeals pursuant to Section 54.11, a nonconforming use of land or of a structure shall not be extended. Such prohibited activity, unless otherwise authorized by the Board, shall include:
57. An extension of such use, including its accessory uses, to any structure or land area other than that occupied by such nonconforming use on the effective date of this Ordinance or any amendment thereto that causes such use to become nonconforming;
58. An extension of such use, including its accessory uses, within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this Ordinance or any amendment hereto that causes such use to become nonconforming; and
59. An extension of the hours of operation of such use beyond the normal hours of operation on the effective date of this Ordinance, or any amendment hereto that causes such use to become nonconforming.
- K. Moving.
No nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which

it is located after being so moved. No structure that is accessory to a nonconforming use of land, and is devoted in whole or in part to a nonconforming use shall be moved in whole or in part, for any distance whatsoever, to any location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

L. Damage or Destruction.

If a structure housing a nonconforming use is completely destroyed, by any means, the structure shall not be restored and the nonconforming use shall not be resumed without authorization by the Board of Zoning Appeals pursuant to Section 54.11 by the grant of a Zoning Permit following a public hearing. The restored nonconforming use shall be accomplished without increasing the degree of any parking, loading, bulk, yard, space or other nonconformity existing prior to such damage or destruction.

54.09 Noncomplying Structures.

A. Authority to Continue.

Any noncomplying structure that is devoted to a use that is permitted in the zoning district in which it is located may be continued so long as it remains otherwise lawful, subject to the restrictions of this Section.

B. Repair, Maintenance, and Alterations.

Any noncomplying structure may be repaired, maintained or altered (including expansion); provided, however, that any such repair, maintenance or alteration shall not create any new nonconformity nor increase the degree of the existing nonconformity of all or any part of such structure. Any new addition or expansion shall comply with current setback, height and use regulations.

C. Moving.

No noncomplying structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

D. Damage or Destruction.

1. Any noncomplying structure that is damaged or destroyed by any means not within the control of the owner, thereof, to the extent of more than sixty percent (60%) of the cost of replacement of such structure new shall not be restored unless its restoration has been authorized by the Board of Zoning Appeals pursuant to Section 54.11 by the grant of a Zoning Permit following a public hearing. However, no repairs or restorations shall be made unless restoration pursuant to the Zoning Permit is actually begun within 1 year after the date of such partial damage or destruction and is diligently pursued to

completion. The determination of the extent of damage or destruction shall be based on the ratio of the estimated cost of restoring the structure to its condition before the damage or destruction to the estimated cost of duplicating the entire structure as it existed prior to the damage or destruction. The estimate for this purpose shall be made by the Village Administrator.

2. This subsection D shall not apply to any residential dwellings, to any structures accessory to such dwellings, nor to any signs.

54.10 Noncomplying Lots of Record.

A. Authority to Utilize for Dwellings.

In any district in which dwellings are a permitted use, notwithstanding the regulations imposed by any other provisions of this Ordinance, a dwelling of the type permitted in the district in which the lot is located and that complies with the restrictions of subsection B may be erected on a legal nonconforming lot.

B. Regulations for Single Family Use of Noncomplying Lots.

Any lot of record on the initial effective date of this Ordinance may be used for any single family dwelling when such use is permitted in the district, irrespective of the width or area of said lot; the width of the side yard of any such lot need not exceed ten (10%) percent of the width of the lot; the depth of the rear yard of any such lot need not exceed twenty (20%) percent of the depth of the lot, provided, however, that in no instance shall the minimum dimensions of the side and rear yards be less than 3 feet and 10 feet respectively. Accessory structure yards shall be as required by the district regulations.

C. Other Uses of Nonconforming Lots.

In any district in which dwellings are not permitted as-of-right, a legal nonconforming lot of record may be used for any use permissible in the district in which it is located if, but only if, the development of such lot meets all requirements of the district in which it is located, including impervious surface ratio and yard requirements, except lot area, width and depth requirements.

54.11 Compatible Nonconforming Uses.

Notwithstanding the foregoing provisions to the contrary, the usable area of a nonconforming use may be increased or improved where the owner of such use can demonstrate through application to the Board of Zoning Appeals that the manner in which the usable area of the nonconforming use will be increased or improved will have no adverse impact upon adjacent property owners and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent property owners and the uses in the surrounding neighborhood upon compliance with specified conditions.

- A. Application. The owner shall submit a development plan application to the Board on a form provided by the Secretary of the Board. The application shall address site plan features and considerations, including but not limited to:
1. The location and size of the property including setbacks and lot dimensions;
 2. The use of the property on the effective date of this Ordinance;
 3. All uses adjacent to the property and within the surrounding neighborhood;
 4. All existing structures, yards, utility easements, rights-of-way, floodplains and wooded areas on and adjacent to the property;
 5. The density (in terms of dwelling units per acre) and the intensity (in terms of impervious surface ratio or gross square footage) of the nonconforming use;
 6. Landscaping;
 7. Architectural treatment;
 8. Traffic impact;
 9. The reasons why the nonconforming use is compatible with and will have no adverse impact on the land uses permitted in the district in which it is located; and
 10. The nature and extent of additional protection from adverse impacts afforded to adjacent property owners.

B. Review and Decision.

On the basis of the completed application and consideration of the elements set forth in Section A, the Secretary of the Board shall prepare and submit to the Board of Zoning Appeals a report that sets forth findings and recommendations. Upon receipt of the Secretary's written report, the Board of Zoning Appeals shall approve or deny the application in accordance with its public hearing procedures. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards to assure that the nonconformity does not adversely affect orderly development and the value of nearby property including, but not limited to: required improvement of, or modifications to existing improvements on, the property; limitations on hours of operations; and limitations on the nature of operations.

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[ARTICLES 56 TO 78 RESERVED]

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[ARTICLES 56 TO 78 RESERVED]

BATAVIA CODE OF ORDINANCES, CHAPTER 153 – ZONING

PART IV
Administration and Permits

ARTICLES:

80	Decision Making / Administrative Bodies and Officials
82	Minor Modifications
84	Variances
86	Appeals to the BZA
88	Conditional Use Procedures
90	Amendments of Zoning Map and Text
92	Zoning Permits and Fees
94	Penalties and Remedies
96	[reserved]

STATUTORY REFERENCES:

- *Requirements for notice and public hearings, see R.C. 731.17 - 731.26, R.C. 713.1*
- *Municipal legislation subject to referendum, section 1f, Article II, Ohio Constitution, R.C. 731.29 - 731.41*
- *Requirements for notice and voting on zoning legislation, see R.C. 713.12*
- *Limitations on procedural challenges to zoning legislation, see R.C. 713.121*
- *Statutory village planning commission composition, see R.C. 713.01*
- *Village Board of Zoning Appeals function, see R.C. 713.11*
- *Delegation of administrative functions to the planning commission, see R.C. 713.1 I(A)*
- *Enacting and amending Village Zoning, see R.C. 713.01 et seq.*
- *Municipal zoning plan, see R.C. 713.06*
- *Notice, hearing and publication requirement, see R.C. 731.17, 731.21 and 731.22*
- *Village council deviation from recommendation of the planning commission requires a supermajority, see R.C. 713.12*
- *Amendments subject to referendum, see R.C. 731.29 to 731.41*
- *Zoning following annexation; authority to adopt the existing township zoning regulations, see R.C. 519.18*
- *Zoning by Initiative; voting by municipal electorate, see Section 1f, Article II, Ohio Constitution and R.C. 731.28 and R.C. 731.31 to 731.41*
- *Compliance with Ohio's Sunshine Law and Ohio Meetings Act, see R.C. 121.22 and Public Records Act R.C. 149.43*
- *Administrative board; powers and duties, see Ohio R.C. 713.11*
- *Notice and hearing on municipal zoning regulations, see Ohio R.C. 713.12*

ARTICLE 80

Decision Making / Administrative Bodies and officials

SECTIONS:

- 80.01 Intent
- 80.02 Village Administrator (Zoning Administrator)
- 80.03 Planning and Zoning Board
- 80.04 Village Council
- 80.05 Village Solicitor
- 80.06 Summary of Authority and Responsibilities

80.01 Intent.

Administrative procedures and village authority for administering, interpreting and enforcing this code are herein established in order to achieve the following purposes:

- A. To provide for the review of site and development plans before obtaining a zoning permit and certificate of occupancy;
- B. To provide for the inclusion of necessary facilities, services and additional uses through conditional use permits;
- C. To provide for the inclusion of uses which are not specified in this code, but which have characteristics and a land use impact similar to permitted main uses;
- D. To assure that no work shall be started on the relocation, construction, reconstruction, or structural alteration of a building, structure or use, until the building or use is found to comply with all the provisions of the zoning code;
- E. To assure before construction of new buildings or commencement of a use or occupancy, or before occupancy is continued after alterations or changes in use have been made, that all regulations of the village have been met by requiring a certificate of occupancy; and
- F. To provide for enforcement by issuance of orders by the Village Administrator.

80.02 Village Administrator (Zoning Administrator).

It shall be the duty of the Village Administrator, or the authorized representative (zoning administrator or other staff), to enforce this zoning code. He or she shall:

- A. Receive applications required by this zoning code;
- B. Issue permits and furnish the prescribed certificates;
- C. Examine premises for which permits have been issued;
- D. Make necessary inspections to see that the provisions of law are complied with;
- E. Enforce all laws relating to the construction, alteration, repair, removal,

- demolition, equipment use and occupancy, and location and maintenance of buildings and structures, except as may be otherwise provided for in this zoning code;
- F. Make investigations in connection with matters referred to in this zoning code and render written reports on the same when requested by the Mayor, Village Council, Planning Commission, or as may be necessary to serve the interests of the village;
 - G. Issue such notices or orders as may be necessary to enforce this zoning code; and
 - H. Forward findings of fact as to alleged violations of this code to the Village Solicitor.

80.03 Planning and Zoning Board.

- A. Establishment and Function. A Planning and Zoning Board is hereby created which shall function as the Village of Batavia Planning Commission and fulfill the duties of a Zoning Board of Appeals. The Planning and Zoning Board shall consist of 5 members: the Mayor, 1 member of the legislative authority, and 3 residents of the Village. Members are appointed by the Mayor and approved by Village Council for terms of 6 years each. In the case of a vacancy, the Mayor shall appoint and the Village Council shall approve a replacement Board member who shall serve the balance of the vacated term. All such members shall serve without compensation. Any member may hold any other public office. The Board shall organize and elect a Chairperson, Vice Chairperson, and Secretary from its membership. The Planning and Zoning Board may adopt rules necessary to the conduct of its affairs in keeping with the provisions of this Ordinance.
- B. Meetings. The Planning and Zoning Board shall meet once a month or at the request of the Mayor or Board Chairperson or upon written notice by 2 or more of its members; in all cases such request or notice shall be given at least twenty-four (24) hours prior to the meeting time. All meetings shall be public and public records shall be kept of all proceedings indicating the vote of each member on each issue or question, the members present and absent, official actions, reasons for actions, and the facts of each case and other minutes of the meeting, a copy of which may be sent to the Village Council upon request. The Chairperson or, in his/her absence, the acting Chairperson may administer oaths and the Board may compel the attendance of witnesses in hearing appeals and variances. Nothing in this Code shall prevent the Board from granting a continuance of a public hearing.
- C. Hearings. The Planning and Zoning Board shall hold public hearings on legislative zoning proposals to enable public opinion, and shall hold quasi-judicial hearings related to administrative appeals, variances and conditional uses to enable testimony and presentation of evidence.
- D. Quorum and Procedure. 3 attending members constitute a quorum. The Board

shall act by resolution passed by the vote of a majority of the members of the Board. A resolution to reverse any order, requirement, decision, or determination of the Board, from which there has been an appeal, shall require a concurring vote of four (4) members, except in the event that only three members of the Board are present at the meeting, their unanimous vote shall be sufficient for action. The Chairperson, or in his/her absence the Vice Chairperson, may administer oaths and compel the attendance of witnesses. The Secretary shall keep minutes of the proceedings, indicating the vote of each member on each question, or if absent or failing to vote, so note. The Village Administrator shall keep records of the Board's examinations and other official actions, all of which are to be filed in the Municipal Building and are public record. All meetings shall be open to the public.

- E. Removal. Members of the BZA shall be removed for nonperformance of duty, misconduct in office, or other causes by Village Council upon written charges having been filed with Village Council and after a public hearing has been held regarding such charges. A copy of the charges shall be served upon the member so charged at least ten days prior to the hearing, personally, by registered mail or by leaving the copy at his or her usual place of residence. The member shall be given an opportunity to be heard and to answer such charges
- F. Powers and Duties—as Planning Commission. The Planning and Zoning Board (in its role as the Village Planning Commission) shall have the powers and duties as set forth below and as otherwise provided in this Zoning Code and Ohio RC 713.02:
 - 1. Site Plan Review. Review and act on site plans pursuant to this zoning code.
 - 2. Minor Modifications. Review and act on all applications for Minor Modifications according to provisions and criteria stated in this code.
 - 3. Planned Unit Developments. Review all applications for Planned Unit Development Districts and to forward recommendations on development plans, conditions, and amendments to Council for final action as provided in this code.
 - 4. Conditional Uses. Review all applications for conditional uses as identified in the respective zoning districts according to provisions and criteria stated in this code.
 - 5. Zoning Map and Text Amendments.
 - a. Review of Proposed Amendments. To review all proposed amendments to and re-zonings of this ordinance and map and to forward recommendations to Village Council.
 - b. Annual Review. To annually review the effectiveness and appropriateness of this code and initiate and recommend zoning map changes and text

amendments to the provisions of this Ordinance and official zoning map by resolution, and to forward recommendations that promote the best interest of the public to Village Council. In its review, the Commission shall consider current development trends and planning concerns and relevance to community plans adopted by the Planning Commission or Council.

c. Zoning Map. To prepare, maintain and interpret a current Zoning Map.

6. Planning.

a. Public Works. To make plans and recommendations within and contiguous to the Village for the character, location, and extension of public and private streets, bridges, parks, open spaces, waterways, utilities, public ways, grounds, open spaces, buildings, property, utilities or terminals for water, light, sanitation, transportation, communication, power, and other purposes as provided in Ohio RC 713.02.

b. Private Development. To make plans and recommendations related to the location, design, height, bulk, lot coverage, setbacks, yards and uses of buildings and other structures in the interest of the public health safety, convenience, comfort, prosperity, or general welfare as provided in Ohio RC 713.

c. Annual Review. To annually review the effectiveness and appropriateness of general and specific community plans and initiate and recommend map and text amendments to such official plans in or relevant to the Village, and to forward recommendations that promote the best interest of the public to Village Council and other public officials.

G. Powers and Duties—as Board of Zoning Appeals.

1. The Planning and Zoning Board (in its role as the Board of Zoning Appeals) shall have the powers and duties as set forth below and as otherwise provided in this Zoning Code and Ohio RC 713.11:

a. Appeals Related to Administrative Decisions. Hear and decide appeals where it is alleged there is an error in an order, requirement, decision or determination made by the Village Administrator or Zoning Administrator, or his or her authorized representative in the enforcement of this zoning code.

b. Variances. Authorize such variances, upon appeal, from the terms of this zoning code as will not be contrary to the public interest, where, owing to the special conditions, a literal enforcement of this code will result in unnecessary hardship, and so that the spirit of this code shall be observed and substantial justice done.

- c. Appeals Related to Conditional Use Decisions. Hear and decide appeals taken on the basis of a decision rendered by the Planning Commission on conditional use requests.
2. The Board of Zoning Appeals may call on the other village officials for assistance in the performance of its duties and it shall be the duty of such officials to render such assistance to the Board of Zoning Appeals as may reasonably be required.

80.04 Village Council.

Village Council shall have the following powers and duties with respect to the administration and enforcement of this Zoning Ordinance:

- A. Review and Act on Amendments. To review, render decision, and enact amendments to the proposed amendments of this Ordinance and official zoning map.
- B. Initiate Amendments. To initiate amendments to the provisions of this Ordinance and official zoning map through an ordinance or resolution and forwarding said action to the Planning and Zoning Board for review and recommendation.
- C. Establish Board. To request by resolution or require by ordinance the duties of the Planning and Zoning Board, and to appoint members and remove after investigation and findings of malfeasance, misfeasance, or nonfeasance while in office.
- D. Appeals. Hold public hearings, review and take final action on appeals from the actions of the Planning Commission.
- E. Establish Fees. Establish a schedule of fees necessary to effectively administer and enforce the provisions of this Code.

80.05 Village Solicitor.

In case a building or structure is, or is intended to be, erected, constructed, reconstructed, altered or converted, or in case a building, structure or premises is, or is intended to be, used in violation of or is contrary to this zoning code, the Village Solicitor is hereby authorized, in addition to other remedies set forth in this zoning code, to institute an action to enjoin or proceed with any other appropriate action or proceeding to prevent such erection, construction, reconstruction, alteration, conversion or use.

80.06 Summary of Authority and Responsibilities.

Type of Application or Review	Village Administrator (Zoning Administrator Role)	Planning and Zoning Board (Planning Commission Role)	Planning and Zoning Board (Board of Zoning Appeals Role)	Village Council
Zoning Map and Text Amendments	Review and Recommendation	Review and Recommendation	----	Final Action
Preliminary Development Plans	Review and Recommendation	Review and Recommendation	----	Final Action
Final Development Plans	Review and Recommendation	Final Action	----	Appeals
Site Plans	Review and Recommendation	Final Action	----	Appeals
Minor Modifications	Review and Recommendation	Final Action	----	Appeals
Conditional Uses	Review and Recommendation	Final Action	----	Appeals
Interpretations	Review and Recommendation	Final Action—Use Classification and Map Interpretations	Appeals	----
Variances	Review and Recommendation	----	Final Action	----
Appeals	Denial and Referral	----	Final Action	----
Nonconformities	Review and Recommendation	----	Final Action	----
Zoning Certificates	Final Action	----	Appeals	----
Occupancy Permits	Final Action	----	Appeals	----
Inspections and Enforcement	Final Action	----	Appeals	----

ARTICLE 82 Minor Modifications

SECTIONS:

82.01	Definition
82.02	Authority
82.03	Criteria
82.04	Appeals

82.01 Definition.

A Minor Modification is a change in a requirement for one property that in the judgment of the Planning Commission is warranted based on criteria in Section 82.02 and the finding that no objection to the modification for the subject property nor the cumulative effect of modifications for other properties having similar circumstances would likely be raised by any party of interest.

82.02 Authority.

- A. Administrative Hearing. The Village Planning Commission may approve minor modifications to requirements in this code with an administrative hearing (without a public hearing) in accordance with the limitations and criteria in this section.
- B. Limitations. Changes that materially affect the spirit or intent of this zoning code are considered major changes requiring approval of a variance by the Board of Zoning Appeals or a zone amendment by the Village Council.
- C. Consent of Affected Property Owners. Minor modifications shall not include any of the following changes unless the applicant submits written consent of each adjacent property owner (contiguous and across the street) and the written consent of noncontiguous property owners within a radius of 100 feet from the proposed use:
 - 1. any increase in density of a residential project or the overall square footage of a non-residential project;
 - 2. any increase in the maximum height of a building that is adjacent to a property that is zoned in the same or a more restrictive zoning district;
 - 3. any reduction in size of a required buffer adjacent to a property that is zoned for the same or a more restrictive residential zoning district;
 - 4. any reduction in required setback of a structure to be closer to the property line of an adjacent property that is zoned in the same or a more restrictive zoning district;

5. any relocation of a structure closer to the property line of an adjacent property that is zoned in the same or a more restrictive zoning district;
6. any alteration of frontage or access points; or
7. any change in type of use not otherwise authorized under the zoning district.

82.03 Criteria.

- A. The Village Planning Commission may approve minor modifications to requirements in this code provided that their decision is based on ALL of the following criteria:
 1. That specific conditions are unique to the applicant's land.
 2. That strict application of the provisions of this section would deprive the applicant of a reasonable use of the land in a manner equivalent to the use permitted other landowners in the same zone having similar uniqueness and circumstances.
 3. That unique conditions and circumstances are not the result of actions of the applicant subsequent to the adoption of this code.
 4. That the modification will not produce a negative impact upon, or impair the value of, the abutting or surrounding properties, and will not alter the essential character of the neighborhood.
 5. That the modification will preserve, not harm, the public safety and welfare, and achieves the spirit and intent of this code.
- B. In its consideration of compliance with the criteria in this subsection, the Planning Commission, in addition to modifications requiring certification of adjacent owner consent in Section 82.01-C, may require the applicant for a minor modification in any district to submit the written consent of each adjacent property owner (contiguous and across the street) and the written consent of noncontiguous property owners within a radius of 100 feet from the boundary of the proposed use as a prerequisite to consideration by the Planning Commission for approval.
- C. In its consideration of compliance with the criteria in this subsection, and finding that the request fails to meet the definition or criteria pertaining to Minor Modifications, the Planning Commission may refer the request to the Board of Zoning Appeals for public hearing and consideration as a variance request.

82.04 Appeals.

An adversely affected party may appeal any decision by the Village Planning Commission to the Village Council within 30 days of the determination.

ARTICLE 84

Variances

SECTIONS:

- 84.01 Authority and Intent
- 84.02 Findings
- 84.03 Application
- 84.04 Public hearing
- 84.05 Action

84.01 Authority and Intent.

The Board of Zoning Appeals (BZA) shall have the power to authorize variances in specific cases as described herein.

- A. The Board of Zoning Appeals shall hear and decide all applications for variances from the strict application of this zoning code as will not be contrary to the public interest, and where owing to special characteristics of the property of use, the literal enforcement of this code would result in:
 - 1. unnecessary hardship in the case of a use variance, or
 - 2. practical difficulty in the case of an area variance.
- B. In considering variances, it shall be the intent of the Board of Zoning Appeals to see that the spirit of the zoning code is being observed, public safety and welfare secured and substantial justice done.
- C. Variances shall not be granted for uses not permitted in the Zoning District applicable to the property where a proper resolution would be to rezone the property to accommodate the requested use or amend the zoning code. In those cases, an application for rezoning the property or amending the zoning code is required.
- D. In authorizing a variance, the Board of Zoning Appeals may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use, as it may deem necessary in the interest of the furtherance of the purpose of the code and in the public interest. Violation of such conditions and safeguards when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this code
- E. In authorizing a variance with attached conditions, the Board of Zoning Appeals may require such evidence and guarantee or bond as it may deem to be necessary, to enforce compliance with the conditions attached.

84.02 Findings.

No variance of the provisions or requirements of this chapter shall be authorized by

the Board of Zoning Appeals unless the Board finds, that ALL of the following facts and conditions exist:

- A. Exceptional circumstances. Where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this code, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property, that do not apply generally to other properties or classes of uses on the same zoning district.
- B. Preservation of property rights. That such variance is necessary for the preservation and enjoyment of substantial property rights which are possessed by other properties in the same zoning district and in the same vicinity.
- C. Absence of detriment. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this code or the public interest.
- D. Not of general nature. That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulations for such conditions or situation.
- E. Not due to applicant actions. That the special conditions and circumstances do not result from the actions of the applicant and not solely based on showing that the property could be put to better economic use than presently permitted by zoning regulations.

84.03 Application.

A variance from the terms of this code shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Village Administrator. The application shall contain the following information as a minimum:

- A. The name, address and telephone number of the applicant;
- B. A survey of the property in question by a person licensed in the State of Ohio to perform land surveys as may be required by the Village Administrator;
- C. A description of the nature of the variance requested;
- D. A statement demonstrating that the requested variance conforms to the standards set forth in this section;
- E. The signature of the owner or applicant attesting to the truth and exactness of all information supplied by the application; and
- F. A fee as established by Village Council.

84.04 Public Hearing.

- A. Schedule. The Board of Zoning Appeals shall establish a date for a public hearing within ten days after the receipt of an application for a variance. The hearing on the variance shall be held within 30 days of receipt of application for the variance.
- B. Notice of public hearing in newspaper. Before holding the required public hearing, notice of such hearing shall be given by publication in a newspaper of general circulation in the village prior to the hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.
- C. Notice to parties of interest. Before holding the required public hearing, written notice of such hearing shall be mailed by first class mail or hand delivered before the day of the hearing to the property owner, the petitioner and all property owners located within 250 feet in any direction of the property upon which an application for a variance has been filed. The failure to mail or deliver the notification as provided in this code shall not invalidate any such notice.

84.05 Action.

- A. Within 30 days or as soon thereafter as is reasonable, following the required public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for a variance in writing to the applicant. Failure to act within 30 days shall not constitute an approval of the variance.
- B. All documents, plans or other materials submitted to or considered by the Board of Zoning Appeals shall be part of the record of any public hearing. The Board of Zoning Appeals may include a staff report submitted to the board in the public record by accepting such report by majority vote of its members to ensure a complete record of its proceedings.
- C. If the request for a variance is disapproved by the Board of Zoning Appeals, the applicant may seek relief through the Court of Common Pleas.

ARTICLE 86

Appeals to the BZA

SECTIONS:

- 86.01 Right to Appeal
- 86.02 Process
- 86.03 Action and Criteria
- 86.04 Effect

86.01 Right to Appeal.

Appeals to the Board of Zoning Appeals may be made by any interested party aggrieved. "Interested Party" as used in this section shall mean the appellant (applicant) and all persons entitled to notice under division (D) below.

86.02 Process.

- A. Appeals shall be made to the BZA by filing with the BZA a notice of appeal specifying the grounds thereof.
- B. If an appeal is being made as a result of action by the Village Administrator, it must be made within 30 days from that action.
- C. All documentation, in whatever form, constituting the record upon which the action appealed from was taken shall be transmitted to the BZA.
- A. The BZA shall fix a reasonable time for the hearing of the appeal, give ten days notice by first class mail to the parties in interest as well as to all property owners within 250 feet of the subject property.
- B. The BZA shall decide the appeal within 30 days after the hearing. This time period may be extended for a period not to exceed 30 days if agreed to by the BZA and applicant.
- C. At the hearing, any party may appear in person or by attorney. Any party adversely affected by a decision of the BZA may appeal within 30 days to the Clermont County Court of Common Pleas on the grounds that such decision was unreasonable or unlawful.

86.03 Action and Criteria.

- A. Action.
 - 1. In exercising the powers specified in this Article, the BZA may, in conformance with this zoning code, reverse or affirm, wholly or partly, or modify, the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be

made. To that end, the BZA shall have all the powers of the officer from whom the appeal is taken.

2. The concurring vote of three members of the BZA is necessary to reverse an order, requirement, decision or determination of the Village Administrator or his or her authorized representative, or to decide in favor of the applicant on any matter in which the BZA is required to pass under this zoning code, or to affect any variation in this zoning code.
 3. Every change granted or denied by the BZA shall be accompanied by a written finding of fact, specifying the reason for granting or denying the change.
- B. Criteria. Before making any finding in a specific case, the BZA shall:
1. Determine that the proposed change will not constitute a change in the zoning district map;
 2. Consider the following factors:
 - a. The adequacy of light and air to the adjacent properties;
 - b. The increase in traffic and possibility of congestion on public streets which might result from the proposed change;
 - c. The affect in property values within the surrounding area; and
 - d. The affect on any aspect of the public health, safety, comfort or general welfare.

86.04 Effect.

- A. No order of the BZA permitting the erection or alteration of a building shall be valid for longer than six months, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started, and proceed to completion, in accordance with the terms of such permit.
- B. No order of the BZA permitting a use of a building or premises shall be valid for longer than six months, unless such use is established within such period. However, where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within such period and such erection or alteration is started, and proceeds to completion, in accordance with the terms of such permit.
- C. An appeal shall stay all proceedings in furtherance of the action appealed, unless the Village Administrator certifies to the BZA that by reasons of acts stated in the certificate, a stay would, in the Village Administrator's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the BZA or by the Court of Common Pleas, on notice to the Village Administrator or by judicial proceedings, and on due cause shown.

ARTICLE 88

Conditional Use Procedures

SECTIONS:

- 88.01 Planning Function
- 88.02 Application
- 88.03 Process
- 88.04 Standards and Factors
- 88.05 Action

88.01 Planning Function.

Conditional use permits shall be required for types of uses designated as conditionally permitted in a particular use district. Such particular use may be permitted and desirable in certain districts, but not without consideration in each case of the effect of the use upon neighboring land and the effect the neighboring land will have on the use. The application of the planning standards for determining the location and extent of such use is a planning function, and not in the nature of a variance or appeal. Enumerated throughout this code are certain uses and the districts in which conditional uses may be permitted provided the standards in this section are fulfilled and a conditional use permit is granted by the Planning Commission.

88.02 Application.

At a minimum, the application shall contain the following information, provided however, that the Village Administrator may waive certain submission requirements where it is determined that it is not applicable:

- A. Name, address and telephone number of the owner of record and applicant;
- B. A boundary survey of the said property;
- C. A description of existing use;
- D. The present zoning district;
- E. A description of the proposed conditional use;
- F. A plan for the proposed site for the conditional use showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards and other such information as the Zoning Administrator may require to determine if the proposed conditional use meets the intent and requirements of this code;
- G. A statement and supporting documentation describing how the applicant believes that the request conforms to the standards for conditional uses listed in this

section;

- H. The signature of the owner or applicant attesting to the accuracy of all information supplied by the application; and
- I. An application filing fee as established by Village Council.

88.03 Process.

- A. The Planning Commission shall hold a hearing thereon, notice of which may be published in a newspaper of general circulation, and mailed to the last known address of the owners of the property within 250 feet of the parcel for which a conditional use permit is requested at least ten days before the hearing.
- B. The application and any reports, covenants, deeds, plans, or other information requested or required in conjunction with or as part of the application shall be submitted to the Planning Commission 30 days prior to the date of public hearing. Failure to timely submit any of the reports, covenants, deeds, plans or other information will result in the continuance of the public hearing to a later date, determined by the Planning Commission, which will allow the Planning Commission, village officials or advisors to evaluate the reports, covenants, deeds, plans or other information in time for the hearing to take place.

88.04 Standards and Factors.

- A. Standards. In determining whether the issuance of a conditional use permit is warranted, the standards the Planning Commission shall take into consideration are the following:
 - 1. The proposed use has been established as a conditional use under the provisions of this zoning code.
 - 2. The use will not discourage the development or impair the value of the surrounding and adjacent land and use district(s);
 - 3. The concentration and volume of vehicles in connection with the use will not be more dangerous or hazardous than the usual traffic of the use district;
 - 4. The proposed use will not produce a negative impact upon the abutting or surrounding properties and zoning uses given the characteristics, size, location, intensity and nature of the proposed use and any structure;
 - 5. The location, extent, arrangement and intensity of the proposed use will be such that its operation will not be objectionable to adjacent and surrounding uses by reason of noise, smoke, dust, odors, fumes, vibrations or glare;
 - 6. The use, arrangement of and location of uses and structures will be compatible with surrounding uses and zones or must be capable of being

made compatible through the imposition of conditions;

7. The use and structures will not be detrimental to the public health safety, convenience, comfort, prosperity, or general welfare of the locality involved;
 8. The use and structures will conform to the purpose, intent and objectives of this zoning code; and
 9. The proposed use will be properly located in relation to any adopted master plan, general plan, land use plan, thoroughfare plan, or street plan, particularly in its relation to existing collector and local street systems and pedestrian circulation.
 10. In its consideration of compliance with the standards in this section, the Planning Commission may, in any district, require the applicant for a conditional use to submit the written consent of each adjacent property owner (contiguous and across the street) and the written consent of at least fifty-one percent of the noncontiguous property owners within a radius of 600 feet from the proposed use as a prerequisite to consideration by the Planning Commission for approval.
- B. Factors. Factors to be considered in evaluating the standards set forth in this section may include, but are not limited to, the following:
1. Land use;
 2. Height;
 3. Setbacks;
 4. Business or other activities;
 5. Open space;
 6. Density;
 7. Location of structures and uses on the site;
 8. Screening;
 9. Signs/advertisements;
 10. Paving;
 11. Entrances;
 12. Hours of operation;
 13. Lighting;
 14. Landscaping;
 15. Fencing/walls;
 16. Mechanical systems/HVAC;
 17. Dumpster locations; and
 18. Parking.

88.05 Action.

- A. Permit. The Planning Commission shall issue the conditional use permit if it determines that the proposed conditional use satisfies, or through the imposition

of conditions satisfies, the standards set forth in this section. If the Planning Commission determines that such proposed use does not, and with the imposition of conditions will not, satisfy the standards set forth in this section, the Planning Commission shall deny the issuance of a conditional use permit.

B. Conditions.

1. In granting any conditional use, the Planning Commission may prescribe supplementary conditions and safeguards with respect to location, construction, maintenance, landscaping, operation, and other factors and features of the site or the use it deems necessary or appropriate to protect the interests of the community and to ensure satisfaction of the standards set forth in this section.
2. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this zoning code.

C. Rejection of Application. The rejection of an application for a conditional use permit by Planning Commission constitutes the final determination of the Village. The approval of a conditional use permit shall become null and void if building permits have not been issued for all buildings and structures within six months after approval of a conditional use permit.

D. Expiration of conditional use permit. A conditional use permit shall be deemed to authorize only one particular conditional use and such conditional use permit shall automatically expire if, for any reason, the conditional use has ceased by discontinuance or abandonment for a period of more than six months.

ARTICLE 90

Amendments of Zoning Map and Text

SECTIONS:

- 90.01 Amendments of zone districts and zoning regulations
- 90.02 Initiation of zoning code text amendments
- 90.03 Initiation of zoning map amendments
- 90.04 Contents of applications for zoning map amendments
- 90.05 Process for Planning Commission review
- 90.06 Standards for zoning map amendments
- 90.07 Process for Village Council review
- 90.08 Zoning changes denied

90.01 Amendments of Zone Districts and Zoning Regulations

- A. Council from time to time, on its own motion or on petition, after public notice and hearing as provided by law and after recommendation by the Planning Commission, may amend, supplement or change or repeal the boundaries, restrictions, classifications or regulations herein or subsequently established.
- B. If the Planning Commission disapproves a proposed amendment of a zone district map or zone district regulation, such amendment shall not be passed except by the favorable vote of three-fourths of all the members elected to Council.
- C. The Ordinance text or map may be amended utilizing the procedures specified in this Section.

90.02 Initiation of Zoning Code Text Amendments

Amendments to the Zoning Code text may be initiated in one of the following ways:

- A. By adoption of a motion by the Planning Commission;
- B. By adoption of a motion by Council of a Planning Commission recommendation;
- C. By application by a property owner of record, which shall include:
 - 1. Name, address and phone number of the applicant;
 - 2. The proposed amendment to the text;
 - 3. A fee as established by Village Council.

90.03 Initiation of Zoning Map Amendments

An application for a Zoning Map Amendment may be initiated in one of the following ways:

- A. By adoption of a motion by the Planning Commission;
- B. By adoption of a motion by Council of a Planning Commission recommendation;
- C. By application by a property owner of record.

90.04 Contents of Applications for Zoning Map Amendments.

At a minimum the application shall contain the following information:

- A. Name, address and phone number of applicant;
- B. A survey of the property proposed to be rezoned;
- C. Present use;
- D. Present zoning district;
- E. Proposed use including any plans that the applicant has developed;
- F. Proposed zoning district;
- G. A vicinity map at a scale of not less than 1 " = 100' showing property lines, streets, existing and proposed zoning, existing use of all buildings and the principal use of all properties within two hundred and fifty (250) feet of such land and such other items as the Village Administrator may require;
- H. The signature of the applicant, or the applicant's agent, attesting to the truth and exactness of all information supplied by the application, provided that an individual signing as the applicant's agent shall furnish proof of his or her authority to act for the applicant, and
- I. A fee as established by Village Council.

90.05 Process for Planning Commission Review.

A. Transmittal to Planning Commission.

Following the request for consideration of a zoning text or map amendment by Council or following the filing of a zoning map amendment application by at least one owner of property, such motion or application shall be transmitted to the Planning Commission.

B. Public Meeting by Planning Commission.

The Planning Commission shall, after its adoption of a motion with respect to a text or map change, hold a public meeting to consider the zoning text or map amendment.

C. Notice of Public Meeting in Newspaper.

- 1. Before holding the public meeting, notice of such meeting shall be given by the Planning Commission, by publication at a minimum of a notice in a newspaper of general circulation in the Village at least 15 days prior to the

meeting. This notice shall set forth the time and place of the public meeting and the nature of the proposed amendment.

2. When the proposed action has been initiated by the Village, the Village shall provide at its cost the said notice. When the proposed action has been initiated by a party other than the Village, the initiating party shall reimburse the Village for the cost for the publication of the notice.

D. Notice of Map Amendments to Property Owners by Planning Commission.

1. Written notice of the public meetings involving a map amendment shall be provided to the owner or owners of real property within the area to be rezoned or otherwise changed by the map amendment and to the owner or owners within two hundred and fifty (250) feet in any direction of the boundaries of the property to be changed by the map amendment, and to all property owners who, in the opinion of the Commission, may be affected by such amendment or change. For the purposes of this Section, the words "owner" and "owners" shall mean those persons appearing on the County's current tax duplicate as the owner or owners of fee simple title to the properties.
2. Such written notice shall be provided at least 15 days prior to the date of the hearing by hand delivery, or by posting same by prepaid standard U.S. Mail, at the address listed upon the said tax duplicate for each owner.
3. The written notice shall contain the time and place of the public meeting and the nature of the proposed amendment.
4. When the proposed map amendment has been initiated by the Village, the Village shall provide, at its cost, the hand or postal delivery provided hereinabove.
5. When the proposed map amendment has been initiated by a party other than the Village, the initiating party shall provide, at its cost, the hand or postal delivery provided hereinabove and shall file with the Planning Commission on or before the date of the hearing an affidavit confirming compliance with the provisions of this Section.
6. The failure to hand deliver or mail the notice provided by this Section shall not invalidate any action of Planning Commission and/or Village Council on the map amendment.

E. Review and Recommendation by Planning Commission.

1. Prior to making a recommendation on a proposed rezoning, the Planning Commission shall make findings of fact identifying that the rezoning is in compliance with rationale and criteria provided in Section 90.06.
2. The Planning Commission shall not recommend the adoption of a proposed

amendment unless it finds that the adoption of such an amendment is in the public interest and not solely for the interest of the applicant.

3. After the close of the public meeting, the Planning Commission shall recommend to Council, in a time period no longer than 40 days, that the amendment be granted, as requested, or it may recommend a modification of the amendment requested, or it may recommend the amendment not be granted. The Planning Commission shall transmit its recommendation to Council.

90.06 Standards for Zoning Map Amendments

A. Rationale.

Prior to making a recommendation on a proposed rezoning, the Planning Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to specific documentation finding at least 1 of the following:

1. There has been a change in demand for land that alters the information upon which the Zoning Map is based.
2. A study indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the Village mapped as such on the Zoning Map, is inadequate to meet the demands for such development.
3. Proposed uses cannot be accommodated by sites already zoned in the Village due to lack of transportation or utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district.
4. There is an error in the text or Zoning Map as enacted.

B. Criteria.

In addition to the finding required by subsection B, findings of fact shall be made by the Planning Commission on each of the following matters based on the evidence presented.

1. Relationship to Existing Plans. The extent to which the proposed amendment and proposed use are in compliance with and deviate from Village adopted plans, goals and policies.
2. Relationship to Existing Zoning. The extent to which any residentially zoned district proposed to be rezoned to a non-residential district is contiguous to land in the proposed zoning district classification.

3. Suitability. The suitability of the property in question for the uses permitted under the proposed zoning.
4. Public Facilities. The adequacy of public facilities such as transportation, utilities, and other required public services to serve the proposed use.
5. Compatibility. The effect of the proposed rezoning on surrounding uses and on the economic viability of existing developed and vacant land within the Village.
6. Public Interest. The rezoning is in the public interest and not solely for the interest of the applicant.

90.07 Process for Village Council Review

A. Public Hearing by Council.

Upon receipt of the recommendation from the Planning Commission, Council shall schedule a public hearing.

B. Notice of Public Hearing in Newspaper and Access to Petition.

1. Published Notice. Notice of the public hearing shall be given by publication at a minimum of a notice in a newspaper of general circulation in the Village. Such notice shall be published at least thirty (30) days before the date of the public hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.
2. Access to Petition. During the thirty-day period, the text or copy of the ordinance, measure, or regulation, together with the maps or plans, and report submitted by the Planning Commission, shall be on file for public examination in the office of the Village Administrator.

C. Notice to Property Owners by Council.

1. Mailed, Written Notice. In addition to public notice required in Division B, if the ordinance, measure, or regulation intends to re-zone or re-district ten or less parcels of land, written notice of the hearing shall be mailed by first class mail, at least 20 days before the date of the public hearing to the owners of property within and contiguous to and directly across the street from such parcel or parcels.
2. For the purposes of this section, the words “owner” and “owners” shall mean those persons appearing on the County’s current tax duplicate as the owner or owners of fee simple title to the properties.
3. When the proposed map amendment has been initiated by a party other than the Village, the initiating party shall provide at its cost the hand or postal delivery provided hereinabove and shall file with the Clerk of Council on or before the date of the hearing an affidavit confirming compliance with the

provisions of this Section.

4. The failure to hand deliver or mail the notice provided by this section shall not invalidate any action of Council on the map amendment.

D. Action by Council.

1. Council may enact the Planning Commission's recommendation by a majority of the members elected.
2. Council may reject the Planning Commission's recommendation if a majority of the members elected fails to vote for its adoption.
3. Council may deviate from the Planning Commission recommendation if not less than three fourths (3/4) of the members elected vote for adoption of such modification of the Planning Commission's recommendation.
4. Final action on the amendment must be taken within seventy-five (75) days of the close of Council's public hearing.

90.08 Zoning Changes Denied.

- A. If, upon a public hearing, a zone change Ordinance is not passed by Council, the applicant, or any other person seeking the zone change in reference to the same property, shall not be permitted to apply for a zone change for at least 6 months.
- B. If the applicant is refused the zone change upon application after the expiration of the 6 month period, no new application from that applicant shall be considered until the expiration of 1 year from the date of the second refusal.

ARTICLE 92

Zoning Permits and Fees

SECTIONS:

92.01	Site Plans
92.02	Zoning Permits
92.03	Zoning Certificates of Occupancy
92.04	Applications
92.05	Fees

92.01 Site Plans.

- A. Content of plans. All applications for zoning permits shall be accompanied by four sets of plans at a scale no smaller than 1 inch to 100 feet and shall contain the following as a minimum:
1. The total area in the development;
 2. The actual shape and dimensions of the lot to be built upon;
 3. The existing zoning of the property in question and/or all adjacent properties;
 4. The exact size and location on the lot of the buildings and accessory buildings that exist;
 5. The lines, or footprints, within which the building or structure shall be erected or altered;
 6. Existing and intended use of each building or parts of buildings;
 7. The number of families or housekeeping units the building is designed to accommodate;
 8. All public and private right-of-way and easement lines located on or adjacent to the property which is proposed to be continued, created, relocated or abandoned;
 9. The schedule of phasing of the project;
 10. The locations of all existing and proposed buildings in the described parcels, the uses to be contained therein and the total number of buildings including dimensions, heights, gross floor area and number of stories; and
 11. Any other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this zoning code.
- B. Plan review guidelines. The following principles and criteria, where applicable, shall guide the review of site plans by Village officials:

1. that natural topographic and landscape features of the site are incorporated into the plan and the development.
2. that buildings and open spaces are in proportion and in scale with existing structures and spaces in the area within 250 feet of the development site.
3. that the site does not have an appearance of being congested, over built or cluttered.
4. that open spaces are linked together.
5. that natural separation is preserved or created on the site by careful planning of the streets and clustering of buildings using natural features and open spaces for such separation.
6. that existing vegetation removal is kept to a minimum.
7. that screening of intensive uses is provided by utilizing landscaping, fences or walls.
8. that buildings are sited in an orderly, non-random fashion.
9. that long, unbroken building facades are avoided.
10. that street location and design conforms to existing topographic characteristics with cutting and filling minimized in the construction of streets and flat as possible grades proximate to intersections.
11. that pedestrian circulation in non-residential areas is arranged so that off-street parking areas are located within a convenient walking distance of the use being served with handicapped parking located as near as possible to be accessible to the structure.
12. that pedestrian and vehicular circulation is separated as much as possible, through crosswalks designated by pavement markings, signalization or complete grade separation.
13. that path and sidewalk street crossings are located where there is a good sight distance along the road, and away from sharp bends or sudden changes in grade.
14. that parking lots and garages are located to provide safe, convenient ingress and egress and sharing of curb cuts
15. that parking areas are screened and landscaped and traffic islands are provided to protect circulating vehicles and to break up the monotony of continuously paved areas.
16. that drive through facilities, such as restaurants and banks, are located to

allow enough automobile waiting space for peak hour operation without interference with other parking lot circulations.

- C. Action by the Zoning Administrator and the Planning Commission for plan review.
1. Upon submission of a complete application for plan review to the Village Administrator, the application may be transmitted to the Planning Commission where they shall review the site plan to determine if it meets the purpose and requirements as established of this Section, of the zoning district where the proposed or modified use is located, and of any other applicable section of this zoning code. No public notice or public hearing shall be required in conjunction with the review, approval, approval with modifications or disapproval of the site plan.
 2. The Village Administrator or Planning Commission shall act upon all site plans within 30 days after the receipt of the complete application from the Village Administrator. The Zoning Administrator or Planning Commission may approve, disapprove, or approve with modifications the site plan as submitted. Within the 30 day period, a majority of the members of the Planning Commission present at a meeting thereof may vote to extend the period of time, not to exceed an additional 60 days.
 3. The application time period shall be considered to have begun upon the receipt of a completed application by the Village Administrator.

92.02 Zoning Permits.

- A. Anyone desiring to use land pursuant to this zoning code must obtain a zoning permit. No construction, modification or conversion of land or structures, shall occur without first obtaining a zoning permit. Failure to obtain a zoning permit shall constitute a violation of this zoning code.
- B. A permit under which no work is commenced within one year after issuance thereof, shall expire by limitation, and where work is commenced and then abandoned for one year, the Village Administrator or authorized representative shall order the incomplete structure to be removed by the owner. Upon failure of the owner to remove the same within six months, such owner shall be guilty of a misdemeanor and subject to the penalty as established by the Ohio Revised Code.
- C. An applicant may request from the Planning Commission or Village Council, an extension of the zoning permit and zoning certificate of occupancy for one additional year, provided that the request is made prior to the expiration of the first permit and that sufficient information is submitted by the applicant to justify such extension.

92.03 Zoning Certificate of Occupancy.

- A. It shall be unlawful for any owner, lessee, or tenant to occupy any structure, building or land, or part thereof, hereafter erected, created, changed, converted or enlarged unless a zoning certificate of occupancy shall have been issued by the Village Administrator after inspection.
- B. No owner shall use or permit the use of any building or premises, or part thereof, hereafter created, erected, changed, converted on enlarged, wholly or partly, in its character of use or structure, until a zoning certificate of occupancy, which shall be a part of the building permit, has been issued by the Village Administrator or authorized representative. Such certificate shall show that such building or premises, or part thereof, and the proposed use thereof, are in conformity with this zoning code. It shall be the duty of the Village Administrator or representative, to issue such a certificate, provided that he or she is satisfied that the building and the proposed use thereof conform to this zoning code. No permit for excavation or construction shall be issued by the Village Administrator or representative before he or she is satisfied that the plans, specifications and intended use conform to this zoning code.
- C. Under such rules and regulations as may be established by the Village Administrator or representative, a temporary zoning certificate of occupancy for a part of a building may be issued by him or her.
- D. Upon written request from the owner, the Village Administrator or representative shall issue a zoning certificate of occupancy for any building or premises existing at the time of enactment of this zoning code, certifying, after inspection, the extent and kind of use made of the building or premises and whether or not such use conforms to this zoning code.
- E. Where there is a transfer of ownership or tenancy of premises (land) and/or buildings in the Business and Industrial Districts, no owner or tenant shall use such premises and/or buildings until a zoning certificate of occupancy has been issued by the Village Administrator or representative. However, this shall not apply to the continuance of the business or industry of the seller.
- F. The fee for a certificate of occupancy is as established by Village Council.

92.04 Fees.

- A. Schedule of Fees. The Village Council shall, by ordinance, establish a schedule of fees for zoning permits, amendments, appeals, variances, conditional use permits, plan approvals, and other procedures and services pertaining to the administration and enforcement of this code, after considering the recommendations of the Village Administrator with respect to actual administrative costs, both direct and indirect. The schedule of fees shall be posted in the office of the Village Administrator, and may be altered or amended only by the Village Council. Until all such appropriate fees, charges, and expenses

have been paid in full, no action shall be taken on any application, appeal, or administrative procedure.

- B. In addition to standard filing fees, the applicant shall be responsible for unusual expenses incurred by the village in reviewing the plan or any modifications to the plan. Such expenses may include items such as the cost of professional services including expenses and legal fees in connection with reviewing the plan, prepared reports, the publication and mailing of public notice in connection therewith, and any other reasonable expenses directly attributable thereon.

ARTICLE 94

Penalties and Remedies

SECTIONS:

- 94.01 Violation
- 94.02 Notice of violation
- 94.03 Remedies

94.01 Violation.

- A. Any building or structure that is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained or used or any land that is proposed to be used in violation of this chapter or any amendment or supplement thereto, the Village Solicitor, the Village Administrator or, the Zoning Administrator or any adjacent or neighboring property owner who would be specifically damaged by such violation may, in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance or use; to restrain, correct or abate such violation to prevent the occupancy of the said building, structure or land or to prevent any illegal act, conduct, business or use in or about, such premises.
- B. No person shall fail or refuse to comply with an order issued by the Village Administrator. A separate offense shall be deemed committed each day upon which a violation occurs or continues.
- C. Furthermore, no person shall construct, modify, alter, use or occupy any structure or property in violation of the Batavia Village zoning code. A separate offense shall be deemed committed each day upon which a violation occurs or continues.
- D. Complaints. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Village Administrator. Such complaint should state in full the causes and basis thereof. The Administrator shall record said complaint, investigate the allegations, and take appropriate action as provided by this Zoning Ordinance.

94.02 Notice of Violation.

The notice of any violation of the zoning code shall be as follows:

- A. Whenever the Village Administrator determines that there is a violation of any provision of this zoning code, a notice of such violation shall be issued. Such notice shall:

1. Be in writing;
 2. Identify the violation;
 3. include a statement of the reason or reasons why it is being issued and refer to the section of this zoning code being violated; and
 4. State the time by which the violation shall be corrected.
- B. Service of notice of the violation shall be as follows:
1. by personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of 16 years or older; or
 2. by certified mail, and first class mail simultaneously, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when the fact of the mailing is entered of record, provided that the first class mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or
 3. by posting a copy of the notice form in a conspicuous place on the premises found in violation.

94.03 Remedies.

The following remedies shall apply to violations of the zoning code:

A. Prohibitions.

1. No person shall fail or refuse to comply with an order issued by the Village Administrator. A separate offense shall be deemed committed each day upon which a violation occurs or continues.
2. No person shall construct, modify, alter, use or occupy any structure or property in violation of the Batavia Village zoning code. A separate offense shall be deemed committed each day upon which a violation occurs or continues.

B. Penalties.

1. Whosoever violates this section is guilty of a minor misdemeanor for each offense.
2. Within one year of the date of the offense the offender has been convicted of or pleads guilty to another violation of this zoning code, the offender is guilty of a misdemeanor of the third degree.

C. Civil remedies.

The village, the Village Administrator on behalf of the village, or any officer

designated by the Mayor on behalf of the village may, in addition to the criminal remedies provided in this zoning code, file suit for injunction against any violation of this zoning code, or if the violation has caused damages to the village for a judgment for damages; and any person, property owner or occupant of property who can show that the person, property owner or occupant of property has suffered harm or whose property has suffered harm as a result of violations of this zoning code may file suit for injunction or damages to the fullest extent provided by the law.

BATAVIA CODE OF ORDINANCES, CHAPTER 153 – ZONING

PART V
Definitions

ARTICLE 98
Definitions of Terms

SECTIONS:

- 98.00 Words and Terms Defined
- 98.01 Definitions beginning with the letter A
- 98.02 Definitions beginning with the letter B
- 98.03 Definitions beginning with the letter C
- 98.04 Definitions beginning with the letter D
- 98.05 Definitions beginning with the letter E
- 98.06 Definitions beginning with the letter F
- 98.07 Definitions beginning with the letter G
- 98.08 Definitions beginning with the letter H
- 98.09 Definitions beginning with the letter I
- 98.10 Definitions beginning with the letter J
- 98.11 Definitions beginning with the letter K
- 98.12 Definitions beginning with the letter L
- 98.13 Definitions beginning with the letter M
- 98.14 Definitions beginning with the letter N
- 98.15 Definitions beginning with the letter O
- 98.16 Definitions beginning with the letter P
- 98.17 Definitions beginning with the letter Q
- 98.18 Definitions beginning with the letter R
- 98.19 Definitions beginning with the letter S
- 98.20 Definitions beginning with the letter T
- 98.21 Definitions beginning with the letter U
- 98.22 Definitions beginning with the letter V
- 98.23 Definitions beginning with the letter W
- 98.24 Definitions beginning with the letter X
- 98.25 Definitions beginning with the letter Y
- 98.26 Definitions beginning with the letter Z

98.00 Words and Terms Defined

- E. Terms and words used in this zoning ordinance shall have the meanings set forth in this Article and as otherwise defined in this code, unless the context clearly indicates otherwise.
- F. Where there is doubt as to meanings of words, they may be officially construed by the village administrator or zoning administrator, subject to review by the village

planning commission.

G. Additional definitions relating to specific portions of this zoning ordinance are found in the following sections:

11. See Article 46 for definitions of terms pertaining to Signs.
12. See Article 52 (Section 52.04-H) for definitions of terms pertaining to Adult Entertainment.
13. Terms defined in Article 98 followed by an asterisk (*) are also listed in Section 6.09.

98.01 **Definitions beginning with the letter *A***

Abandonment. The discontinuance of the occupation and productive use of the property by the owner. Abandonment may be presumed if the property is unoccupied and any of the following may occur:

- a. Orders have been issued against the owner of the property for violations of any state, county, or municipal building, health, fire or property maintenance code, and attempts to serve process on such orders and/or criminal citations have been unsuccessful;
- b. Owner no longer resides at the tax mailing address listed on the tax duplicate maintained by the County Auditor;
- c. The owner is a corporation that is not licensed to do business in the State of Ohio or, having been licensed, is no longer in good standing; or
- d. The named owner is deceased and no probate estate has been opened within six months of the death of the named owner.

Abutting. Having a common border with, or being separated from such common border by, an alley or easement.

Accessory Apartment. A single dwelling unit apartment intended for use as a complete independent living facility that is in the same structure as, under the same ownership as, and subordinate to a residence constructed as a single-family residence, and with one of the two dwelling units occupied as the principal residence of the owner.

Accessory Use or Structure. An accessory structure or use: (1) is subordinate to and serves a principal building or a principal use; (2) is subordinate in area, extent and purpose to the principal structure or principal use served; (3) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and (4) is located on the same lot as the principal structure or principal use served,

except as otherwise expressly authorized by the provisions of this Ordinance. An accessory structure attached to a principal building in a substantial manner by a shared interior wall between the structures or extension of the principal building roof shall be considered part of the principal building.

Administrator, Village (and Zoning Administrator).* Primary responsibility for administering the duties of the Village of Batavia Planning Commission and Board of Zoning Appeals as required by this Zoning Ordinance may be assigned by the Village Administrator to a Zoning Administrator or other authorized representatives. The staff person or persons to whom such administrative functions are assigned shall be referred to in this Ordinance as the “Village Administrator, “Administrator”, or “Zoning Administrator”.

Aggrieved Party or Person. Any owner of a legal or equitable interest in property on which development proposed under these regulations has been denied approval, or any person whose legal right has been invaded or infringed or whose pecuniary interest is directly affected, as distinct from any damages to the rest of the community, by a government act complained of.

Agriculture, Rural. (1) Farming, ranching or pasturage; (2) Agriculture, aquaculture and fishing lakes, horticulture, ornamental horticulture, floriculture, viticulture and wine-making, olericulture, pomiculture; (3) Production or cultivation of land for mushrooms, timber, nursery stock, sod, tobacco, field crops, and without limitation, other such agricultural and horticultural commodities; (4) Dairying, and dairy production; (5) Animal or poultry husbandry, and the production of poultry and poultry products, livestock, equine or forbearing animals, and wildlife native to this state, including breeding, raising, shearing, grazing or other feeding; (6) Beekeeping and related apiarian activities and the production of honey, beeswax, honeycomb, and related products; (7) Any activities listed in (1)-(6) above when carried on by agriculturally oriented groups such as 4-H Clubs, Future Farmers of America; (8) On-site storing, handling, and processing incidental to the production of the foregoing agricultural or horticultural products or commodities; (9) Accessory uses and activities directly related to any of the activities listed in (1)-(8) above including wholesale selling of products, commodities and animals; (10) Farm markets where fifty per cent or more of the gross market income is derived from produce raised on farm(s) owned or operated by the market owner, in a normal crop year. The term “rural agriculture” shall not include suburban agriculture.

Agriculture, Suburban. (1) Farming, pasturage, horticulture, floriculture, or viticulture on lots of one acre or less in platted subdivisions, or in unplatted subdivisions with 15 or more lots that are contiguous or separated only by right-of-way, where at least 35% of the lots are developed; or (2) dairying, and animal or poultry husbandry on lots of five acres or less in any platted subdivision, or in any unplatted subdivision resulting in 15 or more lots, each

smaller than five acres and contiguous or separated only by right-of-way, where at least 35% of the lots are developed.

Alley. A public or private right-of-way, other than a street, road, crosswalk, or easement, which is less than thirty (30) feet wide and affords only a secondary means of access to abutting property.

Alteration, Structural. Any change in the supporting members of a building such as bearing walls, columns, beams, foundations or girders.

Animal Hospital. A place, licensed by the State of Ohio, used for the care, grooming, diagnosis and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for treatment, observation and/or recuperation.

Applicant. The owner of real estate or an appointed agent of an owner, who makes application to the village for action by the Planning Commission or Board of Zoning Appeals.

Assisted Elderly Housing. A multiple family structure, controlled either by a public body, institutional body, or nonprofit corporation, a majority of whose occupants shall be 65 years of age or over, or a multiple family structure where each unit is occupied by at least one person who is 55 years of age or over and is retired, and where the rental arrangement includes primarily non-medical services to deal with the activities and instrumental activities of daily living.

Athletic/Play Field, Private. An outdoor athletic field or play field operated by a nonprofit club, association, or other nonprofit organization.

Auditorium, Assembly Hall, Place Of Public Assembly. A place where large groups of people gather for events and programs for recreational, social or educational purposes.

Automobile Body Shop. A place for repairing automobile body, chassis, springs or frames.

Automobile Filling Station. Buildings and premises where gasoline, oil, grease, batteries, tires and motor vehicle accessories may be supplied and dispensed at retail, and where, in addition, minor repair, tune-ups and adjustments may be performed. Furthermore, the sale of convenience goods, such a prepackaged foods and drinks, and sundries, may be permitted as an accessory use.

Automobile Repair Establishment. A building or lot utilized for repairing automobiles exclusive of body, chassis springs, junk, wrecking, and frame repairs.

Automobile Sales And Service. The sale or rental of new and/or used motor vehicles, boats or recreational vehicles, which are displayed and sold on the premises. Such facility may include repair work incidental to the primary sales of vehicles for repair.

Awning. Any structure made of cloth, fiberglass or metal with a frame attached to a building and projecting into a required yard or over a public right-of-way.

98.02 Definitions beginning with the letter **B**

Bar. A use primarily functioning as an alcoholic beverage consumption establishment or tavern, serving customers on the premises.

Basement. A story having more than one-half (1/2) its height above grade. A basement is counted a story for the purpose of height regulation.

Bed and Breakfast Establishment. A private owner-occupied single family residence with one to three guest rooms contained within that structure and where short term lodging (not longer than two continuous weeks) and meals are provided for compensation.

Board of Zoning Appeals (BZA). The Hamilton County Board of Zoning Appeals as established by this Resolution.

Board. The Planning and Zoning Board, which serves as the Village Planning Commission and the Board of Zoning Appeals.

Buffer or Bufferyard. An area of healthy and viable vegetation, natural or planted, adjoining or surrounding a land use and unoccupied in its entirety by any building structure, paving or portion of such land use, for the purposes of shielding or blocking noise, lights, or other nuisances, and separating, screening and softening the effects of the land use. No part of this buffer is to be used for active recreation, parking, or interior access drives. A buffer may include a wall, fence or berm, connecting driveways, underground utilities and permitted signage as provided in accordance with the provisions of this code.

Buffer, Boundary. A linear area adjacent to the side and/or rear property line that is set aside to separate, screen, and soften the detrimental impacts of different uses or intensities upon one another and upon the surrounding neighborhood.

Buffer, Streetscape. A linear area adjacent to the front property line extending from side lot-line to side lot-line that is set aside to shield or enhance views into the parking lot, establish coordination among diverse buildings, setbacks and uses, to define the street and access points, to retain the quality of the environment by providing appropriate vertical mass in keeping with

dimensions of horizontal voids, and to diminish the presence of wires/poles, lights and other clutter along the public right-of-way.

Build. To erect, convert, enlarge, reconstruct or structurally alter a building or structure.

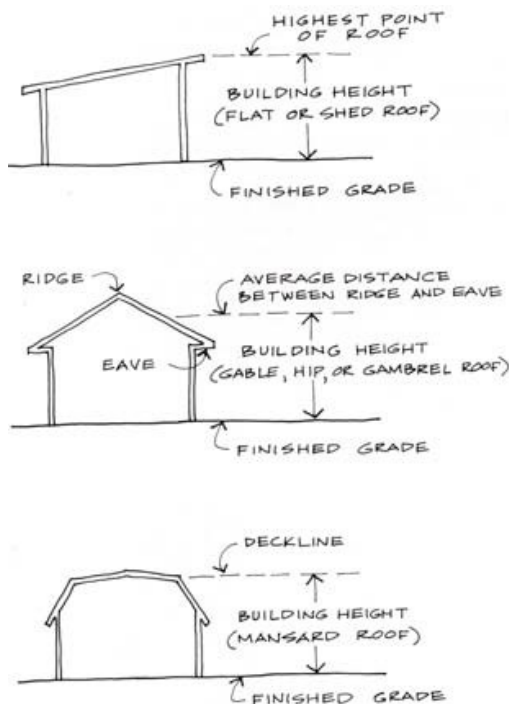
Buildable Area. Space remaining on a lot after the minimum zoning requirements for yards, setbacks, coverage and allowances for panhandles, easements and restrictions have been met.

Building Frontage. The side of a building that abuts the front yard or the side of the building where the street address is located, if different.

Building Line.* The line parallel to the street line indicating the minimum horizontal distance required between the street right-of-way line and the building or any projection thereof other than a step or uncovered porch.

Building Materials. Materials from which the structural and enclosure components of a building are composed.

Building, Height of.* The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height level between eaves and ridge for gable, hip, or gambrel roofs, excluding elevator shafts and chimneys. On corner lots, the front existing grade shall be measured relative to the lowest elevation at the building line of the front yards of the property.



Source: "The Latest Illustrated Book of Development Definitions"

Building, Principal (Main).* A building which contains the primary use of the lot, as contrasted to Accessory Building or Accessory Structure or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Building.* Any permanent or temporary structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or property.

Bulk.* The three dimensional space occupied by a structure or building, defined by its height, width, and depth.

Business, Retail. Any business selling goods, wares or merchandise directly to the ultimate consumer for direct consumption and not for resale. A retail business use includes, but is not be limited to such activities as: supermarkets; stores that sell hardware, apparel, footwear, appliances, furniture, department stores, and discount stores.

Business, Service. Any lawful profit- making activity which renders services to residential, other commercial or industrial enterprises, or which services and repairs appliances and machines used in homes and businesses.

Business, Unconventional. A business for which any person can demonstrate, to the satisfaction of the Planning Commission, an association with notoriety, noise, or disruption including but not limited to tattoo parlors, sexually oriented shops, and public entertainment businesses.

98.03

Definitions beginning with the letter **C**

Caliper. A measurement of the size of a tree equal to the diameter of its trunk measured four (4) inches above natural grade for trees having calipers less than or equal to 6 inches diameter; and measured as the diameter at breast height (DBH of 4 ½ feet above grade) for tree calipers greater than 6 inches diameter.

Campground. Any land or open-air location where one or more persons erect or occupy a temporary shelter, such as a tent or recreational vehicle, providing outdoor recreational facilities, for a temporary period of time; includes camps and summer camps.

Candlepower. The total luminous intensity of a light source expressed in foot-candles measured at ground level. Maximum (peak) candlepower is the largest amount of foot-candles emitted by any lamp, light source, or luminaries.

Canopy. Any structure, made of cloth or metal with frames, other than an awning or a freestanding structure, that is attached to a building, projecting over a sidewalk

Car Wash. The use of a site, a building or portion of a building for washing, cleaning and detailing of passenger vehicles, recreational vehicles, or other light duty equipment.

Cellar. A building story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

Cemetery. Land used or intended to be used for the burial of human or animal dead and dedicated for cemetery purposes including customary markers, columbariums and mausoleums, when within the boundaries of such cemeteries.

Child Day Care Center. Any place recognized by Ohio R.C. 5104.01 in which child care is provided for preschool or school age children.

Church / Place of Worship. A building used principally for religious worship.

Clinic, Medical, Dental, or Optical. A use or structure intended or used primarily for the testing and treatment of human medical, dental, or optical disorders, but not including overnight boarding of patients.

Club, Private. Lands and facilities operated by or for a group or association of persons, and their guests, which are not available for unrestricted public access or use.

Club. A building or portion thereof or premises owned or operated by a corporation, association, or group of persons for a social, educational, recreational, charitable, political, patriotic or athletic purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

College Or University. An institution of higher education authorized by the State to offer baccalaureate or graduate degrees.

Commercial Activity. An occupation, employment or enterprise which is carried on for profit by the owner, lessee or licensee, except for activities carried on by a not-for-profit organization which utilizes the proceeds of such activities solely for the purposes for which it is organized.

Commercial Entertainment Facility. A facility for any profit-making activity which is generally related to the entertainment field, such as motion picture theaters, carnival, race tracks, miniature golf, video game rooms and similar entertainment activities.

Commercial, Office. A use or structure where business or professional services are made available to the public, including but not limited to financial institutions, tax preparation, accounting, architectural, legal services, medical laboratories, optical laboratories, dental laboratories, psychological counseling, real estate and securities brokering, professional consulting services, and hotels and motels, but not including the cutting or styling of hair, or recreational facilities or amusements.

Commercial, Retail Business (Sales And Services). A building, property, or activity, the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer. In addition, it shall include the provision of personal services, including but not limited to barber shops, beauty parlors, laundry and dry cleaning establishments, tailoring shops, shoe repair shops and the like.

Commission. The Planning Commission of the village.

Compost Bin. A fixed or moveable structure made up of fencing or other material for the purpose of containing and cultivating compost.

Conditional Use. A use permissible within a district other than a principally permitted use, requiring application for a Conditional Use Certificate and approval by the Board of Zoning Appeals.

Construction Debris. Those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including but not limited to houses, buildings, industrial or commercial facilities, or roadways and as regulated in the Ohio Revised Code.

Continuing Care Retirement Facility. A housing development that is planned, designed, and operated to provide a full range of accommodations and services for older adults, including independent living, congregate housing (self-contained apartments), and medical care.

Correctional Facility. A facility for the confinement of persons held in lawful custody.

Cultural Facility. Establishments providing cultural, historic, or educational services to the public and which are not operated for profit. Typical uses include museums, outdoor drama theaters (not drive-ins), botanical gardens, and zoos.

98.04

Definitions beginning with the letter **D**

Day Care Center, Child. Any place in which child day care is provided, with or without compensation, for thirteen (13) or more children at one time or any place that is not the permanent residence of the licensee or administrator in

which child day care is provided, with or without compensation, for seven (7) or more children at one time or four (4) or more children under two years of age at one time. For the purposes of this definition, any children under six years of age who are related to the provider of child day care and who are on the premises shall be counted.

Day Care, Adult. A place that provides community based programs designed to meet the health, social and related needs of functionally impaired adults during daytime hours.

Day Care, Child Type A. A permanent residence of the administrator in which child day-care is provided for seven (7) to 12 children at one time or for four (4) to 12 children at one time if for the latter no more than four (4) children are under two years of age. Any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted.

Day Care, Child Type B. A permanent residence of the provider in which child day-care is provided for on (1) to 6 children at one time and in which no more than 3 children may be under two years of age at one time. Any children under six years of age who are related to the provider and who are on the premises shall be counted.

Density, Gross.* The quotient of the total number of dwelling units divided by the gross area of a site (including public rights-of-way), expressed in gross dwelling units per acre. (total number of dwelling units \div total gross acreage = gross density)

Density, Net.* The quotient of the total number of dwelling units divided by the area of the site consisting of the gross area minus the area for rights-of-way and easements for public streets expressed in net dwelling units per acre. For calculation of preliminary or conceptual plans where actual location and area of right-of-way is not yet determined, the net density shall be based on 82% of the gross area. (total number of dwelling units \div total gross acreage less R.O.W. and easements for public streets = net density)

Density.* The amount of development permitted per acre (a measure of intensity) expressed as the number of dwelling units per acre of land for residential development.

Developer. Any person seeking approval under these provisions for any form of development.

Development Plan, Preliminary. A plan for the specific development and specific use of a parcel as a planned unit development, submitted prior to the submission of a final development plan and indicating such items and features as are required pursuant to the provisions of this code.

Development. Any man-made change to improved or unimproved real estate. Development does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing roads, or gardening.

Diameter at Breast Height (Dbh). A measurement of the size of a tree equal to the diameter of its trunk measured four and one-half (4½) feet above natural grade.

District. A section of the village also called a zone identified on the district map of this zoning code for which the regulations governing the use of buildings and premises, or the height and area of buildings are uniform for each class of permitted use therein.

Dormitory. A building used as a group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery or other similar institutional use.

Drainageway. A minor watercourse identified by the presence of an intermittent or perennial waterway or by the presence of the following seasonally saturated soil types as identified by a soil survey prepared by the U.S. Department of Agricultural, Soil Conservation Service: Ave Silt Loam; Avonburo Silt Loam, Dana Silt Loam; Fincastle Silt Loam; Henshaw Silt Loam; Markland Silt Clay Loam; Patton Silt Clay Loam; Raub Silt Loam; Rossmore Silt Loam; Wakeland Loam; Xenia Silt Loam, and also including any area of less than one-quarter acre which meets the definition of a wetland as defined herein, except for size.

Drip Line. The perimeter of the circular area surrounding the trunk of a tree measured as 1 foot of radius from the centerline of the trunk for each 1 inch caliper or a vertical line extending from the outermost branches of a tree to the ground.

Drive-In Facility. Any portion of a building or structure from which business is transacted or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

Drive, Access. The connecting access linkage between any roadway and off-street parking area having no parking along the drive.

Drive, Private. A shared means of vehicular ingress and egress located within an easement of access serving rear or panhandle lots, that is maintained by the party or parties using such private drive for private access.

Driveway. A private way, other than a street or alley, to one lot of record for the use of vehicles and pedestrians.

Dwelling Unit. A single unit of one or more rooms providing complete,

independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, but not including a tent, cabin, recreational vehicle or other temporary or transient structure or facility. A Dwelling unit shall include a Modular Industrialized Unit but shall not include a Manufactured HUD Unit, a Mobile home or recreational vehicle and camping equipment or a Manufactured Home except “permanently-sited manufactured homes” that conform to the requirements for permanently-sited manufactured housing as that term is defined within the definition of “Residential, Single Family Dwelling Unit–Detached.”

Dwelling, Manufactured Housing. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; which meets the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 et seq.), effective June 15, 1976, and the federal manufactured home construction and safety standards and regulations promulgated by the Secretary of the United States Department of Housing and Urban Development. The term “Manufactured Home” does not include commercial trailers, job site trailers, or temporary classroom trailers or structures.

Dwelling, Mobile Home. A detached dwelling unit designed to be repeatedly transported on highways, and when arriving at the site for placement involving only minor and incidental unpacking, assembling, and connection operations, but which involves no substantial reconstruction which would render the unit unfit as a conveyance on the highway. A transportable structure that is wholly, or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site and designed for long-term residential use and built prior to, or not conforming to, enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. §§ 5401 et seq.), effective on June 15, 1976, and usually built to the voluntary industry standard of the American National Standards Institute (ANSI) - A119.1 Standards for Mobile Homes. The term “Mobile Home” does not include commercial trailers, job site trailers, or temporary classroom trailers or structures.

Dwelling, Multi-Family. A building consisting of three or more dwelling units, including condominiums, with varying arrangements of entrances and party walls. Individual kitchen dining and restroom/bathing facilities shall be provided in each separate dwelling unit. Multi-family housing may include public housing and industrialized units.

Dwelling, Single Family Attached. A single family dwelling which is attached to one or more single family dwellings by party walls and each of which has independent access to the outside of the building at ground level.

Dwelling, Single Family Detached. A single family dwelling on its own lot.

Dwelling. A building or portion thereof which is designed and used exclusively for residential purposes containing living, sleeping, housekeeping, accommodations, and sanitary facilities for occupancy by one or more families.

98.05 **Definitions beginning with the letter E**

Easement of Access. An easement for immediate or future use, to provide vehicular access and accommodation for utilities, from a street to a lot, a principal building or an accessory building.

Easement. A recorded right or privilege of a person, other than the owner or tenant, to use land for a specified purpose.

Educational Institution. A public or private facility that provides a curriculum of elementary or secondary academic instruction, including kindergartens, elementary schools, junior high schools, high schools, technical and collegiate level courses. For the purposes of this zoning code, in-home schooling is not considered an educational institution.

Egress. An exit.

Elderly Housing. A multi-family dwelling occupied by persons 55 years of age or older and designed for such occupancy by containing special features for their welfare such as emergency call systems.

Enlargement. An increase in size of an existing structure.

Equine. A horse, pony, mule or ass.

98.06 **Definitions beginning with the letter F**

Family Child Care Home, Type A. A permanent residence of the administrator in which child day-care or publicly funded child day-care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child day-care is provided for four to 12 children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A Family

Day-Care Home” does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. “Type A Family Day-Care Home” and “Type A Home” do not include any child day camp (ORC 5104.01 (QQ)).

Family Child Care Home, Type B. A permanent residence of the provider in which child day-care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. “Type B Family Day-Care Home” does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. “Type B Family Day-Care Home” and “Type B Home” do not include any child day camp (ORC 5104.01 (RR)).

Family Home. A residential facility shared by at least 6 but not more than 8 mentally retarded or developmentally disabled individuals plus paid professional support staff provided by a sponsoring agency either living with the residents on a 24-hour basis or present on shifts, who live together as a single housekeeping unit in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents in order to enable them to live as independently as possible in a residential environment. This definition shall not include an alcoholism or drug treatment center, a work release facility for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

Family. A person or group of persons occupying a premises and living as a single housekeeping unit, including a “family home” as herein defined, but as distinguished from a group occupying a boarding house, fraternity/sorority house, hotel or other type of contractual living quarters.

Farm Market. The use of any land for a roadside produce stand where fifty percent (50%) or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year and provided that the structure shall not exceed 800 square feet and such structure and parking areas shall be at least 60 feet from every property line of adjacent parcels in residence districts; and that a sign advertising such products shall not exceed 12 square feet.

Fence. An artificially constructed structure enclosing or separating yards, fields, lots or other areas.

Festival, Temporary. A time of celebration, characterized by a program of cultural events or entertainment, which takes place for a specified, temporary

duration.

Financial Institution. Any building, property or activity of which the principal use or purpose of which is the provision of financial services including, but not limited to banks, facilities for automatic teller machines (ATM's), credit unions, savings and loan institutions and mortgage companies.

Floor Area, Gross. The sum of the horizontal areas of each floor of the building, measured from the exterior walls or from the center line of party walls, including the floor area of accessory buildings and structures.

Floor Area, Net. The sum of the horizontal areas of each floor of the building, measured from the exterior walls or from the center line of party walls, including the floor area of accessory buildings and structures. The term does not include any area used exclusively for, porches, cellars, the parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space or areas occupied by mechanical equipment, toilet or rest rooms.

Floor. The top surface of an enclosed area in a building (including the basement), such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

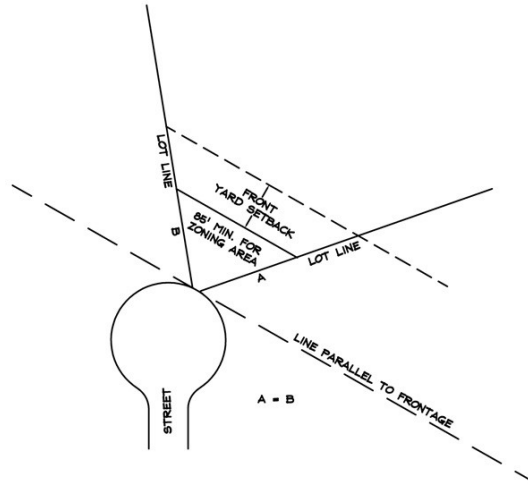
Foot-Candle. A unit of illumination produced on a surface, all points of which are 1 foot from a uniform point source of 1 standard candle.

Forest. An area with a minimum of 5 acres of continuous woods having a minimum 120 feet width, with at least 7% of the land area containing trees with a diameter breast height of four inches or more. (Source: Forest Tax Law of Ohio)

Frontage, Building. The length of an enclosed building facing a public or private street.

Frontage, Street or Block. All the property on one side of a street between two intersecting streets, crossing or terminating, measured along the line of the street or, if the street is a dead-end street, all the property abutting on one side between an intersecting street and the dead-end of the street.

Frontage.* The side or sides of a lot that abut the street right of way. Frontage is measured as the distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. If the lot Frontage comes to a point, the front setback shall be equally measured on both sides of the lot line as in the example below.



Source: "The Latest Illustrated Book of Development Definitions"

Furnace, Outdoor. Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space.

98.07

Definitions beginning with the letter **G**

Garage, Private. An accessory building or an accessory portion of the principal building, including a carport which is intended for and used for storing the privately owned motor vehicles, boats and trailers of the family or families resident upon the premises, is subordinate in area to the residential living quarters and in which no business, service or industry connected directly or indirectly with motor vehicles, boats and trailers is carried on.

Garage, Public. A principal building or accessory building other than a private garage, used for parking or temporary storage of passenger automobiles, and in which no vehicle sales or service shall be provided for remuneration.

Garage, Storage. A building or portion thereof designed or used exclusively for housing more than four motor-driven vehicles.

Government Facility. Any building or structure used by government for administrative or service purposes, but not including buildings devoted solely to the storage and maintenance of equipment and materials. Includes but not limited to police and fire stations, government buildings, and similar uses and facilities.

Grade. A reference plane representing the average of finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established

by the lowest points within the area between the building and the lot line or, when the lot line is more than 6 feet (1829 mm) from the building, between the building and a point 6 feet (1829 mm) from the building.

Greenhouse. A glassed or translucent enclosure used for the cultivation or protection of plants.

Group Home, Adult. A residential facility that provides accommodations to six to 16 unrelated adults and provides supervision and personal care services to at least three of the unrelated adults pursuant to Ohio R.C. Chapter 3902.

Group Home. A residential facility shared by nine (9) to sixteen (16) mentally retarded or developmentally disabled persons pursuant to Ohio R.C. 5123.19 plus paid professional support staff provided by a sponsoring agency either living with the residents on a 24-hour basis or present on shifts, who live together as a single housekeeping unit in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents in order to enable them to live as independently as possible in a residential environment. The definition shall not include an alcoholism or drug treatment center, a work release facility for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

98.08

Definitions beginning with the letter **H**

Halfway House. An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation, assistance to emotionally and mentally disturbed persons, and rehabilitation for prison parolees and juveniles.

Hearing, Adjudication. Adjudication hearings involve the determination of rights of specific persons and whether such rights should be granted as an administrative action based upon evidence presented at the hearing. Such quasi-judicial (administrative) hearings, which require notice, hearing, and the opportunity to introduce evidence, are open to the public rather than a public hearing where members of the general public may speak and express their views.

Hearing, Public. Public hearings involve review of legislative proposals where members of the general public may speak and express their views on the question of governmental, political and policy considerations as to whether certain legislation should be adopted.

Heliport. A facility or structure that is intended or used for the landing and take-off of rotary-wing aircraft, but not including the regular repair or maintenance of such aircraft or the sale of goods or materials to users of such

aircraft.

Hobby Breeder. One who breeds occasional litters of dogs, cats, or other household pets for recreation and the primary purpose of, but not limited to, improving the physical and mental soundness of the breed and who may prove their breeding program by exhibiting in conformation, hunting, performance, or other tests.

Home Occupation. Any occupation or profession conducted entirely within a dwelling and carried on by the inhabitants thereof, and which is an accessory use clearly incidental and secondary to the use of the structure for dwelling purposes in connection with which there is no display that will indicate from the exterior that the building is being utilized for any purpose other than that of a dwelling. Home occupations shall not include any retail or wholesale business of any kind or any similar intensity of activities regardless of remuneration involving in-person transactions on the premises.

Homeless Shelter. A haven, respite or temporary residence for not more than two months duration, which serves the need of people who find themselves impoverished or without domicile and where the shelter's beds combined with the beds of other homeless shelters within the village do not exceed one per 750 population within the village and do not exceed one per 1,000 population within Batavia Township.

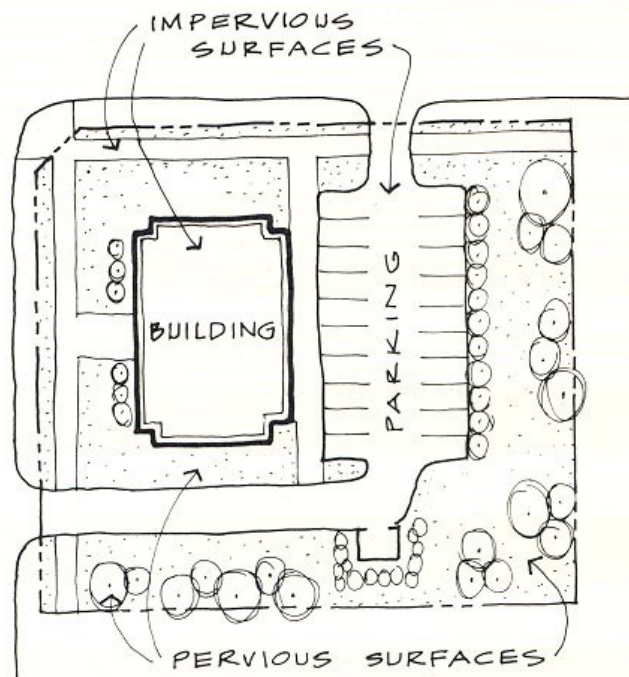
Hospital. An institution providing health services and medical or surgical care to persons, primarily temporary in-patients, with illness, disease, injury, deformity, or other physical or mental condition, and including as an integral part of the institution related facilities such as laboratories, out-patient facilities or training facilities. "Hospital" does not include institutions for the permanent care of, or occupation by, the poor, infirm, incurable or insane.

Hotel or Motel. A building containing more than four individual rooms for the purpose of providing, for periods not exceeding thirty days, overnight lodging facilities to the general public for compensation with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception, and potentially providing additional accessory services such as restaurants, meeting rooms and recreational facilities.

98.09

Definitions beginning with the letter **I**

Impervious Surface. * Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, sidewalks, paved recreational facilities, and other paved or compacted areas such as a gravel driveway.



Source: "The Latest Illustrated Book of Development Definitions"

Impervious Surface Ratio. * A measure of the intensity of land use determined by dividing the total area of all impervious surfaces on the site by the net area (excluding right-of-way) of the site or lot. For the purposes of calculating the impervious surface ratio for determining the intensity of a use, pervious pavement or pavers, gravel, and other similarly paved areas shall be counted as 100% impervious

Improved Surface. Any portion of land, intended to be used for vehicular travel and/or parking, that has been altered from its natural state using accepted engineering and construction practices to be durable, dustless and able to support the weight of the expected traffic without deformation.

Industrial Use. The assembly, fabrication or processing of goods and materials; or any operation or facility including buildings, equipment structures, or stationary items used for industrial purposes.

Industrial, Excavation/Extraction Use. Any operation, including buildings, equipment, structures and other stationary items which are used for the extraction and processing of sand, gravel and other materials or the filling of land.

Industrial, Heavy. The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that otherwise do not constitute "light

industrial,” or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing exceeds 25 percent of the floor area of all buildings on the property. “Heavy industrial” shall include, but not be limited to, the production of alcohol, vinegar, pickles, alcoholic beverages, corrosive acids or alkalis, explosive or corrosive gasses, turpentine or thinner, asphalt bleaching agents, ammonia, clay products, glass, textiles, paint, enamel, shellac or varnish, rubber products, plastics, pesticides, fertilizer, soap, stone products, oils, motor vehicles, engines, trailers, fiberglass, and heating, ventilation, and air conditional equipment. “Heavy industrial” shall not include quarries, sanitary landfills, hazardous material treatment and storage facilities, or any use which is otherwise listed specifically in the Table of Permissible Uses for each category of zoning district or districts under this Ordinance.

Industrial, Light. The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot which such assembly, fabrication, or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in such processes does not exceed twenty-five percent (25%) of the floor area of all buildings on the property. “Light industrial” shall not include hazardous materials treatment and storage facilities, agricultural industries, plating or enameling, pilot plants, prototype production plants, abattoirs, tanning and fur finishing, or petroleum and gas refining, or any use which is otherwise listed specifically in the Table of Permissible Uses for each category of zoning district or districts under this Ordinance.

Industrial, Solid Waste Facility. A facility, including buildings, equipment, structures and other stationary items which are used for treating, storing or disposing of any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities.

Industrialized Unit (Modular). A building unit or assembly of closed construction composed of components substantially fabricated and assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation. Industrialized unit includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. Industrialized unit does not include a manufactured or mobile home as defined herein. Industrialized units comply with the standards and specifications for Industrial Units of Closed Construction, as provided for by the Ohio Basic Building Code as amended

and as authorized by the Board of Building Standards pursuant to Ohio Revised Code Section 3781.01 et seq. as amended and to which is affixed a permit, sticker, plate or other recognized, official identification indicating such compliance.

Inspector. The Zoning Inspector of the village, the Village Administrator or duly authorized representative.

Institutional Use. A building, structure or land used for educational, religious, human care or similar types of public or quasi-public purposes. This category shall include but not be limited to schools, universities, churches and other places of worship, cemeteries, correctional facilities, halfway houses, nursing and convalescent homes, day care centers, continuous care retirement facility and hospitals.

Intensity. * A measure of the extent to which a parcel or tract of land is developed. Intensity can be described or measured in terms of impacts such as impervious surface, traffic loading, sewage disposal needs, square feet of floor area per acre, units per acre, etc.

Interior Parking Lot Landscaping. An area set aside, usually as an island in a parking lot, to provide environmental relief. The interior buffer will help to define spaces and indicate directions for pedestrian and vehicular circulation.

98.10 Definitions beginning with the letter J

Junk. Old or scrap copper, brass, rope, rags, trash, waste, batteries, paper, rubber, iron, steel, and other old or scrap ferrous or nonferrous materials, but does not include scrap tires as defined in Ohio R.C. 3734.01.

Junk Vehicle. See “Vehicle, Inoperable Or Abandoned”.

Junk Yard. An establishment or place of business that is maintained or operated for the purpose of storing, keeping, buying, or selling junk. For the purposes of Ohio R.C. 4737.05 to 4737.99, “Junk Yard” includes scrap metal processing facilities that are located within one thousand feet of the nearest edge of the right-of-way of a highway in the interstate or primary system.

98.11 Definitions beginning with the letter K

Kennel, Commercial. A structure or premises used for the housing, grooming, breeding, boarding, training, selling or other animal husbandry activities for dogs, cats or other animals for financial or other compensation.

Kennel, Private. The home and premises of a hobby breeder, who may also sell the animals that are bred.

98.12 **Definitions beginning with the letter L**

Lake, Commercial Fishing/Pay Lake. A private or publicly owned lake or pond, where a fee is charged in exchange for the permission to fish.

Lake. A natural or artificial body of water encompassing an area of 2 or more acres which retains water year round.

Landscaping. The improvement of a lot, parcel or tract of land with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

Light, Cutoff. An artificial outdoor light source designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

Light, Non-Cutoff. An artificial outdoor light source designed to allow light to be directly emitted above a horizontal line parallel to the ground.

Lighting, Outdoor. Any source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public streets by a government agency or public utility.

Livestock. Hoofed mammals, including but not limited to horses, cattle, sheep, swine, goats, bison, llamas, and other species typically raised for food, fiber or draft. Also includes domestic fowl and game birds.

Lot Area, Buildable.* The portion of a lot remaining after required yards have been provided.

Lot Area.* The computed horizontal area (land and water surface) contained within the lot lines, including land over which easements have been granted, but not including any land within the limits of a street or right-of-way upon which such lot abuts, even if fee title to such street is held by the owner of the lot. No public right-of-way or access easement for a public street or handle of a panhandle lot shall be included in the calculation of the lot area, nor shall the public right-of-way cross the lot area.

Lot Coverage. The ratio of enclosed ground floor area of all buildings on a lot to the horizontally projected area of the lot, expressed as a percentage.

Lot Depth. The average horizontal distance between the front and rear lot lines.

Lot Frontage. The frontage of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots

and through lots, all sides of a lot adjacent to streets shall be considered frontage.

Lot Line, Front. The line separating a lot from the street on which the lot fronts.

Lot Line, Rear. The lot line opposite and most distant from the front lot line.

Lot Line, Side. Any lot line other than a front lot line or rear lot line; a side lot line separating a lot from a street is called a side street lot line; a side lot line separating a lot from another lot or lots is called an interior side lot line.

Lot Line. The property lines defining the legal boundary of a lot.

Lot of Record. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder, or a parcel of land, the deed to which was recorded in the office of the Recorder prior to the adoption of this zoning code.

Lot Width.* The distance between the side lot lines measured along the required front yard setback (the building line).

Lot, Corner. A lot abutting upon 2 or more public or private streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of less than one hundred thirty-five (135) degrees. A corner lot abutting public streets, or abutting private streets that provide vehicular access to driveways must have two required front yards. A corner lot is not created by having frontage on a private drive as defined herein.

Lot, Depth. The mean horizontal distance between the front and rear lot lines.

Lot, Developed. A lot with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured homes under Section 4503.06 of the Revised Code.

Lot, Double Frontage. A lot having a frontage on two nonintersecting public or private streets, as distinguished from a corner lot.

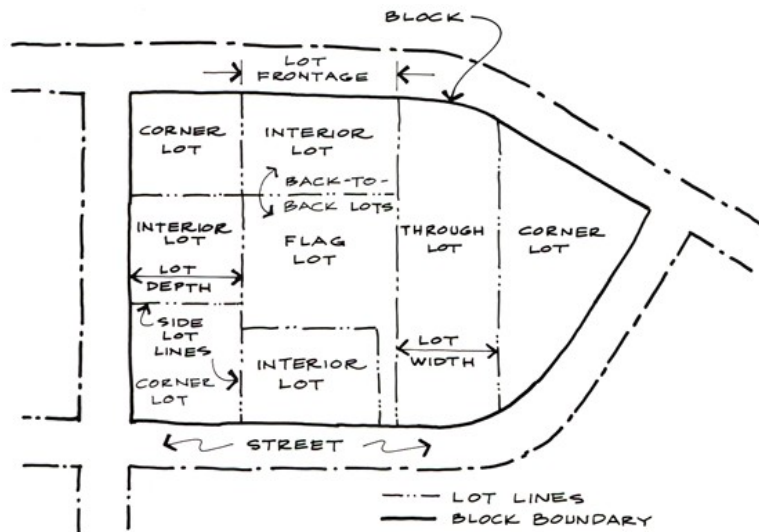
Lot, Interior. Any lot other than a corner lot.

Lot, Panhandle. A lot, also known as a “rear lot” or a “flag lot”, having sufficient square footage for building in accordance with the residential requirements contained in this zoning code and that utilizes a narrow strip of land or stem rather than the required frontage to provide access to, or legal frontage on, a public street, or a private street in a PUD. The panhandle of such lot is not considered a building site, nor is the area of such included in calculating the lot area.

Lot, Reverse. A lot intended to have its rear yard abutting any road frontage.

Lot Lines. The lines bounding a lot.

Lot.* A piece or parcel of land resulting from the subdivision of a larger parcel of land and occupied or intended to be occupied by a principal use, building or group of buildings, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required under the provisions of this Ordinance, and having frontage on a public street.



Source: "The Latest Illustrated Book of Development Definitions"

Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

98.13

Definitions beginning with the letter M

Manufactured Home Park. Any tract of land upon which three or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park. A tract of land which is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots is not a manufactured home park even though three or more manufactured homes are parked thereon if the roadways are dedicated to the local government authority. "Manufactured home park" does not include any tract of land used solely for the storage or display for sale of manufactured homes or solely as a temporary park-camp.

Manufactured Home. A nonself-propelled building unit or assembly of closed construction fabricated in an off site facility, and which conforms with the federal construction and safety standards established by the Secretary of

Housing and Urban Development (HUD) pursuant to the “Manufactured Housing Construction and Safety Standards of 1974, and that has a label or tag permanently affixed to it certifying compliance with all applicable federal construction and safety standards. A manufactured home is transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis, designed to be used as a dwelling with or without permanent foundation when connected to required utilities. Calculations used to determine the number of square feet in a structure’s exterior dimensions are measured at the largest horizontal projections when erected on site. These dimensions include all expanded rooms, cabinets, and other projections containing interior space, but do not include bay windows (ORC 4501.01) For the purposes of this section, chassis means a steel frame specifically designed and constructed with wheels or running gear and towing tongue installed for transportation on public streets or highways and designed without the need for a permanent foundation arriving at the site complete and ready for residential occupancy except for minor and incidental unpacking and assembly operations; location on wheels, jacks, blocks, or other foundation, connections to utilities and the like.

Manufacturing, Heavy. A use engaged in the processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions which would generate objectionable or hazardous elements such as: heat, smoke, odor, vibration, water pollution, electromagnetic disturbances, radiation or dust.

Manufacturing, Light. The assembling, altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process which does not include or generate objectionable or hazardous elements such as smoke, odor, vibration, water pollution or dust and which is operating and storing products and materials in a completely enclosed structure.

Manufacturing. The process of making, assembling, adding improvements to, or fabricating raw materials by hand, machinery or the combination thereof into finished or semi-finished parts or products.

Mini-Storage Facility. A building or group of buildings in a controlled access compound that contains equal or varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of residential or commercial customer's goods or wares. Such facilities do not include sales, service, nor storage of hazardous materials.

Minor Modification. * A change in a requirement for one property that in the judgment of the Planning Commission is warranted based on criteria in Section 82.02 and the finding that no objection to the modification for the subject property nor the cumulative effect of modifications for other properties having similar circumstances would likely be raised by any party of interest.

Mobile Home Park. An area of land for the parking of Mobile Homes and/or Manufactured HUD Units which complies with the rules of the Ohio Department of Health, Public Health Council for Manufactured Home Parks, as adopted pursuant to Chapter 3733 of the Ohio Revised Code, and such other requirements as are imposed by the Hamilton County Health Department.

Mobile Home. A non-self-propelled building unit or assembly of closed construction that is fabricated in an off- site facility, built on a permanent movable chassis which is 8 feet or more in width and more than 35 feet in length which when erected on site is 320 or more square feet, that is transportable in one more sections and which does not qualify as a manufactured home or industrialized unit.

Modular Home. See Industrialized Unit.

98.14

Definitions beginning with the letter N

Natural Resources. All natural areas of lakes, ponds, wetlands, floodplains, drainageways, forests, and steep slopes.

Nonconforming Lot. * Any lot of record that does not comply with the lot dimensional requirements for any permitted use in the zone in which it is located but which existed lawfully before its designation as nonconforming by the adoption or amendment of this Ordinance.

Nonconforming Structure. * Any structure that was lawful when established that does not now conform with bulk regulations established in the zoning ordinance, such as setback, height, lot coverage, or open space requirements of the zone in which it is located. A nonconforming structure may be conforming in respect to use.

Nonconforming Use. * Any use lawfully being made of any land, building, or structure on the initial effective date of this Zoning Ordinance or any amendment thereto that is not permitted as-of-right and not permissible as a Conditional Use or as a Planned Unit Development under this Ordinance or any amendment thereto in the District in which it is situated. Any such building, structure, or premises conforming in respect to use but not in respect to height, area, yards, or courts, or distance requirements from more

restricted districts or uses, shall not be considered a nonconforming use.

Nursery. A place where the primary activity is the growing of plants, trees and shrubs for sale.

Nursing or Convalescent Home. A home, institution, building or residence, public or private, whether operated for profit or not, presently licensed pursuant to the Ohio Statutes, which provides maintenance, personal care or nursing to ill, physically infirm, convalescing, or aged persons who are not related by blood or marriage to the operator. The definition of nursing or convalescent home does not include hospitals, clinics or similar institutions which are devoted primarily to the diagnosis and treatment of the sick or injured.

98.15 **Definitions beginning with the letter O**

Office. A building or portion of a building wherein services are performed involving predominately administrative, professional, or clerical operations.

Open Space. Land used for recreation, resource protection, hillside, floodway, lake, pond, amenity and/or buffers. In no event shall any area of a lot constituting the minimum lot area of said lot nor any part of an existing or future road or right-of-way be counted as constituting open space.

Outdoor Display. An area of designated size used for the display of merchandise, goods, wares or tangible property normally sold, rented or leased within the business on the property where the merchandise is sold.

Owner. Any full owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety with legal or equitable title to the whole or to part of a structure or land.

98.16 **Definitions beginning with the letter P**

Parcel. Any quantity of land and water capable of being described with such specificity that its location and boundaries may be established as distinct from other parcels which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Park and Ride Facility. Parking lot provided to encourage transfer from private automobile to mass transit or to encourage carpooling for purposes of commuting.

Park. Any land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

Parking and Parking Space. A temporary storage area for a motor vehicle, with room to open doors on both sides, that is directly accessible to an access aisle.

Parking Lot. An area of land devoted to unenclosed parking spaces for five or more vehicles.

Parking Space. A paved area either within a structure or in the open, including stacking spaces, exclusive of driveways, access drives and aisle, permanently reserved for the parking of a motor vehicle and connected to a street or alley by a surfaced driveway of adequate width to permit easy movement of the vehicle to and from such space.

Passenger Car. Any motor vehicle designed and used for carrying not more than nine persons, including any motor vehicle designed and used for carrying not more than 15 persons in a ridesharing arrangement (ORC 4501.01(E)).

Patio Area. A roofless inner space or space adjoining a residence which is used for dining or recreation.

Person. An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Personal Services. Any enterprise conducted for gain which primarily offers services to the general public such as a health club, fitness facility, shoe repair, watch repair, barber shop, beauty parlor, dry cleaner and similar activities but excluding sexually oriented business and other adult entertainment services.

Pet, Household. Domesticated animals that share the same domicile or premises with humans; are dependent upon humans for food, water and shelter; and are kept as companions, including but not limited to dogs, cats, caged birds of a variety of species, rodents, rabbits, and nonpoisonous reptiles and amphibians, that are not included in the definitions of livestock and exotic wildlife.

Planned Development District. An area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and/or one or more public, quasi-public, commercial or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.

Planned Unit Development (PUD).* A type of development that enables residential, commercial, industrial or any other uses to be developed alone or

in combination under one unified plan of development under more flexible standards pursuant to the standards and procedures set forth in Article 28.

Planning Commission. The administrative body, appointed by the Mayor, charged with the development of the land use plan and the formulation of the Official Zoning Map and Zoning Code of the Village of Batavia Village, Ohio.

Pond. A natural or artificial body of water of less than 2 acres which retains water year round.

Pool House, Residential. An accessory structure that (1) is subordinate to and serves a principal building or a principal use; (2) is subordinate in area, may contain a changing area(s) and bathroom but does not contain a kitchen and does not provide sleeping rooms.

Portable Storage Containers. A moving and storage service whereby the company delivers and leaves a storage container on-site for the customer to pack. The storage container is then picked up and moved to a company warehouse or the customer's destination for unpacking and subsequent removal.

Premises. A lot as defined in this chapter.

Principal Building. The building containing the principal use.

Principal Use. The primary purpose or function that a lot serves or is proposed to serve.

Professional Service. The use of offices and related spaces for such services as are provided by medical practitioners, dentists, lawyers, architects, engineers, real estate agencies and similar professions.

Project Area. Any area of land, regardless of the number of individual parcels or zone districts contained or proposed therein on which development is proposed under these regulations.

Public Service. A building, structure, or place used by or for the general populous, owned or operated by a government organization. This category shall include but not be limited to police and fire stations, government buildings and storage yards, government facilities such as libraries, as well as park and rides, and other similar uses and facilities.

PUD Plan (Planned Unit Development Plan). A plan for the use and development of the tract showing the areas within which buildings, parking areas, and buffering are to be located accompanied by a detailed description on the plat identifying the permissible range or limits of size, height, type, and other pertinent details for buildings, structures, signage, lighting, pedestrian ways, vehicular access, circulation patterns, parking areas,

landscaping and buffering, impervious surface ratio, density, yards and other information with regard to the lot and neighboring lots as may be necessary for the enforcement of this Resolution and any other requirements as identified on the application form or forms provided by the Administrative Official. All dimensions shown on these plats relating to the location and size of the lot to be built upon shall be based on an actual survey.

PUD. (See Planned Unit Development)

98.17 **Definitions beginning with the letter Q**

98.18 **Definitions beginning with the letter R**

Residential Facility. A facility which provides resident services to a group of individuals of whom one or more are unrelated. These individuals may be mentally retarded, handicapped, aged or disabled, are undergoing rehabilitation, and are provided services to meet their needs. This category includes uses licensed, supervised, or under contract by any federal, state, county, or other political subdivision. “Residential Facilities” includes, but is not limited to, the following listed categories:

- a. **Adult Family Home.** A residential facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of these adults pursuant to Ohio R.C. Chapter 3902.
- b. **Adult Group Home.** A residential facility that provides accommodations to six to 16 unrelated adults and provides supervision and personal care services to at least three of the unrelated adults pursuant to Ohio R.C. Chapter 3902.
- c. **Family Foster Home.** A private residence in which children are receive apart from their parents, guardian, or legal custodian by an individual for hire, gain or reward for non-secure care, supervision, or training 24 hours a day pursuant to Ohio R.C. Chapter 5153. “Family Foster Home” does not include babysitting care provided for a child in the home of a person other than the parents, guardian or legal custodian of the child.
- d. **Family Home.** A residential facility that provides room and board, personal care, habilitation services and supervision in a family setting for at least six but not more than eight mentally retarded or developmentally disabled persons pursuant to Ohio R.C. 5123.19.
- e. **Foster Family Home.** A residential facility that provides room and board, personal care, habilitation services and supervision in a family

setting for not more than five mentally retarded or developmentally disabled persons pursuant to Ohio R.C. 5123.19.

- f. **Foster Home.** A family home in which any child is received apart from the child's parents for care, supervision or training pursuant to Ohio R.C. Chapter 5153.
- g. **Group Home.** A residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than 16 mentally retarded or developmentally disabled persons pursuant to Ohio R.C. 5123.19.
- h. **Semi-Independent Living Home.** A residential facility for a mentally retarded or developmentally disabled person where, according to the person's individual habilitation plan, the person demonstrates skills that would enable the person to function for specified periods of time without supervision. Such skills include, but are not limited to, home management, community mobility, personal hygiene, interpersonal relationship skills, and self-preservation pursuant to Ohio R.C. 5123.19.

Recreation Center, Internal. Buildings or facilities owned or operated as a non-profit enterprise by a condominium, homeowners, or property owners association with the intent that their usage be only by residents of the development.

Recreation, Commercial. Land or facilities, operated as a business and which is open to the general public for a fee, that shall include, but is not limited to: water parks, rollerblade rental, billiard parlors, video amusement arcades, pay-to-play athletic fields, golf courses, miniature golf courses, driving ranges, ice skating rinks, batting cages or swimming pools.

Recreation, Non-Commercial. Non-commercial recreation is any land or facility operated by a governmental agency or non-profit organization and which is open to the public or members of the non-profit organization, without a general fee, that shall include but is not limited to: playgrounds, outdoor basketball courts, picnic areas, bike/hike trails, riding stables, athletic fields or swimming pools.

Recreational Vehicle. A portable, vehicular structure that is designed, constructed or converted, to be used as a temporary dwelling for travel, recreational, and vacation uses.

Recycling Station. A building in which recyclable material is only collected, processed and/or baled in preparation for shipment to others who will use those materials to manufacture new products.

Religious Places of Worship. An institution that a congregation of people

regularly attend to participate in or hold religious services, meetings and other activities, including buildings in which the religious services of any denomination are held.

Research and Development Laboratory. An establishment in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental and accessory to the main purpose of the laboratory.

Restaurant, Fast Food. An establishment whose principal business is the sale of pre-prepared or rapidly prepared food, in disposable containers, directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off-premises.

Restaurant. An establishment with or without table service whose principal business is the selling of unpackaged food and beverages to the customer in a ready to consume state, in individual servings or in non-disposable containers regardless of whether consumption is on or off the premises.

Retail Business. See “Business, Retail”.

Right-of-Way (R.O.W.). A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, public sidewalk, crosswalk, railroad, electric distribution or transmission line, telephone line, oil or gas pipeline, water line, sanitary or storm sewer and other similar uses.

98.19 **Definitions beginning with the letter S**

Satellite Dish Antenna. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, and satellite microwave antennas.

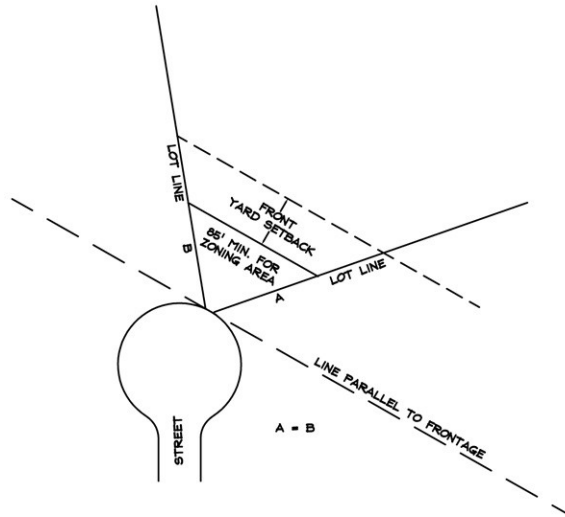
School. A privately-owned or publicly-owned pre-school, elementary school, middle school, junior high school, high school, or vocational or professional school, with no rooms regularly used for housekeeping or sleeping rooms and a curriculum.

Screen. A method of reducing the impacts of noise and unsightly visual intrusions with less offensive or more harmonious elements which is 100 % opaque.

Setback.* The required distance between a building or structure and any lot line

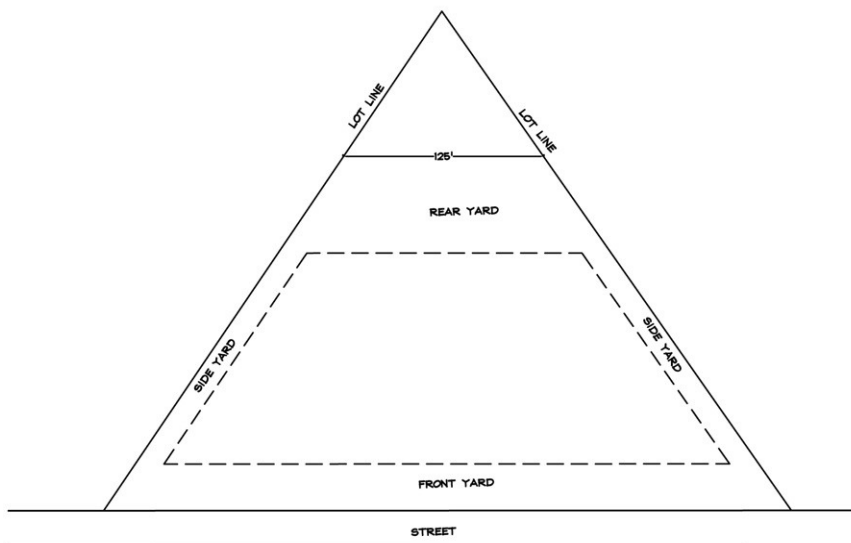
or Right-of-Way and as follows:

- a. For front yard setbacks on yards where the side lot lines are not parallel, the front yard setback shall be measured from the point on the lot where the lot meets the minimum lot width requirements as measured on a line parallel to the Frontage in the district in which it is located as identified by the example below:



Source: "The Latest Illustrated Book of Development Definitions"

- b. For rear yard setbacks where the side lot lines are not parallel and the lot narrows to the rear of the lot, the rear yard setback shall be considered to be a line parallel to the front yard setback measured from the minimum lot width requirements for the district in which it is located as identified by the example below:



Source: "The Latest Illustrated Book of Development Definitions"

Shopping Center. A group of retail business and service uses on a single site with one ownership which leases spaces for separate establishments and has common parking space and no lot lines between establishments.

Shrub. A plant that at the time of planting, is at least eighteen inches (18") tall above the highest root, or of a size requiring a 2 gallon pot.

Shrubs, Blooming. Plants that flower or undergo change in leaf color. They range in height from 2 to 14 feet.

Shrubs, HEDGE. Plants that at maturity will range in height from 7 feet to 15 feet and are spaced from 3 to 6 feet on center depending upon the variety.

Site Area, Gross.* The computed area contained within the lot lines which includes rights-of-way, either as an easement or dedicated.

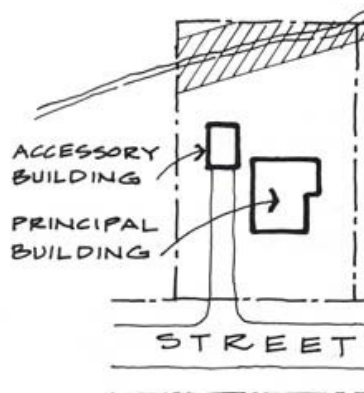
Site Area, Net.* The computed area contained within the lot lines, less any land within rights-of-way and easements for public streets.

Story.* That portion of a building, other than a basement or cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Structure.* Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

Structure, Accessory.* A structure or building, the use of which is incidental to, and customary associated with a permitted principal use of a lot or structure, located on the same lot as such principal use or structure. A

separate dwelling is not an accessory use or structure. The diagram below is illustrative only and does not indicate the permitted location of a building on a lot.



Source: "The Latest Illustrated Book of Development Definitions"

Structure, Principal. * A structure or building in which the principal or primary use of the lot is conducted.

Steep Slopes. Land area where the inclination of the land's surface from the horizontal is twenty percent (20%) or greater.

Story, Half. A space under a sloping roof which has a line of intersection between roof and wall face above top floor level but not more than three feet above the top floor level, and in which space not more than 60% of the floor area is finished for use.

Story. That portion of a building, other than a cellar, included between the surface of a floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Stream. A shallow watercourse that flows year round generally less than 40 feet wide.

Street Line. A divided line between a lot, tract or parcel of land and a contiguous street.

Street, Collector. A public street which provides both land access and traffic circulation within residential, commercial, and industrial areas. It differs from an arterial in that collector streets may penetrate these areas and arterials usually do not. Collector streets distribute traffic from arterial streets and channel traffic from local streets.

Street, Local. Public streets having the primary purpose of providing access to individual properties that abut them. Local streets serve residential, commercial, and industrial land uses providing links for short-distance trips and access to the collector and arterial system on a local level. Frontage roads

may also be considered local streets.

Street, Major Arterial. A public street which serves the major activity centers, high traffic volume corridors, and the longer trip desires. With major arterials, service to the adjacent land is subordinate to the provision of travel service.

Street, Minor Arterial. Public streets having the primary purpose of collecting traffic from intersecting local streets and distributing this volume to the nearest arterial. A secondary purpose is to carry moderate volumes of through traffic. Access to abutting land uses is a secondary function which, with proper land planning, may be limited so long as the abutting land use is not materially and adversely affected by such limitation.

Street, Private. A shared means of vehicular ingress and egress located within an easement of access serving as frontage for lots in a PUD, not dedicated to the County by recorded instrument, that is maintained by the party or parties using such private street for private access.

Street, Public. A publicly dedicated or owned right-of-way constructed to County Engineer standards intended or used, for vehicular and pedestrian movement, and, except where limited or controlled access, affording the principal means of access to abutting property.

Street. All property dedicated or intended for public or private street, highway, freeway or roadway purposes or subject to public or private easements therefore.

Structural Alteration. A change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

Structure, Principal. A structure containing the principal use of the lot.

Structure. Anything constructed or erected, the use of which requires permanent location of the ground or attachment to something having a permanent location on the ground, including, but not limited to, advertising signs, billboards, backstops for tennis courts and pergolas.

Substantial Expansion. For the purpose of this code, a substantial expansion shall be any extension, reconstruction or improvement of a structure or building that equals or exceeds 50% of the gross floor area of the existing building or structure prior to expansion.

Swimming Pool, Private, Residential. Any indoor or outdoor structure, chamber, or tank containing a body of water for swimming, diving, or bathing, located at a dwelling housing no more than three families and used exclusively by the residents and their nonpaying guests.

Swimming Pool, Public. Any indoor or outdoor structure, chamber, or tank containing a body of water for swimming, diving, or bathing that is intended to be used collectively for swimming, diving, or bathing and is operated by any person whether as the owner, lessee, operator, licensee, or concessionaire, regardless of whether or not fee is charged for use, but does not mean any private residential swimming pool.

98.20

Definitions beginning with the letter T

Tavern. An establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may be available for consumption on the premises.

Temporary Use. A temporary use is one established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent building or structure.

Tent. A portable shelter of fabric or skin supported by a demountable frame of posts, poles, or rods.

Terminal, Truck. A structure or land primarily used for the temporary storage of goods awaiting transfer or wholesale distribution by means of motor carrier transportation.

Theater, Movie and Drama, Indoor. A building in which movies are screened before a live audience, or in which dramatic performances are carried out.

Trailer, Livestock. Any towed vehicles that are attached to an automobile or truck for the sole purpose of transporting goods or farm animals.

Trailer, RV. Any towed or self-propelled vehicle constructed, re-constructed or added to by means of accessories in such a manner as will permit the use and occupancy thereof for temporary human habitation for travel, recreation, vacation or other primarily transient purposes, as opposed to a mobile home as defined in this Article; or office use, or storage or conveyance of machinery, tools or equipment, including those vehicles that are attached to an automobile or truck for the sole purpose of transportation.

Trailer, Utility. Any towed or self-propelled vehicle constructed, re-constructed or added to by means of accessories in such a manner as will permit the use and occupancy thereof for temporary human habitation for travel, recreation, vacation or other primarily transient purposes, as opposed to a mobile home as defined in Chapter, or office use, or storage or conveyance of machinery, tools or equipment, including those vehicles that

are attached to an automobile or truck for the sole purpose of transporting goods or farm animals.

Trailer. Any vehicle without motive power designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle when formed by or operated as a combination of a semitrailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, and a vehicle used to transport agricultural produce.

Tree, Understory. A lower growing tree which screens, flowers, defines space and provides seasonal interest.

Trees, Canopy. A deciduous tree which at maturity will shed its leaves annually, and provide shade.

Trees, Evergreen. A coniferous tree with needles or a broadleaf tree which retains its leaves throughout the year.

Truck Camper. A nonself-propelled recreational vehicle, without wheels for road use, and designed to be placed upon and attached to a motor vehicle. TRUCK CAMPER does not include truck covers which consist of walls and roof, but do not have floors and facilities for using same as a dwelling.

Truck. A motor vehicle built for the primary purpose of carrying chattel loads which either exceeds one and one-half ton pay load capacity or has more than four load bearing wheels.

98.21

Definitions beginning with the letter U

Use, Accessory.* An accessory use or structure: (1) is subordinate to and serves a principal building or a principal use; (2) is subordinate in area, extent and purpose to the principal structure or principal use served; (3) contributes to the comfort, convenience or necessity of the occupants, business or industry of the principal structure or principal use served; and (4) is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by the provisions of this Resolution. An accessory structure attached to a principal building in a substantial manner by a shared interior wall between the structures or extension of the principal building roof shall be considered part of the principal building.

Use, Conditionally Permitted.* A use that is permitted in a District only if a Conditional Use Certificate is expressly authorized by the Planning Commission in accordance with the provisions in this Zoning Ordinance.

Use, Existing. The use of a lot or structure at the time of the enactment of this zoning code.

Use, Non-Conforming. See “Nonconforming Use”.

Use, Permissible.* Any use identified with a “C” or “PUD” in Table 10 of Article 10.

Use, Permitted.* That use of a zoning lot which is among the uses allowed as a matter of right under the zoning classification and for which a zoning certificate shall be issued by the Village Administrator provided that the applicant meets the applicable requirements of the Code. A permitted use is allowed under a particular zoning district classification without the need for a special permit, Planning Commission review, public notice, or a public hearing. Permitted uses are identified with a “P” in Table 10 of Article 10.

Use, Principal.* The primary purpose or function that a lot serves or is proposed to serve.

Use, Prohibited.* Any use not identified in in Article 10 or with an “x” in Table 10.

Use, Temporary.* A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time and that does not involve the construction or alteration of any permanent structure.

Use.* The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

98.22 **Definitions beginning with the letter V**

Variance, Dimensional.* Permission from the Board of Zoning Appeals to depart from any of the literal requirements of this Zoning Ordinance except use regulations, including but not limited to a departure from an area, setback, frontage, height, bulk, density or design requirement.

Variance, Use.* Permission from the Board of Zoning Appeals to depart from any of the use regulations of this Zoning Ordinance.

Variance.* A means by which relief may be granted from unforeseen particular applications of the Zoning Ordinance that create practical difficulties or particular hardships where such relief will not be contrary to the public health, safety, or welfare and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

Vehicle, Commercial. A vehicle which displays any commercial activity and which use is primarily for commercial purposes.

Vehicle, Inoperable or Abandoned. A motor vehicle which is stored outdoors and so damaged, wrecked, dismantled, unlicensed or in other condition as to be inoperative. Without limiting the term a motor vehicle is a abandoned if its state registration as displayed on the license plate has been removed or expired. This definition shall not be deemed to include farm machinery other than automobiles or trucks.

Vehicle. Everything on wheels or runners, including motorized bicycles, but does not mean vehicles operated exclusively on rails or tracks or from overhead electric trolley wires and vehicles belonging to any police department, municipal fire department, or volunteer fire department or used by such department in the discharge of its functions.

Vehicular Storage Yard. Fleet storage or other inactive vehicle storage and is not accessible to vehicular traffic of the general public.

Vehicular Use Area. All areas subject to vehicular traffic including parking lots, access-ways, loading areas and service areas.

Veterinary Facility. A structure or building set up for the medical care of animals, including offices, clinic space and indoor kennels for detaining animals, but not expressly allowing outdoor kennel areas.

Video Game Parlor. A place in which a collection of electronic, coin-operated games are played.

Village. The Village of Batavia, Ohio.

98.23

Definitions beginning with the letter **W**

Warehouse. A building used primarily for the storage of goods and materials.

Warehouse, Self Storage. A building containing varying sizes of individual, compartmentalized, and controlled-access stalls, rooms, or lockers that are leased or owned by different individuals for the storage of their individual possessions.

Wholesale Distributing. An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutions, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wireless and Cellular Telecommunication Facility. Any cables, wires, lines, wave guides, support structure, antennas, and any other equipment or facilities associated with the transmission or reception of communications, as authorized by the Federal Communications Commission. However, the term

“Wireless And Cellular Telecommunication Facility” shall not include:

- a. Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or which is granted approval as a conditional use.
- b. Any satellite earth station antenna one meter or less in diameter, regardless of the zoning category; or
- c. Antennas used by amateur radio operators which are excluded from this definition.

Wireless and Cellular Telecommunication Equipment. Antennas and satellite dishes, etc., which are used for transmitting, receiving, or relaying communications signals, except as such equipment has been preempted from regulation by the Telecommunications Act of 1996.

Warehousing. The indoor storage and wholesale of goods, materials, or merchandise for shipment to or processing on other property, and for sale to retailers and jobbers rather than consumers.

Watercourse. A course or channel in which water flows, consisting of bed, banks, and water; includes rivers, creeks, and other streams confined in a channel, but not necessarily flowing all the time. Gullies, ravines, swales, sloughs, and similar depressions do not ordinarily constitute watercourses.

Waterway. A body of water, such as a lake, pond, continuously flowing stream, creek, river, channel, or canal which functions as a water route.

Wetlands. Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adopted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, bottomlands, and similar areas. Size is not a limitation. Additionally: Wetlands are identified as areas that contain hydrophytic vegetation, hydric soils, and wetland hydrology. (Source: Army Corps of Engineers)

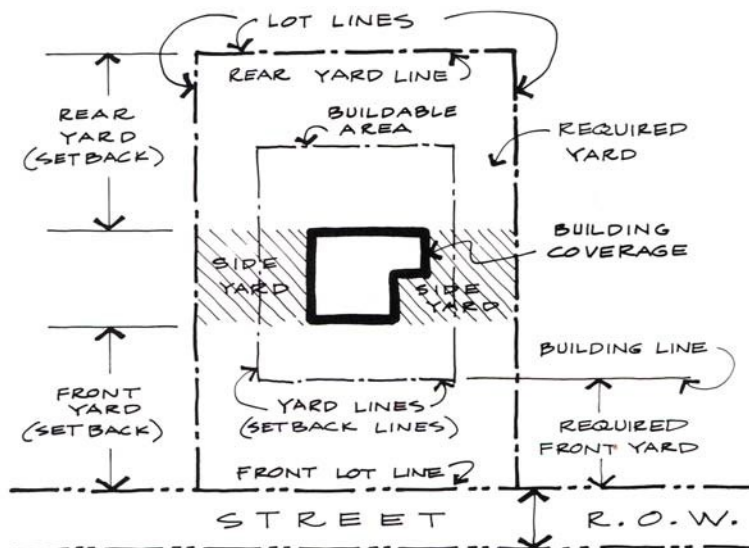
Wholesale. The sale of goods to retailers or jobbers rather than consumers.

Wildlife, Exotic. Indigenous or non-indigenous wildlife, including those animals that could be considered dangerous but not limited to lions, tigers, ocelots, jaguars, leopards, mountain lions, cheetahs, lynx, bobcats, jaguarundi, bears, hyenas, wolves or coyotes, or any life-threatening reptiles and arachnids, including but not limited to crocodilians, poisonous reptiles and tarantulas.

98.24 **Definitions beginning with the letter X**
(Reserved)

98.25 **Definitions beginning with the letter Y**

Yard.* An open space at grade between a building or structure and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. For purposes of measuring yards in irregularly shaped lots, the measurement starts at the point at which the lot meets the minimum width requirement for that district.



Source: "The Latest Illustrated Book of Development Definitions".

Yard, Front.* An open space unoccupied from the ground upwards by any structures other than cornices, steps and eaves and extending the full width of the lot, between the front of the main building and the front lot line.

The front lot line of a front yard may be:

- a. the right-of-way line, excluding limited access highways and railroad right-of-way;
- b. the easement line where vehicular access to the lot is provided by a private street or a private drive;
- c. the terminus of the easement where vehicular access to a panhandle lot is provided by a driveway extending from the terminus of an easement located outside the panhandle area; or
- d. the terminus of the panhandle where vehicular access to a panhandle lot is provided by a driveway extending from the terminus of the panhandle area or the terminus of an easement located inside the panhandle area.

On a corner lot yards extending along the street lines shall meet the front

yard setback for the district in which it is situated.

Where there is no main building on the lot the front yard shall be the minimum depth specified adjacent to an abutting street.

Yard, Rear.* An open space extending the full width of the lot, between the rear lot line and the rear of the main building, and unoccupied from the ground upwards by any structures or any projection thereof other than cornices, steps and eaves. Where there is no main building on the lot, the rear yard shall be the minimum depth specified measured inward from the rear lot line.

Yard, Required. The minimum yard required between a lot line and building line or the line of any parking area or any other use requiring a yard in order to comply with the zoning regulations of the district in which the zoning lot is located. A required yard shall be opened and unobstructed from the ground upward except for projections on buildings as permitted in this Code, and except for walks and landscaping and other permitted yard or site features.

Yard, Side.* An open space extending along the side lot lines between the front yard and the rear yards from the side lot lines to the sides of the main building and unoccupied from the ground upwards by any structures or any projection thereof other than cornices, steps and eaves. Where there is no main building on the lot, the side yards shall be the minimum depth specified measured inward from the side lot lines.

98.26

Definitions beginning with the letter *Z*

Zero Lot Line. The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

Zoning Administrator. The Village Administrator or duly appointed administrative officer designated to administer and enforce this zoning code. See “Administrator, Village”.

Zoning Amendment.* A change of the zoning map or zoning text authorized by the Village, either in the allowable uses within a District, in the boundaries of a District or in a change to the Resolution text.

Zoning Board of Appeals.* An officially constituted body, as appointed by the Village Mayor, whose principal duties are to hear appeals and, where appropriate, grant variances from the strict application of this Zoning Ordinance.

Zoning Certificate.* A document issued by the Village Administrator certifying that a structure, use or parcel of land is, or will be in compliance with the requirements of this Zoning Ordinance, and in compliance with all

other conditions of approval.

Zoning Compliance Permit.* A permit issued to allow for a change in the use or occupancy of an existing building.

Zoning Compliance Plan. A site plan for the specific development and specific use of a parcel or tract of real estate required to obtain a Zoning Certificate. The Zoning Compliance Plan shall show the specific use or uses, illustrated by a plat, drawn to scale, showing the boundaries of such parcel or tract, the location, size, height and use of all existing structures, and the exact location and pertinent details of proposed buildings, structures, signage, lighting, pedestrian ways, vehicular access, circulation patterns, parking areas and buffering accompanied by a detailed description the plat identifying the impervious surface ratio, density and requirements for yards, parking, landscaping and buffers, the existing and intended use of each building or part of a building, the number of families or housekeeping units the building is designed to accommodate, such other information with regard to the lot and neighboring lots as may be necessary for the enforcement of this Resolution and any other requirements as identified on the application form or forms provided by the Village Administrator. All dimensions shown on these plats relating to the location and size of the lot to be built upon shall be based on an actual survey.

Zoning District.* A portion of the incorporated territory of the Village of Batavia established pursuant to Article 4 within which certain regulations and requirements apply pursuant to the provisions of this Resolution.

Zoning Inspector. The Village Administrator or duly appointed administrative officer designated to enforce this zoning code.

Zoning Map.* The official zoning district map or maps on record and maintained by the Village of Batavia together with all map amendments subsequently adopted and incorporated into this Ordinance as a part thereof, designating the Zoning Districts.

* Terms defined in Article 98 followed by an asterisk (*) are also listed in Section 6.09

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[ARTICLE 96 RESERVED]